Federal Register

7–2–01 Monday
Vol. 66 No. 127 July 2, 2001
Pages 34783–35076

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512-1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $638, or $697 for a combined **Federal Register,** Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the Federal Register Index and LSA is $253. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $9.00 for each issue, or $9.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 66 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**512–1806**
General online information	**202–512–1530; 1–888–293–6498**
Single copies/back copies:	
Paper or fiche	**512–1800**
Assistance with public single copies	**512–1803**
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	**523–5243**
Assistance with Federal agency subscriptions	**523–5243**

Printed on recycled paper.

Contents

Federal Register

Vol. 66, No. 127

Monday, July 2, 2001

Separate Parts In This Issue

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 66, No. 127
Monday, July 2, 2001

DEPARTMENT OF ENERGY

10 CFR Part 600

RIN 1991–AB58

Assistance Regulations; Administrative Amendment

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending the Department of Energy Assistance Regulations to make a change in the approval authority for a determination that a noncompetitive award is in the public interest.

EFFECTIVE DATE: This final rule is effective August 1, 2001.

FOR FURTHER INFORMATION CONTACT: Trudy Wood, Office of Procurement and Assistance Policy (MA–51), U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585; telephone: 202–586–5625.

SUPPLEMENTARY INFORMATION:

I. Explanation of Change

On October 20, 1999, the DOE published several administrative and technical amendments to the Department of Energy Assistance Regulations (64 FR 56418), including an amendment to 10 CFR § 600.6 (''Eligibility'') that required the approval of the Secretary of Energy for any determination that a noncompetitive award is in the public interest. DOE has since concluded that the requirement for Secretarial approval on such determinations is more appropriately addressed in internal agency management documents, which permit greater flexibility in particular situations. Today's rule eliminates the requirement for Secretarial approval from 10 CFR 600.6. DOE has also updated the list of authorities at the end of the table of contents for 10 CFR 600 by adding the provisions that authorize the National Nuclear Security Administration within DOE.

II. Procedural Requirements

A. Review Under Executive Order 12866

Today's regulatory action has been determined not to be ''a significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Because DOE is not required by the Administrative Procedure Act (5 U.S.C. 553) or any other law to propose financial assistance rules for public comment, DOE did not prepare a regulatory flexibility analysis for this rule.

C. Review Under the Paperwork Reduction Act

No new collection of information is imposed by this final rule. Accordingly, no clearance by the Office of Management and Budget is required under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

D. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this rule falls into a class of actions that would not individually or cumulatively have a significant impact on the human environment, as determined by DOE's regulations implementing the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Specifically, this rule deals only with agency procedures, and, therefore, is covered under the Categorical Exclusion in paragraph A6 to subpart D, 10 CFR part 1021. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132 (64 FR 43255, August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have federalism implications. Agencies are required to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and carefully assess the necessity for such actions. DOE has examined today's rule and has determined that it does not preempt State law and does not have a substantial direct effect on the States, on the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' (61 FR 4729, February 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately

defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4) requires each Federal agency to prepare a written assessment of the effects of any Federal mandate in a proposed or final rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million in any one year. The Act also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and tribal governments on a proposed ''significant intergovernmental mandate,'' and it requires an agency to develop a plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirement that might significantly or uniquely affect small governments. The rule published today does not contain any Federal mandate, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277), requires Federal agencies to issue a Family Policymaking Assessment for any proposed rule or policy that may affect family well-being. This rulemaking is not subject to a requirement to propose for public comment, and section 654 therefore does not apply.

List of Subjects in 10 CFR Part 600

Administrative practice and procedure.

Issued in Washington, on June 20, 2001.

Spencer Abraham,

Secretary of Energy.

For the reasons set out in the preamble, part 600 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as follows:

PART 600—FINANCIAL ASSISTANCE RULES

1. The authority citation for part 600 is revised to read as follows:

Authority: 42 U.S.C. 7101 *et seq;* 31 U.S.C. 6301–6308; 50 U.S.C. 2401 *et seq.*, unless otherwise noted.

2. Section 600.6 is amended by revising paragraph (c)(8) to read as follows:

§ 600.6 Eligibility.

* * * * *

(c) * * *

(8) The responsible program Assistant Secretary, Deputy Administrator, or other official of equivalent authority determines that a noncompetitive award is in the public interest. This authority may not be delegated.

* * * * *

[FR Doc. 01–16553 Filed 6–29–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 1, 7, and 23

[Docket No. 01–13]

RIN 1557–AB94

Investment Securities; Bank Activities and Operations; Leasing

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is publishing this final rule to amend its rules governing investment securities, bank activities and operations, and leasing. The revisions to the investment securities regulations incorporate the authority to underwrite, deal in, and purchase certain municipal bonds that is provided to well capitalized national banks by the Gramm-Leach-Bliley Act (GLBA). The final rule also makes the following revisions to the bank activities and operations regulations: it establishes the conditions under which a school where a national bank participates in a financial literacy program is not considered a branch under the McFadden Act; it revises the OCC's regulation governing bank holidays so that the wording of the rule conforms with the statute that authorizes the Comptroller to declare mandatory bank closings; it clarifies the scope of the term ''NSF fees'' for purposes of 12 U.S.C. 85, the statute that governs the rate of interest that national banks may charge; it simplifies the OCC's current regulation governing national banks' non-interest charges and fees; and it provides that State law applies to a national bank operating subsidiary to the same extent as it applies to the parent national bank. Finally, the revisions to the leasing regulations authorize the OCC to vary the percentage limit on the extent to which a national bank may rely on estimated residual value to recover its costs in personal property leasing arrangements. The purpose of these changes is to update and revise the OCC's regulations to keep pace with developments in the law and in the national banking system.

EFFECTIVE DATE: August 1, 2001.

FOR FURTHER INFORMATION CONTACT: For questions concerning 12 CFR 1.2, contact Beth Kirby, Special Counsel, Securities and Corporate Practices Division, (202) 874–5210. For questions concerning 12 CFR 7.3000, contact Michele Meyer, Counsel, Legislative and Regulatory Activities Division, (202) 874–5090. For questions concerning 12 CFR 7.1021, 7.4001, 7.4002 and 7.4006, contact Michele Meyer, Counsel, or Mark Tenhundfeld, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090. For questions concerning 12 CFR 23.21, contact Steven Key, Senior Attorney, Bank Activities and Structure Division, (202) 874–5300.

SUPPLEMENTARY INFORMATION:

Introduction and Overview of Comments Received

On January 30, 2001, the OCC published in the **Federal Register** a notice of proposed rulemaking (the NPRM, proposed rules, or the proposal) concerning its rules governing investment securities, bank activities and operations, and leasing. *See* 66 FR 8178. The proposed revisions to the investment securities regulations incorporated the authority to underwrite, deal in, and purchase certain municipal bonds that is provided to well capitalized national banks by the Gramm-Leach-Bliley Act (GLBA). The proposed rules also contained several revisions to the OCC's bank activities and operations regulations. First, it established the conditions under which a school where a national bank participates in a financial literacy program is not considered a branch under the McFadden Act. Second, it revised the OCC's regulation governing bank holidays so that the wording of the rule conforms with the statute that

authorizes the Comptroller to declare mandatory bank closings. Third, the proposal clarified the scope of the term ''NSF fees'' for purposes of 12 U.S.C. 85, the statute that governs the rate of interest that national banks may charge. Fourth, it simplified the OCC's current regulation governing national banks' non-interest charges and fees. Fifth, it provided that State law applies to a national bank operating subsidiary to the same extent as it applies to the parent national bank. The proposal also contained revisions to the leasing regulations that authorized the OCC to vary the percentage limit on the extent to which a national bank may rely on estimated residual value to recover its costs in personal property leasing arrangements.

The OCC received approximately 30 comments in response to the proposed rules. Commenters included national banks, bank trade associations, consumer groups, members of Congress, State regulators, and individuals. The OCC received only one comment on the proposal to amend part 1 and three on the proposed revision to part 23. The majority of the comments concerned the proposed revisions to part 7. A number of these comments addressed the definition of ''interest'' for purposes of 12 U.S.C. 85 (revised § 7.4001(a)) and whether that definition should include some portion of the fee imposed by a national bank when it pays a check notwithstanding that its customer's account contains insufficient funds to cover the check. The remaining part 7 comments addressed the proposed changes to the OCC's current regulation governing national banks' non-interest charges and fees (revised § 7.4002) and proposed new § 7.4006, which addresses the applicability of State law to a national bank operating subsidiary.

The OCC is adopting most of the provisions we proposed without substantive changes. We have, however, modified certain provisions of the proposal in light of the comments we received. The most significant comments, and the OCC's responses, are discussed in the following section-by-section analysis.

Section-by-Section Description of the Final Rule

A. Part 1—Investment Securities

Pursuant to 12 U.S.C. 24(Seventh), the total amount of investment securities of any one obligor held by a national bank for its own account generally may not exceed 10 percent of the bank's capital and surplus. Section 24(Seventh), however, exempts certain types of securities from this limitation and permits a bank to underwrite, deal in, and purchase those securities without quantitative restriction. Section 151 of GLBA [1] amended section 24(Seventh) to exempt certain municipal bonds from the 10-percent limit and to permit a national bank to underwrite, deal in and purchase those securities without limit, if the national bank is well capitalized under the statutory and regulatory prompt corrective action standards.[2] In the NPRM, we proposed to amend part 1 of our regulations, which implements the statutory investment securities provisions, to reflect this change in the statute.

Part 1 classifies permissible national bank investment securities into several categories, or types.[3] Type I securities are securities—such as obligations issued by, or backed by the full faith and credit of, the United States—that a national bank may purchase, sell, deal in, and underwrite without regard to any capital and surplus limitation. The proposal made several changes to part 1. First, it added new § 1.2(g), which defines the municipal bonds described in section 151 of GLBA. As defined, the term ''municipal bonds'' means obligations of a State or political subdivision other than general obligations, and includes, *inter alia,* limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of the Internal Revenue Code of 1986, issued by or on behalf of any State or political subdivision of a State, including any municipal corporate instrumentality of 1 or more States, or any public agency or authority of any State or political subdivision of a State.

Second, we proposed amending the list of Type I securities, which appears in redesignated § 1.2(j) of the regulation, to add the municipal bonds as defined in new § 1.2(g), subject to the requirement that the bank be well capitalized. The proposal applied the definition of well capitalized that the OCC uses for purposes of prompt corrective action standards.[4]

In addition, we proposed modifying the section that defines certain Type II securities, newly designated as § 1.2(k), to make it clear that obligations issued by a State or political subdivision or agency of a State, for housing, university, or dormitory purposes are Type II securities only when they do not qualify as Type I securities (which would result if the subject bank is not well capitalized under prompt corrective action standards). We also proposed modifying the paragraph that defines Type III securities (newly redesignated as § 1.2(l)) and uses municipal bonds as an example of that type, to make clear that municipal bonds are Type III securities only when they do not qualify as Type I securities (again, as a result of the national bank not being well capitalized). As we noted in the preamble to the proposal, regardless of the treatment of municipal bonds, safe and sound underwriting practices require a national bank to understand the fiscal condition of any municipality in whose bonds the bank invests.

The OCC received only one comment on the proposed changes to Part 1. The commenter pointed out that municipal bonds can be Type II securities as well as Type I or Type III securities. The commenter suggested that the OCC revise section 1.2 to clarify that municipal bonds that are Type III securities would include only those municipal bonds that do not satisfy the definition of Type I or Type II securities.

We agree with this commenter, and the final rule reflects this change from the proposal. Thus, under the final rule, a national bank that is well capitalized may deal in, underwrite, purchase, and sell municipal bonds for its own account without any limit tied to the bank's capital and surplus. This authority applies to *all* municipal bonds. If the bank is *not* well capitalized, then the universe of municipal bonds is divided into two types: (a) Municipal bonds that are investment securities representing obligations issued by a State, or a political subdivision or agency of a State, for housing, university, or dormitory purposes, and (b) all other types of municipal bonds. The former are treated as Type II securities, while the latter are treated as Type III securities.[5]

[1] Pub. L. 106–102, section 151, 113 Stat. 1338, 1384 (November 12, 1999).

[2] 12 U.S.C. 1831*o* (statutory prompt corrective action standards); 12 CFR part 6 (OCC's implementing regulation).

[3] *See, e.g.,* 12 CFR 1.2(i) and 1.3(a) (defining Type I securities and providing that Type I securities are not subject to the 10 percent capital and surplus limit); 12 CFR 1.2(j) and 1.3 (defining Type II securities and describing the quantitative limit); and, 12 CFR 1.2(k) and 1.3(c) (defining Type III securities and describing the quantitative limit).

[4] *See* 12 CFR 6.4(b)(1) (defining the term ''well capitalized'').

[5] While a bank's transactions in either Type II and Type III securities are limited to 10 percent of the bank's capital and surplus (*see* 12 CFR 1.3(b) and (c)), a national bank may deal in, underwrite, purchase, and sell for its own account Type II securities while the bank may only purchase and sell for its own account Type III securities. Regardless of how a municipal bond is designated, it must satisfy the requirement set out in part 1 that the bond be an ''investment security,'' as that term is defined. *See* 12 CFR 1.2(e).

The other proposed changes to part 1 are adopted without modification in the final rule.

B. Part 7—Bank Activities and Operations

The final rule makes five changes to part 7. First, it adds new § 7.1021, which defines the circumstances under which a bank that participates in a financial literacy program at a school is not considered to have established a branch of the bank under the McFadden Act. Second, the final rule amends § 7.3000 to conform it with the Comptroller's statutory authority to declare mandatory bank closings, as provided in 12 U.S.C. 95(b)(1). Third, the final rule revises current § 7.4001 to clarify the scope of the term ''NSF fees'' for purposes of 12 U.S.C. 85. Fourth, the final rule revises current § 7.4002, which governs non-interest charges and fees, to remove language that may be confusing. Finally, the final rule adds new § 7.4006, which provides that State laws apply to a national bank operating subsidiary to the same extent that they apply to the parent national bank. These changes are discussed below.

Bank Participation in Financial Literacy Programs (New § 7.1021)

The proposal added new § 7.1021(b) to provide that a school's premises or facility where a national bank participates in a financial literacy program is not a branch of the national bank under the McFadden Act [6] if the bank does not ''establish and operate'' the school premises or facility. The proposal was derived from the text of the statute, which describes the circumstances under which a national bank may ''establish and operate'' new branches and defines the term ''branch,'' [7] and from Federal judicial precedents determining when an off-premises location is a branch under these standards. Under those precedents, the court first determines whether the national bank has ''establish[ed] and operate[d]'' the off-premises location in question. If not, then the location will not be considered a ''branch'' for purposes of 12 U.S.C. 36.[8]

Consistent with the statute and applicable precedent, the proposed rule stated that a bank may participate in a financial literacy program if the bank does not establish or operate the school premises or facility on which the program is conducted and the principal purpose of the program is educational. As noted in the proposal, a program would be considered principally educational if it is designed to teach students the principles of personal economics or the benefits of saving for the future, without being designed for the purpose of making profits.[9]

The OCC received only supportive comments on proposed new § 7.1021(b) and adopts it without modification in the final rule.

Bank Holidays (Revised § 7.3000)

Under 12 U.S.C. 95(b)(1), in the event of natural or other emergency conditions existing in any State, the Comptroller may proclaim any day a legal holiday for national banks located in that State or affected area. In such a case, the Comptroller may require national banks to close on the day or days designated. If a State or State official designates any day as a legal holiday for ceremonial or emergency reasons, a national bank may either close or remain open unless the Comptroller directs otherwise by written order.

The NPRM proposed amending 12 CFR 7.3000, which implements 12 U.S.C. 95(b)(1), to more closely conform with the statute. The OCC received no comments on this portion of the proposal, and the final rule adopts § 7.3000 without change. Thus, under the final rule, if the Comptroller or a State declares a legal holiday due to emergency conditions, a national bank may temporarily limit or suspend operations at its affected offices or it may choose to continue its operations unless the Comptroller by written order directs otherwise.

Definition of ''Interest'' for Purposes of 12 U.S.C. 85 (Revised § 7.4001(a))

The OCC proposed revising § 7.4001 to clarify the scope of the term ''NSF fees'' for purposes of 12 U.S.C. 85. Section 85 governs the interest rates that national banks may charge, but it does not define the term ''interest.'' Section 7.4001 generally defines the charges that are considered ''interest'' for purposes of section 85, and then sets out a nonexclusive list of charges covered by that definition. The list includes ''NSF fees.''

The inclusion of ''NSF fees'' in the definition of ''interest'' was intended to codify a position the OCC took in Interpretive Letter 452, issued in 1988.[10] IL 452 concluded that charges imposed by a credit card bank on its customers who paid their accounts with checks drawn on insufficient funds were ''interest'' within the meaning of section 85. The charges were referred to as ''NSF charges'' in the letter. The term, however,is also is commonly used to refer to fees imposed by a bank on its checking account customers whenever a customer writes a check against insufficient funds, regardless of whether the check was intended to pay an obligation due to the bank. These different uses of the term ''NSF fees'' have created ambiguity about the scope of the term as used in § 7.4001(a).

The proposal invited comments on a change to § 7.4001(a) that would clarify that the term ''NSF fees'' includes only those fees imposed by a *creditor* bank when a borrower attempts to pay an obligation to that bank with a check drawn on insufficient funds. Fees that a bank charges for its deposit account services—including overdraft and returned check charges—are not covered by the term ''NSF fees'' as that term is used in § 7.4001(a). The OCC received no objections on that proposed change, and, therefore, we adopt it in the final rule as proposed. change. Thus, we are clarifying the definition of ''interest'' by stating in the final rule that interest

[6] This proposal is consistent with the limitation, found in 12 U.S.C. 93a, which states that the general rulemaking authority vested in the OCC by that section ''does not apply to section 36 of [Title 12 of the United States Code].'' This limitation simply makes clear that section 93a does not expand whatever authority the OCC has pursuant to other statutes to adopt regulations affecting national bank branching. Congress clearly contemplated that the OCC would implement section 36, as is evidenced by the repeated references to obtaining the OCC's approval throughout that section (*see, e.g.,* paragraphs (b)(1), (b)(2), (c), (g), and (i) of section 36). It would be illogical to conclude that the OCC, in implementing the provisions requiring national banks to obtain the OCC's prior approval under the sections cited, cannot interpret what the terms of the statute mean or that the interpretation must be made on a case-by-case basis. This rulemaking simply clarifies a situation that falls outside the branching restrictions imposed by section 36.

[7] *See* 12 U.S.C. 36(c) (describing the circumstances under which a national bank may ''establish and operate'' new branches); 12 U.S.C. 36(j) (defining the term ''branch'' to include ''any branch bank, branch office, branch agency, additional office, or any branch place of business located in any State or Territory of the United States or in the District of Columbia at which deposits are received, or checks paid, or money lent.'').

[8] *See, e.g., First National Bank in Plant City* v. *Dickinson,* 396 U.S. 122, 126–29, 134–37 (1969); *Cades* v. *H & R Block, Inc.,* 43 F.3d 869, 874 (4th Cir. 1994).

[9] Students in the financial literacy program need not be of any particular age or income background in order for the program to be eligible under this proposal. If the students are low- or moderate-income individuals, however, a bank's participation in a school savings program may also be given positive consideration under the Community Reinvestment Act as a community development service. *See* Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment, 64 FR 23, 618 (May 3, 1999) (Q and A 3 addressing 12 CFR 25.12(j), 228.23(j), 345.23(j), and 563e.12(i) (examples of community development services)).

[10] Interpretive Letter No. 452 (Aug. 11, 1988), *reprinted in* [1988–89 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,676 (IL 452).

includes *creditor-imposed* NSF fees that are charged when a borrower tenders payment on a debt with a check drawn on insufficient funds.

We also invited comment on whether the term ''NSF fees'' as used in § 7.4001(a) should include at least some portion of the fee imposed by a national bank in the more common scenario when it pays a check notwithstanding that its customer's account contains insufficient funds to cover the check. We received numerous comments on this issue, the majority of which opposed including in the definition of ''interest'' any portion of the fee imposed by a national bank when it pays an overdraft.[11] Commenters raised a number of complex and fact-specific concerns related to inclusion of any portion of a charge imposed in connection with paying an overdraft constitutes ''interest'' for purposes of section 85. Accordingly, we have not amended § 7.4001(a) to address this issue.

National Bank Non-Interest Charges (Revised § 7.4002)

Current § 7.4002 sets out the basic authority to impose non-interest charges and fees, including deposit account service charges. It provides that the decision to do so and the determination of the amounts of charges and fees are business decisions to be made by each bank, in its discretion, according to sound banking judgment and safe and sound banking principles. It also provides that a bank ''reasonably establishes'' non-interest charges and fees if it considers, among other factors, the four factors enumerated in the regulation. As noted in the preamble to the proposal, the OCC construes § 7.4002 to mean that a national bank that considers at least these four factors in setting its non-interest charges and fees has satisfied the requirement that the charges and fees be set according to safe and sound banking principles and, therefore, faces no supervisory impediment to exercising the authority to set charges and fees that the regulation describes.[12]

The proposal was intended to eliminate certain ambiguities in the text of § 7.4002 without altering the substance of the regulation or the way in which the OCC intends that it operate. First, the proposal eliminated two examples in § 7.4002(a) of the types of non-interest charges and fees that national banks may impose: charges a bank's board determines to be reasonable on dormant accounts and reasonable fees for credit reports or investigations. The OCC removed these examples in the proposal because the explicit reference to the two types of fees is unnecessary and could be misinterpreted as a limitation on a national bank's ability to charge other types of fees. We note, however, that dormant account charges and fees for credit reports and investigations continue to be permissible non-interest charges and fees even though they are no longer specifically mentioned in the rule.

One commenter objected to the removal of the examples concerning the imposition of reasonable deposit account service charges and reasonable fees for credit reports or investigations. This commenter believed that removing these examples removed a requirement that non-interest charges and fees be reasonable. However, as noted below in the discussion of the proposed changes to § 7.4002(b), this comment misconstrues the OCC's regulation. The imposition of non-interest charges and fees is governed by the standards set out in § 7.4002(b), as revised (namely, that the charges and fees be arrived at on a competitive basis and be made according to sound banking judgment and safe and sound banking principles). If a bank adheres to those standards, the OCC will not substitute its judgment about how much a bank should charge for a given product or service. Thus, we have concluded that it is unnecessary to retain the examples in § 7.4002(a), and have, accordingly, adopted the changes as proposed.

We also proposed to amend § 7.4002(b), to clarify what a bank's obligations are under that section. Previously, the sentence in § 7.4002(b) that introduces the four factors provided that a bank ''reasonably establishes'' non-interest charges and fees if it considers those factors among others. The proposal revised that sentence to say that a bank establishes non-interest charges and fees ''in accordance with safe and sound banking principles'' if it employs a decision-making process through which it considers the four factors. This new language was intended to convey that the bank must exercise sound banking judgment and rely on safe and sound banking principles in setting charges and fees.

As proposed, § 7.4002(b) was also revised to clarify that the authorization it contains to establish fees and charges necessarily includes the authorization to decide the amount and method by which they are computed. Thus, for example, fees resulting from the method the bank employs to post checks presented for payment are included within the authorization provided by § 7.4002.

The OCC received several comments on the proposed change to § 7.4002(b), both from those favoring its adoption and those opposed. The latter were concerned that removing the ''reasonably establishes'' language eliminates an implied limitation on the fees a national bank may charge. We have never construed this language to permit the OCC to substitute its judgment about the appropriate pricing of a product or service for a bank's judgment, however. As the current text of the regulation says, the amount and type of fees established by a national bank are decisions committed to the business judgment of the bank. The ''reasonably establishes'' language was intended to describe the process of exercising that judgment; it was never intended to limit a national bank's authority to exercise its business judgment.

Accordingly, like the proposal, the final rule clarifies that consideration of the four factors is a process requirement to be implemented by the bank and more clearly establishes the connection between the required process and the safety and soundness considerations that underlie it. The four factors are the same as under the current regulation, including the factor addressing the maintenance of the bank's safety and soundness. We expect that, pursuant to this factor, a bank would consider any risks, such as reputation or litigation risk, that would be affected by the imposition of a particular fee. We note that consideration of the four factors is relevant both when establishing a new fee and when changing a fee that already has been established. The reference to factors other than the four that are enumerated in § 7.4002(b) has been retained in the final rule in order to avoid creating any doubt about a national bank's ability to rely on factors

[11] In the most recent Federal case related to this issue of which the OCC is aware, the court held that overdraft fees were not ''interest'' within the meaning of 12 U.S.C. 85 and current § 7.4001(a). *Video Trax, Inc.* v. *NationsBank, N.A.,* 33 F. Supp. 2d 1041 (S.D. Fla. 1998); *aff'd per curiam* 205 F.3d 1358 (11th Cir. 2000); *cert. denied,* 121 S.Ct. 66 (2000).

[12] *See* Brief *Amicus Curiae* of the Office of the Comptroller of the Currency in Support of National Bank Plaintiffs, *Bank of America, N.A.* v. *San Francisco,* No. C 99 4817 VRW (N.D. Ca.) (citing OCC opinion letters construing and describing the operation of 12 CFR 7.4002). On July 11, 2000, the U.S. District Court for the Northern District of California granted the plaintiffs in this case permanent injunctive relief against San Francisco and Santa Monica city ordinances that purported to prohibit national banks from charging fees for providing banking services through automatic teller machines (ATMs). The case is currently pending appeal in the U.S. Court of Appeals for the Ninth Circuit.

in addition to those stated in the regulation.

The OCC also proposed to amend § 7.4002(d), which addresses our evaluations of whether Federal law preempts State laws that purport to limit or prohibit a national bank's ability to impose a charge or fee. The first clause of former § 7.4002(d) stated that the OCC evaluates on a case-by-case basis whether a national bank may establish fees pursuant to § 7.4002(a) and (b); the second clause provided that, in determining whether a State law purporting to limit or prohibit such fees is preempted, the OCC applies preemption principles derived from the Supremacy Clause of the United States Constitution and applicable judicial precedent. While the first clause simply underscored that a national bank's establishment of fees is governed by the preceding paragraphs of § 7.4002, it has been construed by some as requiring the OCC's confirmation prior to a bank charging a fee that the process followed by the bank in setting the fee conformed to the § 7.4002(b) factors and raises no safety and soundness concerns. To clarify that OCC confirmation is *not* required, we proposed to remove the first clause from § 7.4002(d) and retain only a statement that is intended to convey that the law as articulated by the Supreme Court and the lower Federal courts governs issues of Federal preemption.

We received a number of comments on proposed § 7.4002(d), many of which expressed concern that the proposed clarifying changes were, in fact, substantive changes to the rule. Several questioned whether the removal of the case-by-case evaluation language in former § 7.4002(d) meant that the OCC is seeking to eliminate case-by-case analyses of preemption questions. As previously noted, the reference in former § 7.4002(d) to paragraphs (a) and (b) have caused some to interpret § 7.4002(d) as *requiring* banks to seek our confirmation that the process followed by a given bank raises no safety and soundness concerns. In order to avoid this confusion going forward, the OCC proposed to remove the reference to the case-by-case evaluation of whether a national bank establishes its non-interest charges and fees pursuant to paragraphs (a) and (b) of § 7.4002. This does not, however, modify the OCC's practice of responding to requests for opinions on preemption questions on a case-by-case basis. We will continue to review these requests on a case-by-case basis and, in so doing, we will continue to apply the preemption standards articulated by the United States Supreme Court in *Barnett Bank of Marion County, N.A.* v. *Nelson,* 517 U.S. 25 (1996) and other applicable Federal judicial precedents. Minor changes to the language of the proposal have been made to clarify that point and to retain language from the former rule regarding the types of State laws at issue.

Several commenters also questioned the timing of the proposed changes to § 7.4002(d) in light of the pending appeal, in the U.S. Court of Appeals for the Ninth Circuit, of *Bank of America* v. *City of San Francisco,* Docket No. 00–16394. These commenters believe that by modifying the rule during litigation over its meaning, the OCC's proposal would have a chilling effect on State and municipal efforts to regulate national banks' fees. As explained above, our revisions to § 7.4002(d) do not change the OCC's process for evaluating whether State laws that limit or prohibit national banks' fees are preempted by the National Bank Act.[13]

Applicability of State Law to National Bank Subsidiaries (New § 7.4006)

Proposed § 7.4006 clarified that State laws apply to a national bank operating subsidiary to the same extent as those laws apply to the parent national bank. The majority of commenters who addressed this issue supported the proposal. Many of these commenters said that it is a permissible exercise of the authority granted by the National Bank Act for national banks to create operating subsidiaries that exercise both direct and incidental powers under 12 U.S.C. Section 24(Seventh). These commenters noted that operating subsidiaries have long been authorized for national banks and provide national banks with a convenient alternative to conduct activities that the bank could conduct directly. Further, they agreed that operating subsidiaries are, in essence, incorporated departments or divisions of the bank and, accordingly, should not be treated differently than their parent banks under State laws.[14]

A number of commenters, however, were opposed to the provision. These commenters read proposed § 7.4006 to mean that the OCC has concluded that certain types of State laws—several commenters mentioned licensing, corporate governance, and consumer protection laws in particular—do not apply to national bank operating subsidiaries. Some commenters also expressed a more general concern that Federal oversight of national bank operating subsidiaries is inadequate, and that States should be permitted to enforce compliance with State laws to protect the parent bank from any reputation or safety and soundness risks that may result from operating subsidiaries' noncompliance with those laws.

In our view, these comments do not warrant modification of proposed § 7.4006. For decades national banks have been authorized to use the operating subsidiary as a convenient and useful corporate form for conducting activities that the parent bank could conduct directly. Operating subsidiaries often have been described as the equivalent of departments or divisions of their parent banks.

Recent legislation has recognized this status of national bank operating subsidiaries. In GLBA, for example, Congress expressly acknowledged the authority of national banks to own subsidiaries that engage ''solely in activities that national banks are permitted to engage in directly and are conducted subject to the same terms and conditions that govern the conduct of such activities by national banks.''[15] Similarly, the OCC operating subsidiary regulation provides that an operating subsidiary conducts its activities subject to the same authorization, terms, and conditions that apply to the conduct of those activities by its parent bank.[16] A fundamental component of these descriptions of the characteristics of operating subsidiaries in GLBA and the OCC's rule is that state laws apply to operating subsidiaries to the same extent as they apply to the parent national bank. Thus, unless otherwise provided by Federal law or OCC regulation, State laws, such as licensing requirements, are applicable to a national bank operating subsidiary only to the extent that they are applicable to national banks.[17]

[13] Although no substantive change is effected by the proposed revisions to § 7.4002(d), we note that the Supreme Court has held that the OCC may revise a rule during the pendency of litigation over matters governed by that rule. *See Smiley* v. *Citibank (South Dakota), N.A.,* 517 U.S. 735, 741 (1996) (upholding the OCC's regulation defining the term ''interest'' for purposes of 12 U.S.C. 85).

[14] Several commenters also requested that the final rule include, as an example, the express statement that 12 CFR 34 (Real Estate Lending and Appraisals) applies to operating subsidiaries. Inclusion of this statement in new § 7.4006 is unnecessary, however, because current § 34.1(b) already provides that part 34 applies to national banks and their operating subsidiaries.

[15] Pub. L. 106–102, § 121, 113 Stat. at 1378, *codified at* 12 U.S.C. 24a(g)(3).

[16] 12 CFR 5.34(e)(3).

[17] *See, e.g.,* Letter to Thomas A. Plant and Daniel Morton from Julie L. Williams, dated May 16, 2001 (published at 66 FR 28593 (May 23, 2001)) (Michigan law requiring national banks to obtain license to finance sales of motor vehicles would be preempted); letter to Thomas Vartanian from Julie L. Williams, dated March 7, 2000 (State licensing laws would be preempted to the extent that they apply to auction of certificates of deposit by

We disagree with those commenters who believe that new § 7.4006 will adversely affect the oversight of operating subsidiaries either from a consumer protection or a safety and soundness standpoint. The OCC considers the overall risk exposure of a national bank as part of its supervisory processes, including safety and soundness and compliance risk originating in, or resulting from, the bank's operating subsidiaries. Moreover, in specified cases, State law standards do apply both to a national bank and its operating subsidiary. For example, GLBA provides that insurance activities are to be functionally regulated by the States.[18] In its so-called safe-harbor provisions, section 104 of GLBA describes certain State insurance laws that are immune from preemption and that, therefore, apply to the conduct of insurance sales activities by either a depository institution or its subsidiary.

The preamble to the proposal noted that the Office of Thrift Supervision (OTS) has taken a similar approach with respect to the applicability of State law to the operating subsidiaries of Federal savings associations,[19] and that several courts have upheld this OTS rule.[20] Although the national banking laws differ in particular respects from the HOLA, national banks and Federal thrifts share the characteristics of a Federal charter. Like national banks, Federal thrifts are instrumentalities created by Congress for a national purpose—the HOLA was enacted in 1933 for the purpose of promoting home ownership in the United States. *See, e.g., Fidelity Federal Savings and Loan Ass'n* v. *de la Cuesta,* 458 U.S. 141, 152–53 (1982). Like national banks, the charter and powers of Federal thrifts derive exclusively from Federal law. The same preemption principles developed in Federal judicial precedents under the Supremacy Clause apply to both national banks and Federal thrifts. *See First National Bank of McCook* v. *Fulkerson,* No. 98–D–1024 (D. Co. March 7, 2000) slip op. at 7 (principle of Federal preemption applies similarly to national banks and Federal savings associations). Moreover, as with national banks, consideration of the special Federal character of Federal thrifts has informed courts' application of these traditional preemption principles. *See Conference of State Bank Supervisors* v. *Conover,* 710 F.2d 878, 881–83 (D.C. Cir. 1983) *(per curiam)* (applying *de la Cuesta* to conclude that OCC regulations governing adjustable rate mortgages preempted State law).

In view of these similarities, differences in outcome on questions about what State laws apply to national banks and Federal thrifts are not warranted unless a Federal law provides otherwise,[21] and similar conclusions should be reached regarding the application of State laws to national banks and their operating subsidiaries as are reached for Federal thrifts and their operating subsidiaries.

For these reasons, § 7.4006 is adopted as proposed.

C. Part 23—Leasing

Estimated Residual Value for Section 24 (Seventh) Leases (Revised § 23.21)

Twelve CFR 23 authorizes national banks to engage in leasing activities pursuant to two distinct sources of authority: 12 U.S.C. 24 (Tenth), which expressly authorizes leasing subject to certain conditions specified in that statute, including a 10%-of-assets limit on the amount of the activity that the national bank may conduct; and 12 U.S.C. 24 (Seventh), which authorizes leasing as an activity that is part of the business of banking without imposing a percentage-of-assets limit.[22] These leases must be ''full-payout leases.'' That term is defined to mean a lease in which the national bank reasonably expects to recover its investment in the leased property, plus its cost of financing, from rental payments, estimated tax benefits, and the estimated residual value of the leased property at the expiration of the lease term. The rules for section 24 (Seventh) leases further provide that the bank's estimate of the residual value of the leased property must be reasonable in light of the nature of the property and all the circumstances surrounding the lease transaction and that, in any event, the unguaranteed amount of residual value relied upon may not exceed 25% of the bank's original cost of the property. *See* 12 CFR 23.3, 23.2(e), and former § 23.21.

Because the OCC's experience supervising national banks that engage in the leasing business suggested that the 25% residual value limit may not be appropriate for all types of personal property leasing, we proposed to modify former § 23.21 to provide that the limit on the unguaranteed amount of estimated residual value is *either* 25% *or* the percentage for a particular type of personal property that is specified in guidance published by the OCC. This would permit the OCC to establish a different percentage requirement than 25% if a different limit is warranted. If the OCC does not specify a different limit, the 25% limit would continue to apply. In the proposal, we stated that we would apprise national banks of any different limit or limits established under this provision by publishing an OCC bulletin, which would subsequently be incorporated into the Comptroller's Handbook booklet on Lease Financing.

The OCC received several comments on the proposed changes to part 23 from national banks and bank trade groups questioning whether the proposal was establishing 25% as a floor or whether the OCC might intend to reduce the residual value limit. Those commenters argued, as a matter of policy, that the OCC should not lower the residual value limit below 25% and, as a matter of law, that the OCC would be required by the Administrative Procedure Act (APA), 5 U.S.C. 553(b), to use notice-and-comment rulemaking to effect any such reduction.

The OCC did not intend in the proposal to establish 25% as a floor. We believe that some types of leased property may warrant use of a higher or lower residual value. Establishing a 25% floor in § 23.21 would deprive the OCC of flexibility it may need in the future to respond to changes in the leasing business. Moreover, we do not believe that the APA's rulemaking requirements would be triggered by

national bank over the Internet) (published at 65 FR 15037 (March 20, 2000)); OCC Interpr. Ltr. No. 749 (Sept. 13, 1996), reprinted in [1996–1997 Transfer Binder] Fed. Banking L. Rep. (CCH) P 81–114 (State law requiring national banks to be licensed by the state to sell annuities would be preempted); OCC Interpr. Ltr. 644 (March 24, 1994) reprinted in [1994 Transfer Binder] Fed. Banking L. Rep. (CCH) P 83,553 (State registration and fee requirements imposed on mortgage lenders would be preempted).

[18] Pub. L. 106–102, section; 301, 113 Stat. at 1407, 15 U.S.C. 6711.

[19] 12 CFR 559.3(n). *See* 61 FR 66561, 66563 (December 18, 1996) (preamble to OTS final rule adopting section 559.3(n), explaining that the basis for the OTS rule is that the operating subsidiary of a Federal savings association ''is treated as the equivalent of a department of the parent thrift for regulatory and reporting purposes'').

[20] *See WPS Financial, Inc.* v. *Dean,* No. 99 C 0345 C (W.D. Wi. Nov. 26, 1999); *Chaires* v. *Chevy Chase Bank, FSB,* 131 Md. App. 64, 748 A.2d 34, 44 (Md. Ct. Sp. App. 2000).

[21] *See, e.g.,* 12 U.S.C. 1462a(f) (stating that no provision of law administered by the Director of the Office of Thrift Supervision shall be construed as superseding any homestead provision of any State constitution or implementing statute in effect on September 29, 1994, or any subsequent amendment, that exempts the homestead of any person form foreclosure or forced sale for the payment of debts, other than a purchase money obligation relating to the homestead, taxes due on the homestead, or an obligation arising from work and material used in constructing improvements on the homestead). There is no comparable provision in the laws applicable to national banks.

[22] *M&M Leasing* v. *Seattle First National Bank,* 563 F.2d 1377 (9th Cir. 1977), *cert. denied,* 436 U.S. 956 (1978) (bank leasing of personal property permissible because it was functionally equivalent to loaning money on personal security).

such a supervisory response.[23] Pursuant to this rulemaking, we are amending our rule in a way that preserves flexibility for the OCC to apply a different limit when faced with a given set of facts. This enables the OCC to apply a different limit without having to amend its rule. Interested parties are, as a result of this rulemaking, informed that the OCC may exercise its discretion to apply the limit that it thinks appropriate in a given circumstance. Accordingly, we have adopted the rule as proposed.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b) (RFA), the regulatory flexibility analysis otherwise required under section 604 of the RFA is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** along with its rule.

Pursuant to section 605(b) of the RFA, the OCC hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The final rule implements statutory provisions and codifies caselaw and OCC interpretations, but adds no new requirements. Accordingly, a regulatory flexibility analysis is not needed.

Executive Order 12866

The OCC has determined that this final rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that the agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. The OCC has determined that this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed any regulatory alternatives. As noted above, the final rule adds no new requirements.

Executive Order 13132—Federalism Summary Impact Statement[24]

Executive Order 13132 requires Federal agencies, including the OCC, to certify their compliance with that Order when they transmit to the Office of Management and Budget (OMB) any draft final regulation that has federalism implications. Under the Order, a regulation has federalism implications if it has ''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.'' In the case of a regulation that has federalism implications and that preempts State law, the Order imposes certain specific requirements that the agency must satisfy, to the extent practicable and permitted by law, prior to the formal promulgation of the regulation.

In general, the Executive Order requires the agency to adhere strictly to Federal constitutional principles in developing rules that have federalism implications; provides guidance about an agency's interpretation of statutes that authorize regulations that preempt State law; and requires consultation with State officials before the agency issues a final rule that has federalism implications or that preempts State law.

It is not clear that Executive Order 13132 applies to this rulemaking. The proposed change to § 7.4002(d) and the proposed addition of new § 7.4006 were cited by some commenters as having the effect of preempting State law. However, as previously discussed, the changes to § 7.4002(d) are not intended to affect any substantive change in our rule governing non-interest charges and fees. Rather, those changes remove language that created the misimpression that the OCC must approve the process a bank used when deciding to impose a non-interest charge or fee. The changes do not affect the OCC's intention to address questions of preemption on a case-by-case basis, according to preemption principles derived from the United States Constitution, as interpreted through judicial precedent. Section 7.4006 generally provides that national bank operating subsidiaries are subject to State law to the extent State law applies to their parent bank. The section itself does not effect preemption of any State law; it reflects the conclusion we believe a Federal court would reach, even in the absence of the regulation, pursuant to the Supremacy Clause and applicable Federal judicial precedent.

Even if the Executive Order were applicable to this rule, the final rule satisfies the requirements of that Order. If an agency promulgates a regulation that has federalism implications and preempts State law, the Executive Order requires the agency to consult with State and local officials, to publish a ''federalism summary impact statement,'' and to make written comments from State and local officials available to the Director of OMB.

In addition to publishing our proposal for comment by all interested parties, including State and local officials, we also brought the proposal to the attention of the Conference of State Bank Supervisors and specifically invited its views, and the views of its constituent members, on the revisions we proposed. In the preamble to this final rule, we have described the comments we received from State officials or their representatives and our responses thereto. Finally, we have made those written comments we received from State or local officials available to the Director of OMB.

Effective Date

Any new regulation that imposes ''additional reporting, disclosure, or other requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form,'' unless certain exceptions apply. Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325, § 302(b) (September 23, 1994). This rulemaking imposes no such additional reporting, disclosure, or other requirements. Accordingly, the requirement to delay the effective date until the first day of the next calendar quarter does not apply, and the rule will become effective 30 days after publication, in accordance with 5 U.S.C. 553(d).

[23] When adopting a rule, the APA requires that an agency provide notice to the public of: (1) what it proposes to do; and (2) the bases for its proposed actions. Kenneth Culp Davis & Richard J. Pierce, Jr. *Administrative Law* § 7.3. We have complied with these requirements in this rulemaking by providing public notice of the OCC's intention to modify former § 23.21, for the reasons discussed above, in such a way that will permit the OCC to establish a different percentage requirement than 25% if a different limit is warranted in the future.

[24] Executive Order 13132 provides that a ''federalism summary impact statement'' consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of the nature of their concerns, the agency's position reflecting the need to issue the regulation, and a statement of the extent to which the concerns of State and local officials have been met. The following discussion, together with the preamble discussion concerning the provisions mentioned by the commenters on this issue, satisfies those requirements.

List of Subjects

12 CFR Part 1

Banks, banking, National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 7

Credit, Insurance, Investments, National banks, Reporting and recordkeeping requirements, Securities, Surety bonds.

12 CFR Part 23

National banks.

Authority and Issuance

For the reasons set forth in the preamble, parts 1, 7 , and 23 of chapter I of title 12 of the Code of Federal Regulations are amended as follows:

PART 1—INVESTMENT SECURITIES

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

Authority: 12 U.S.C. 1, *et seq.*, 12 U.S.C. 24(Seventh), and 93a.

2. In § 1.2, current paragraphs (g) through (m) are redesignated as (h) through (n), a new paragraph (g) is added, and newly designated paragraphs (j)(4), (k)(1), and (l) are revised to read as follows:

§ 1.2 Definitions.

* * * * *

(g) *Municipal bonds* means obligations of a State or political subdivision other than general obligations, and includes limited obligation bonds, revenue bonds, and obligations that satisfy the requirements of section 142(b)(1) of the Internal Revenue Code of 1986 issued by or on behalf of any State or political subdivision of a State, including any municipal corporate instrumentality of 1 or more States, or any public agency or authority of any State or political subdivision of a State.

* * * * *

(j) * * *

(4) General obligations of a State of the United States or any political subdivision thereof; and municipal bonds if the national bank is well capitalized as defined in 12 CFR 6.4(b)(1);

* * * * *

(k) * * *

(1) Obligations issued by a State, or a political subdivision or agency of a State, for housing, university, or dormitory purposes that would not satisfy the definition of Type I securities pursuant to paragraph (j) of § 1.2;

* * * * *

(*l*) *Type III security* means an investment security that does not qualify as a Type I, II, IV, or V security. Examples of Type III securities include corporate bonds and municipal bonds that do not satisfy the definition of Type I securities pursuant to paragraph (j) of § 1.2 or the definition of Type II securities pursuant to paragraph (k) of § 1.2.

* * * * *

PART 7—BANK ACTIVITIES AND OPERATIONS

3. The authority citation for part 7 is revised to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 92, 92a, 93, 93a, 481, 484, 1818.

4. A new § 7.1021 is added to subpart A to read as follows:

§ 7.1021 National bank participation in financial literacy programs.

A national bank may participate in a financial literacy program on the premises of, or at a facility used by, a school. The school premises or facility will not be considered a branch of the bank if:

(a) The bank does not establish and operate the school premises or facility on which the financial literacy program is conducted; and

(b) The principal purpose of the financial literacy program is educational. For example, a program is educational if it is designed to teach students the principles of personal economics or the benefits of saving for the future, and is not designed for the purpose of profit-making.

5. In § 7.3000, the last sentence of paragraph (b) is removed and two sentences are added in its place to read as follows:

§ 7.3000 Bank hours and legal holidays.

* * * * *

(b) * * * When the Comptroller, a State, or a legally authorized State official declares a legal holiday due to emergency conditions, a national bank may temporarily limit or suspend operations at its affected offices. Alternatively, the national bank may continue its operations unless the Comptroller by written order directs otherwise.

* * * * *

6. In § 7.4001, the second sentence of paragraph (a) is revised to read as follows:

§ 7.4001 Charging interest at rates permitted competing institutions; charging interest to corporate borrowers.

(a) * * * It includes, among other things, the following fees connected with credit extension or availability: numerical periodic rates, late fees, creditor-imposed not sufficient funds (NSF) fees charged when a borrower tenders payment on a debt with a check drawn on insufficient funds, overlimit fees, annual fees, cash advance fees, and membership fees. * * *

* * * * *

7. Section 7.4002 is revised to read as follows:

§ 7.4002 National bank charges.

(a) *Authority to impose charges and fees.* A national bank may charge its customers non-interest charges and fees, including deposit account service charges.

(b) *Considerations.* (1) All charges and fees should be arrived at by each bank on a competitive basis and not on the basis of any agreement, arrangement, undertaking, understanding, or discussion with other banks or their officers.

(2) The establishment of non-interest charges and fees, their amounts, and the method of calculating them are business decisions to be made by each bank, in its discretion, according to sound banking judgment and safe and sound banking principles. A national bank establishes non-interest charges and fees in accordance with safe and sound banking principles if the bank employs a decision-making process through which it considers the following factors, among others:

(i) The cost incurred by the bank in providing the service;

(ii) The deterrence of misuse by customers of banking services;

(iii) The enhancement of the competitive position of the bank in accordance with the bank's business plan and marketing strategy; and

(iv) The maintenance of the safety and soundness of the institution.

(c) *Interest.* Charges and fees that are ''interest'' within the meaning of 12 U.S.C. 85 are governed by § 7.4001 and not by this section.

(d) *State law.* The OCC applies preemption principles derived from the United States Constitution, as interpreted through judicial precedent, when determining whether State laws apply that purport to limit or prohibit charges and fees described in this section.

(e) *National bank as fiduciary.* This section does not apply to charges imposed by a national bank in its capacity as a fiduciary, which are governed by 12 CFR part 9.

8. A new § 7.4006 is added to read as follows:

§ 7.4006 Applicability of State law to national bank operating subsidiaries.

Unless otherwise provided by Federal law or OCC regulation, State laws apply to national bank operating subsidiaries to the same extent that those laws apply to the parent national bank.

PART 23—LEASING

9. The authority citation for part 23 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 24(Seventh), 24(Tenth), and 93a.

10. In § 23.21, paragraph (a)(2) is revised to read as follows:

§ 23.21 Estimated residual value.

* * * * *

(a) * * *

(2) Any unguaranteed amount must not exceed 25 percent of the original cost of the property to the bank or the percentage for a particular type of property specified in published OCC guidance.

* * * * *

Dated: June 21, 2001.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 01–16328 Filed 6–29–01; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 5 and 9

[Docket No. 01–14]

RIN 1557–AB79

Fiduciary Activities of National Banks

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is publishing its final rule regarding the authority and standards for national banks to conduct multi-state trust operations. The purpose of these changes is to provide enhanced guidance to national banks engaging in fiduciary activities.

EFFECTIVE DATE: August 1, 2001.

FOR FURTHER INFORMATION CONTACT: Lisa Lintecum, Director, or Joel Miller, Senior Advisor, Asset Management, (202) 874–4447; Richard Cleva, Senior Counsel, Bank Activities and Structure Division, (202) 874–5300; Andra Shuster, Counsel, Legislative and Regulatory Activities Division, (202) 874–5090; or William Dehnke, Assistant Director, Securities and Corporate Practices Division, (202) 874–5210.

SUPPLEMENTARY INFORMATION: On December 5, 2000, the OCC published a notice of proposed rulemaking (NPRM) in the **Federal Register** (65 FR 75872) to amend 12 CFR part 9 to add provisions addressing the application of 12 U.S.C. 92a in the context of a national bank engaging in fiduciary activities in more than one state. The purpose of the rulemaking was to provide clarity and certainty for national banks' multi-state fiduciary activities. The standards contained in the NPRM reflected positions taken in three earlier OCC Interpretive Letters.[1] Interpretive Letter No. 695 found that a national bank authorized to engage in fiduciary activities may act in a fiduciary capacity in any state that permits its own in-state fiduciaries to act in that capacity, including at trust offices. Interpretive Letters Nos. 866 and 872 clarified that a national bank that acts in a fiduciary capacity in one state may market its fiduciary services to customers in other states, solicit business from them, and act as fiduciary for customers located in other states. The NPRM and the final rule are based upon the detailed analysis contained in these Interpretive Letters.

Along with the NPRM, we also published an advance notice of proposed rulemaking (ANPR) inviting comments on whether the OCC should establish uniform national standards for the conduct of fiduciary activities by national banks. The ANPR invited comments on whether uniform standards of care generally applicable to national bank trustees' administration of private trusts and investment of private trust property should be established.

We received comments on both the NPRM and the ANPR. As discussed further below, comments on the NPRM predominantly were favorable. Comments on the ANPR were more mixed, raising a significant number of issues that will require additional analysis before any determination is made concerning how to proceed. Rather than delay addressing the issues covered by the OCC interpretations, we are issuing this final rule, which covers only the matters included in the NPRM, and are reserving a decision whether to proceed with a proposal to establish uniform fiduciary standards pending completion of our analysis of the issues raised by the commenters.

The OCC received 25 comments on the NPRM. These comments included 4 from state bank supervisors' offices, 1 from a state bank supervisors' organization, 6 from banking trade associations, 13 from banks and bank holding companies, and 1 from a law firm. Most of the commenters supported the proposed changes, although several offered additional suggestions for changes. The state bank supervisors disagreed with the proposal and expressed concern about the effect the rule would have on the application of state laws to national banks engaged in fiduciary activities.

For the reasons discussed below, we have adopted the provisions of the NPRM substantially as proposed, but have made a number of changes in response to the comments received to clarify certain provisions.

Description of Proposal, Comments Received, and Final Rule

Definitions (Revised § 9.2)

Proposed § 9.2 defined ''trust office'' and ''trust representative office'' in §§ 9.2(j) and (k), respectively. A ''trust office'' was defined as an office of a national bank, other than a main office or a branch, at which the bank acts in a fiduciary capacity. A ''trust representative office'' was defined as an office of a national bank, other than a main office, branch, or trust office, at which the bank performs activities ancillary to its fiduciary business, but does not act in a fiduciary capacity.

The final rule modifies the definition of trust office to clarify that it includes all offices where the bank engages in one or more of the key fiduciary activities specified in § 9.7(d)—*i.e.,* accepting the fiduciary appointment, executing the documents that create the fiduciary relationship, or making discretionary decisions regarding the investment or distribution of fiduciary assets. The definition in the proposal focused on where the bank acted in a fiduciary capacity (where the key fiduciary activities were performed) and implicitly assumed that all of the key fiduciary activities would be performed in one state for each fiduciary relationship (so that ''acting in a fiduciary capacity'' and performing the key activities were the same). However, as discussed in detail below in connection with § 9.7(d), in some instances, the key activities may be performed at offices in different states for some fiduciary relationships. In those instances, as provided in § 9.7(d)

[1] OCC Interpretive Letter No. 872 (Oct. 28, 1999) *reprinted in* [1999–2000 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶81–366 (IL 872); OCC Interpretive Letter No. 866 (Oct. 8, 1999) *reprinted in* (1999–2000 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶81–360 (IL 866); and OCC Interpretive Letter No. 695 (Dec. 8, 1995), *reprinted in* [1995–1996 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–010 (IL 695).

a bank must determine one state in which it acts in a fiduciary capacity for purposes of 12 U.S.C. 92a. That means that there will remain other offices in other states in which the bank performs key fiduciary activities that, under the definition in the proposal, would not have been considered to be trust offices. However, our intention was that because each of these key activities is significant standing alone, all offices in which a bank engages in *any* of the key fiduciary activities should be considered to be trust offices. Therefore, the final rule clarifies the definition of ''trust office'' to be an office of a national bank, other than a main office or a branch, at which the national bank engages in one or more of the activities specified in § 9.7(d). A corresponding change has been made to § 9.2(k). A ''trust representative office'' is defined as an office of a national bank, other than a main office, branch, or trust office, at which the bank performs activities ancillary to its fiduciary business, but does not engage in any of the activities specified in § 9.7(d).

Section 9.2(k) of the proposal listed the following examples of ancillary activities: advertising, marketing, and soliciting for fiduciary business; contacting existing or potential customers, answering questions, and providing information about matters related to their accounts; acting as a liaison between the trust office and the customer (*e.g.,* forwarding requests for distribution or changes in investment objectives, or forwarding forms and funds received from the customer); or simply inspecting or maintaining custody of fiduciary assets.

A number of commenters suggested that various activities be added to the list of examples of ancillary activities. The list of ancillary activities set forth in § 9.2(k) is illustrative only, however, and not all-inclusive. While the OCC considers many of the suggested activities to be ancillary activities, we have not included most of them in the text of the final rule because the list set out in the definition is not intended to be comprehensive. A national bank may therefore identify additional activities as ancillary without seeking the express concurrence of the OCC. To make this clear, we have added to the text of the final rule an express statement that the items on the list are illustrative and that other activities may also be ''ancillary'' for the purposes of the definition.[2]

Two commenters urged that holding title to real property in any state be added to the list of ancillary activities in § 9.2(k), because some state laws attempt to prohibit out-of-state entities from taking title to real property without a state license or other authorization. Because this appears to be a specific issue warranting clarification, we have added holding title to real estate to the list of ancillary activities in § 9.2(k). The statutory authority for national banks to exercise fiduciary powers, 12 U.S.C. 92a, does not subject the exercise of a national bank's fiduciary powers to restrictions or preconditions, such as licensing requirements, under state law. State laws prohibiting out-of-state national banks from taking title to real property have such an effect. For these reasons, and because we believe that this activity is consistent with national banks' exercise of their fiduciary powers, we have added holding title to real property to the list of ancillary activities in the final rule.[3] Consistent with this change, we also have added language to § 9.7(b) to clarify that while acting in a fiduciary capacity in one state, a bank may act as fiduciary for relationships that include property located in other states.

As we stated in the NPRM, neither a trust office nor a trust representative office is a branch for purposes of the McFadden Act, 12 U.S.C. 36, which governs the location of national bank branches. In order to be considered a branch under the McFadden Act, a bank facility must perform at least one of the core branching functions of receiving deposits, paying checks, or lending money. 12 U.S.C. 36(j). The locational limitations of 12 U.S.C. 36 are not intended to reach all activities in which national banks are authorized to engage, but only core branching functions. *See Clarke* v. *Securities Industry Association*, 479 U.S. 388 (1987) (considering securities brokerage powers) (*Clarke*). Proposed §§ 9.2(j) and (k) therefore stated that a trust office or a trust representative office is not a branch unless it is also an office at which deposits are received, or checks paid, or money lent.[4]

Several state bank supervisors disagreed with the OCC's conclusion that fiduciary activities are not core branching functions and stated their belief that trust offices should be considered to be branches. They assert that the *Clarke* case held only that discount brokerage activities are not core branching functions and should not be read to conclude that any other activities are not core branching functions.

The OCC has carefully considered these comments, but remains of the view that fiduciary activities under section 92a do not constitute core branching functions and that a national bank office that provides only fiduciary services would not be subject to the McFadden Act. In *Clarke,* the Supreme Court held that the McFadden Act's locational limits do not reach all activities in which national banks engage. This conclusion in the *Clarke* case is reinforced by the recent decision in *First National Bank of McCook, Nebraska* v. *Fulkerson, et al.*, Civil Action No. 98–D–1024, slip op. (D.C. Co. March 7, 2000), where the court held that the combination of a deposit production office, a loan production office, and an ATM do not constitute a branch because no core branching functions are performed.[5]

Finally, the second sentence in current § 9.2(g) provides that the extent of fiduciary powers is the same for out-of-state national banks as in-state national banks. We proposed to remove this sentence as unnecessary in light of new § 9.7, which sets forth the rules concerning multi-state fiduciary operations. We received no comments on this proposed change, and have adopted it as proposed.

[2] Classifying activities as ''ancillary'' in §§ 9.2(j) and (k) is meant only to assist in the determination of the state in which the bank is acting in a fiduciary capacity for section 92a purposes. Only the key fiduciary activities in § 9.7(d) are relevant for determining that state: *all* other activities are ''ancillary'' for this purpose. This classification does not affect the importance of such activities or change in any way a bank's fiduciary duty with respect to such activities.

[3] This is consistent with the Office of Thrift Supervision's (OTS) position under its parallel statute. *See* OTS Chief Counsel Opinion (August 8, 1996), *reprinted in* [1996–1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶83–102 (OTS August 1996 Opinion) (holding title to real property as trustee in a state would not cause a federal savings association to be located in that state because the activity is incidental and not discretionary).

[4] This final rule is consistent with the limitation, found in 12 U.S.C. 93a, which states that the general rulemaking authority vested in the OCC by that section ''does not apply to section 36 of [Title 12 of the United States Code].'' This limitation simply makes clear that section 93a does not expand whatever authority the OCC has pursuant to other statutes to adopt regulations affecting national bank branching. Congress clearly contemplated that the OCC would implement section 36, as is evidenced by the repeated references to obtaining the OCC's approval throughout that section (*see, e.g.,* paragraphs (b)(1), (b)(2), (c), (g), and (i) of section 36). It would be illogical to conclude that the OCC, in implementing the provisions requiring national banks to obtain the OCC's prior approval under the sections cited, cannot interpret what the terms of the statute mean or that the interpretation must be made on a case-by-case basis. This rulemaking simply clarifies a situation that falls outside the branching restrictions imposed by section 36.

[5] *See also Bank One, Utah* v. *Guttau*, 190 F. 3d 844 (8th Cir. 1999) (ATMs are excluded from the definition of ''branch'').

Approval Requirements (revised § 9.3)

Current § 9.3(a) provides that ''[a] national bank may not exercise fiduciary powers unless it obtains prior approval from the OCC to the extent required under 12 CFR 5.26.'' Section 5.26(e)(5) currently provides that a national bank that has obtained the OCC's approval to exercise fiduciary powers does not need to obtain further approval to ''commence fiduciary activities'' in a state in addition to the state(s) described in the application for which it received OCC approval to exercise fiduciary powers. Instead, the bank is required only to provide written notice to the OCC within ten days after commencing fiduciary activities in a new state.

Under the proposal, a bank that has received OCC approval to exercise fiduciary powers does not need prior OCC approval each time it seeks to act in a fiduciary capacity in a new state or to conduct activities in a new state that are ancillary to its fiduciary business. Proposed paragraph (b) also directs the bank to follow the notice procedures in § 5.26(e)(5) (discussed below) in order to emphasize that revised § 9.3(b) is consistent with § 5.26(e)(5) and is not intended to impose any additional or different procedures on national banks. Current paragraph (b), which addresses the procedures for organizing a limited purpose trust bank, would be redesignated as paragraph (c).

We received one comment on this proposed change, suggesting that we clarify in § 9.3(b) that marketing and soliciting fiduciary business are included in ancillary activities. Because this is made clear in § 9.2(k), it is unnecessary to repeat it in this provision. The final rule has, however, been changed to reflect the modified definition of ''trust office'' in § 9.2(j). Consistent with § 5.26(e)(5) of the final rule, this provision now states that a national bank granted fiduciary powers by the OCC is not required to obtain the OCC's prior approval to engage in any of the activities specified in § 9.7(d) in a new state or to conduct ancillary fiduciary activities in a new state.

Multi-State Fiduciary Operations (New § 9.7)

The statutory authority for national banks to exercise fiduciary powers is contained in 12 U.S.C. 92a(a) and (b). In IL 872, IL 866, and IL 695, the OCC considered how the language of section 92a would be applied in an interstate context.

Under section 92a, national banks may exercise fiduciary powers with OCC approval. Section 92a(a) states:

> The Comptroller of the Currency shall be authorized and empowered to grant by special permit to national banks applying therefor, *when not in contravention of State or local law, the right to act* as trustee, executor, administrator, registrar of stocks and bonds, guardian of estates, assignee, receiver, committee of estates of lunatics, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which come into competition with national banks are permitted to act under the laws of the State in which the national bank is located. (Emphasis added).

Section 92a(b) clarifies that, whenever state law permits state banks, trust companies, or other corporations that compete with national banks (State Fiduciaries) to exercise any of the fiduciary powers in section 92a(a), a national bank's exercise of those powers is deemed not to be in contravention of State or local law under section 92a.

Thus, ''when not in contravention of State or local law'' (the Contravention Clause), a national bank may act in any of the fiduciary capacities specified in section 92a(a). This statutory grant of authority does not limit where a national bank may act in a fiduciary capacity. Nor does it require that the customers for whom the bank may act or the property involved in the fiduciary relationship be located in the same state as the bank. A bank is free to act in a fiduciary capacity in more than one state.

The Contravention Clause in section 92a(a) requires that a national bank look to the laws of the state in which it acts, or proposes to act, in a fiduciary capacity to determine what fiduciary capacities are permissible.[6] The state in which the bank acts in a fiduciary capacity for each existing or proposed fiduciary relationship is the state in which the bank performs the key fiduciary activities of accepting fiduciary appointments, executing documents that create the fiduciary relationship, or making decisions regarding the investment or distribution of fiduciary assets. This state is also the state referred to in other provisions in section 92a that refer to state law (subsections 92a(b), (c), (f), (g) and (i)) (the Section 92a State).

Section 9.7 of the proposed rule reflected this interpretation of section 92a. In paragraph (a) of proposed § 9.7, we stated that a national bank may act in a fiduciary capacity in any state. Proposed § 9.7(a) went on to state that if a national bank acts, or proposes to act, in a fiduciary capacity in a particular state, the bank may act in any of the eight fiduciary capacities expressly listed in section 92a(a) unless the state affirmatively prohibits that capacity for its own State Fiduciaries as well as any other capacity a state permits for its own State Fiduciaries. This authority exists even if the state purports to restrict it for national banks. If state law is silent with respect to one (or more) of the eight capacities listed in section 92a(a), then that capacity is not in contravention of state law and a national bank may act in that capacity.

These conclusions, along with a more complete explanation of their underlying reasons, were stated in IL 695 and IL 872. As previously noted, the proposal intended to reflect the conclusions reached in those letters and is based on the reasoning stated therein.

Most of the comments on proposed § 9.7(a) supported its adoption. Of these, several requested that we clarify that the question of where a national bank is located for purposes of section 92a is a question of federal law. Comments from several state bank supervisors objected to proposed § 9.7(a), on the grounds that it would permit national banks a competitive advantage by being able to expand their fiduciary activities into states notwithstanding state limits on who may act as fiduciary. These commenters maintained that section 92a preserves for each state the right to establish such limits. They also suggested that the determination of which state's laws govern the permissible capacities should be resolved by whether a national bank has its main office or a branch located in that state.

As set out above, we believe that section 92a imposes no limitations on where a bank may act in a fiduciary capacity. Under the Contravention Clause, a state may not prohibit or restrict national banks (including out-of-state national banks) from acting in a fiduciary capacity in the state in any manner, unless it also limits its own State Fiduciaries.

Moreover, we disagree that ''location'' for purposes of section 92a is appropriately determined by the presence of a main office or bank branch. As previously discussed, the Contravention Clause of section 92a

[6] The last phrase in paragraph (a) of section 92a refers to the state in which the national bank is ''located.'' The primary reference to a state is in the Contravention Clause regarding the right to act in fiduciary capacities (the language emphasized above). That language was in the statute originally, before the phrase using the term ''located'' was added. Thus, we believe that the reference to the state in which a bank is located refers to the state in which the bank is acting in a fiduciary capacity. We note that the OTS construes its parallel statute in a similar way. The OTS concludes that a federal savings association may exercise fiduciary powers permitted for state fiduciaries in the states in which it is located, but it is ''located'' for this purpose in the state in which it performs key fiduciary functions. *See, e.g.,* OTS August 1996 Opinion.

requires that a bank look to the laws of the state in which it acts in one or more fiduciary capacities in order to determine the limits on those capacities.

For the reasons discussed above, we have adopted proposed § 9.7(a) as proposed, making only stylistic changes to improve the readability of this provision.

Once the state in which a national bank is acting in a fiduciary capacity is identified, the fiduciary services may be offered regardless of where the fiduciary customers reside or where property that is being administered is located. This point was incorporated in proposed § 9.7(b), which provided that a national bank may market its services to customers in other states and solicit business from them. It also may establish and use a trust representative office for these purposes. Accordingly, a state may not prohibit or restrict out-of-state national banks from marketing to, or performing fiduciary functions for, customers in that state. Such state laws are not within the powers reserved to the states by section 92a, and so they cannot prohibit or restrict a national bank's exercise of its federally granted powers.[7] These conclusions are consistent with the conclusions set out in IL 866 and IL 872.[8]

A few commenters asked that we clarify that § 9.7(b) does not require a national bank to establish a trust representative office in order to market its fiduciary services to, or act as a fiduciary for, customers in any state. We agree that a bank need not establish a trust representative office; the reference to trust representative offices was intended solely to illustrate one option available to national banks who seek to market their fiduciary services. The final rule, like the proposal, states that a national bank ''may'' use a trust representative office to market its fiduciary services to and act as a fiduciary for customers in any state, indicating that use of a trust representative office is discretionary. As noted earlier, we also have added language to § 9.7(b) to clarify that while acting in a fiduciary capacity in one state, a bank may act as fiduciary for relationships that include property located in other states.

As previously discussed, section 92a imposes no geographic limit on where a bank may act in a fiduciary capacity. Similarly, there is no geographic limit on where a bank may offer services that are incidental to acting in a fiduciary capacity. Accordingly, proposed § 9.7(c) reflected the conclusions stated in the Interpretive Letters that a national bank with fiduciary powers may establish a trust office or trust representative office in any state. We received no comments on proposed § 9.7(c) as such, and we have adopted it as proposed.

Proposed § 9.7(d) clarified how national banks may determine the state in which they are acting in a fiduciary capacity. In IL 866 and IL 872, we concluded that a national bank is deemed to be ''acting in a fiduciary capacity'' for purposes of section 92a in the state in which the bank performs the key fiduciary functions of executing the documents that create the fiduciary relationship, accepting the fiduciary appointment, and making decisions regarding the investment or distribution of fiduciary assets. As proposed, § 9.7(d) incorporated this position and further provided that, if with respect to a particular fiduciary relationship these key fiduciary activities take place in more than one state, then the state in which the bank acts in a fiduciary capacity will be the state that the bank and customer designate from among those states. We specifically invited comment on ways to simplify the determination of where a bank with multi-state operations is acting in a fiduciary capacity.

We received several comments relating to the determination of where a bank acts in a fiduciary capacity when the key fiduciary activities take place in more than one state. One commenter asked us to clarify whether it was our intent to have the choice of law clause in the trust's governing instrument be used to designate where the bank acted in a fiduciary capacity. Similarly, two commenters suggested that we look to the governing instrument to make the determination. A few commenters suggested that, where the designation could not be made by the governing instrument or the customer has not or cannot otherwise make the designation, the bank be permitted to do so alone. A few commenters also noted the importance of the meaning of the term ''customer,'' noting that if defined too broadly, it could be quite burdensome for a bank to consult with customers to make the designation.

We agree with those commenters who pointed out the potential problems, in situations where a bank performs the key fiduciary activities in more than one state, of requiring a bank to obtain customer agreement concerning the state in which the bank will be deemed to be acting in a fiduciary capacity. For instance, a bank could be forced to obtain the agreement of many different people residing in several different locations. To avoid these problems, we have revised § 9.7(d) to provide that a bank performing the key fiduciary activities in more than one state for any particular fiduciary relationship may designate from among these states which state's laws are made applicable by operation of section 92a for that relationship. We have also made some minor changes intended to improve the readability of § 9.7(d), including a change in its heading.

Many of the commenters indicated some confusion over the significance of the determination of the Section 92a State. Section 92a directs the application of state law for purposes of determining a national bank's permissible fiduciary capacities (referred to in sections 92a(a) and (b)); for purposes of setting certain operational requirements for national banks as corporate fiduciaries (referred to in sections 92a(f), (g) & (i)); and for purposes of granting state banking authorities limited access to OCC examination reports relating to national bank trust departments (referred to in section 92a(c)). Proposed § 9.7(d) provided a means to identify which state's laws apply for purposes of section 92a when a bank is conducting multi-state fiduciary activities. As discussed more fully below, this determination is separate from the selection of the substantive law that governs matters affecting the exercise of the fiduciary appointment, such as standards of care.

Proposed § 9.7(e) provided a direct statement of how state law applies to a national bank engaging in fiduciary activities. As set out in the proposal, the state laws that apply to a national bank's fiduciary activities by operation of section 92a are the laws of the state in which the bank acts in a fiduciary capacity.

Two commenters suggested that we clarify that state laws may not impose operational requirements on national banks that engage only in limited trust operations. In both IL 866 and IL 872 we stated that section 92a does not ''condition the exercise of fiduciary

[7] *See, e.g., Barnett Bank of Marion County* v. *Nelson*, 517 U.S. 25 (1996).

[8] The OTS has reached the same conclusions under its parallel statute. *See, e.g.*, OTS August 1996 Opinion (federal savings association will not be deemed located in a state where its only trust-related activities are marketing its trust services and performing incidental duties pursuant to its appointment as testamentary trustee or trustee holding real estate; and federal law would preempt state laws that prohibit or restrict an out-of-state federal thrift from engaging in these activities in the state); OTS Chief Counsel Opinion No. 94/CC–13 (June 13, 1994), *reprinted in* [1994 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 82,814 (trust marketing and referral activities at affiliate's offices does not make federal savings association located at those offices; state laws that prohibit or restrict an out-of-state federal thrift from engaging in these activities in the state are preempted).

powers on compliance with state laws that purport to impose licensing or operating requirements on national banks.'' [9] This point is incorporated in § 9.7(e)(2) of the final rule, which provides that, with the exception of those state laws specifically referenced in section 92a, national banks' exercise of fiduciary powers is not subject to restrictions or preconditions under state law. Such restrictions and preconditions include, but are not limited to, state licensing requirements. This principle applies to the fiduciary activities of full service national banks as well as national banks that engage only in limited trust operations.

Section 9.7(e) does not affect the applicability of state substantive laws that govern the fiduciary relationship, such as the standard of care to be exercised by the fiduciary, or ability of a grantor to designate which state's laws govern the trust itself. A grantor is free to designate which state laws apply for all other purposes or to have the applicable law determined by choice-of-law rules. For example, if the bank acting in a fiduciary capacity in State A is trustee for a trust whose grantor and beneficiaries are located in State B and the trust, by its terms, is governed by the laws of State C, then the laws of State C will govern the administration of the trust. The choice of law clause in a trust instrument does not, however, determine where a bank is acting in a fiduciary capacity or the laws that apply by operation of section 92a. That determination is a matter of federal law pursuant to section 92a. It cannot be altered by agreement of the parties.

Several state bank supervisors objected to the conclusion that a national bank is not subject to state laws that restrict the activities of out-of-state fiduciaries. However, as discussed above, the Contravention Clause in section 92a only serves to limit national banks from engaging in fiduciary capacities that are not permitted for State Fiduciaries but does not otherwise limit a national bank's ability to exercise its federal authority in any state. State laws that are outside the ambit of the Contravention Clause, and so not authorized by Congress to apply to national banks, may not restrict or interfere with the exercise of permissible federal power. *See, e.g., Barnett Bank, supra.*

The state supervisors also pointed to discussion in earlier OCC interpretive letters, in particular IL 525, that suggested that all aspects of state law governing state fiduciary institutions applied to national banks. However, IL 525 was concerned primarily with the substantive fiduciary standards that would apply to national banks in certain trust contexts. As noted above, the substantive law governing a trust is a different matter than the law made applicable to national banks by operation of section 92a. Moreover, the discussion of state law in IL 525 did not involve an interstate situation and was focused on the issue of the substantive fiduciary law governing the fiduciary appointment. The OCC's analysis of the application of section 92a in the interstate context, including the manner in which it incorporates state law, is clearly set forth in ILs 872, 866, and 695, the NPRM, and this final rule. Any contrary implications in IL 525 do not represent the position of the agency.

Deposit of Securities with State Authorities (Revised § 9.14)

Under section 92a(f) and current § 9.14 of our regulations, a national bank must comply with state laws that require corporations that act in a fiduciary capacity to deposit securities with state authorities for the protection of private or court trusts. The proposal made a technical amendment to § 9.14 to conform to the terminology used in proposed § 9.7. The proposal replaced the phrase ''administers trust assets'' in paragraph (b) of that section with the phrase ''acts in a fiduciary capacity.'' No substantive change was intended by this amendment.

The proposal also added a second sentence to § 9.14(b) to clarify how a bank that conducts fiduciary operations on a multi-state basis pursuant to proposed § 9.7 should compute the amount of deposit required by a state law that requires a deposit of securities on a basis other than assets (such as an amount equal to a percentage of capital). Pursuant to the proposal, in such a state, the bank may compute the amount of deposit required on a pro-rated basis, according to the proportion of fiduciary assets for which the bank is acting in a fiduciary capacity at offices located in that state.

A few commenters requested clarification of how the rule would apply to them, suggesting that sample calculations be included in the regulation. We believe that specific questions are better addressed by consultation with agency staff or in interpretive letters. Accordingly, we are adopting the proposal for this section without change.

Fiduciary Powers (Revised § 5.26)

Consistent with the proposed changes discussed above, we also proposed an amendment to 12 CFR 5.26(e) to clarify that a national bank that plans to act in a fiduciary capacity in a state in addition to the state described in the application for fiduciary powers that the OCC has approved need only give notice of commencing to act in a fiduciary capacity in a new state. The proposal would revise current § 5.26(e)(5) so that it reflects the distinction between acting in a fiduciary capacity and conducting activities ancillary to the bank's fiduciary business. The ten-day, after-the-fact notice requirement would apply only to acting in a fiduciary capacity.

The final rule has been changed to reflect the modified definition of ''trust office'' in § 9.2(j). This provision now states that no application is required when a national bank with fiduciary powers plans to engage in any of the fiduciary activities specified in § 9.7(d) or conduct ancillary activities in a new state. The final rule provides that, instead, the ten-day, after-the-fact notice to the OCC is required when a bank begins to engage in any of the key fiduciary activities specified in § 9.7(d) in a new state.

We received six comments requesting that we clarify that there is no need for prior approval or subsequent notice for establishing trust representative offices. As discussed above, a national bank that has received OCC approval to exercise fiduciary powers does not need to make any further application to the OCC when it plans to engage in any of the fiduciary activities specified in § 9.7(d) or conduct ancillary activities in a new state, but does need to provide notice to OCC within 10 days after it begins to engage in any of the fiduciary activities specified in § 9.7(d) in a new state. Since engaging in ancillary activities does not constitute engaging in any of the key fiduciary activities specified in § 9.7(d), and since only ancillary activities are undertaken at a trust representative office, a national bank is not required to get prior approval or give subsequent notice in order to establish a trust representative office. We have added a new sentence to clarify this point in the final rule.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b) (RFA), the regulatory flexibility analysis otherwise required under section 604 of the RFA is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** along with its rule.

Pursuant to section 605(b) of the RFA, the OCC hereby certifies that this

[9] *See* IL 866 p. 9; IL 872 p. 10.

rulemaking will not have a significant economic impact on a substantial number of small entities. The final rule codifies case law and OCC interpretations, but adds no new requirements. Accordingly, a regulatory flexibility analysis is not needed.

Executive Order 12866

The OCC has determined that this final rulemaking is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that the agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. For the reasons outlined above, the OCC has determined that this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed any regulatory alternatives.

Executive Order 13132

Executive Order 13132 requires Federal agencies, including the OCC, to certify their compliance with that Order when they transmit to the Office of Management and Budget any draft final regulation that has Federalism implications. Under the Order, a regulation has Federalism implications if it has ''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.'' In the case of a regulation that has Federalism implications and that preempts State law, the Order imposes certain consultation requirements with State and local officials; requires publication in the preamble of a Federalism summary impact statement; and requires the OCC to make available to the Director of the Office of Management and Budget any written communications submitted to us by State and local officials. By the terms of the Order, these requirements apply to the extent that they are practicable and permitted by law and, to that extent, must be satisfied before the OCC promulgates a final regulation.

In our proposal relating to this final rule, we noted that certain provisions in the proposal may have Federalism implications, as that term is used in the Order, or may be found by a Federal court to preempt State law. The concern regarding Federalism was primarily directed to the advance notice, according to which the OCC proposed to establish uniform federal standards governing fiduciary activities that would be generally applicable to national bank trustees' administration of private trusts and investment of private trust property. A discussion of the Federalism issues arising from any uniform federal standard of fiduciary activities will be provided in any subsequent rulemaking document on that issue.

This final rule contains provisions that determine which States' laws apply to a national bank for purposes of 12 U.S.C. 92a, a Federal law. The determination of which State's rules apply for purposes of section 92a is governed, for the reasons set out above, by a determination of the State in which a national bank is acting in a fiduciary capacity. Once that determination is made, then, by operation of section 92a, other States' laws governing the operation of a national bank's fiduciary activities do not apply.

We note that there has been consultation with State officials on the issues addressed herein, both through this rulemaking and through other documents published in the **Federal Register** on which comment was invited. *See* 60 FR 66163 (December 21, 1995), 61 FR 68543 (December 30, 1996), 62 FR 19172 (April 18, 1997), and 62 FR 19173 (April 18, 1997). As discussed in this preamble, we received and considered a number of comments from states, and will make them available to the Director of the OMB.

List of Subjects

12 CFR Part 5

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements, Securities.

12 CFR Part 9

Estates, Investments, National banks, Reporting and recordkeeping requirements, Trusts and trustees.

Authority and Issuance

For the reasons set forth in the preamble, parts 5 and 9 of chapter I of title 12 of the Code of Federal Regulations are amended as follows:

PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

1. The authority citation for part 5 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 93a; and section 5136A of the Revised Statutes (12 U.S.C. 24a).

Subpart B—Initial Activities

2. Paragraph (e)(5) of § 5.26 is revised to read as follows:

§ 5.26 Fiduciary powers.

* * * * *

(e) * * *

(5) *Notice of fiduciary activities in additional states.* No further application under this section is required when a national bank with existing OCC approval to exercise fiduciary powers plans to engage in any of the activities specified in § 9.7(d) of this chapter or to conduct activities ancillary to its fiduciary business, in a state in addition to the state described in the application for fiduciary powers that the OCC has approved. Instead, unless the bank provides notice through other means (such as a merger application), the bank shall provide written notice to the OCC no later than ten days after it begins to engage in any of the activities specified in § 9.7(d) of this chapter in the new state. The written notice must identify the new state or states involved, identify the fiduciary activities to be conducted, and describe the extent to which the activities differ materially from the fiduciary activities that the bank was previously authorized to conduct. No notice is required if the bank is conducting only activities ancillary to its fiduciary business through a trust representative office or otherwise.

* * * * *

PART 9—FIDUCIARY ACTIVITIES OF NATIONAL BANKS

1. The authority citation for part 9 continues to read as follows:

Authority: 12 U.S.C. 24 (Seventh), 92a, and 93a; 15 U.S.C. 78q, 78q–1, and 78w.

2. § 9.2 is amended by removing the second sentence in paragraph (g) and adding new paragraphs (j) and (k) as follows:

§ 9.2 Definitions.

* * * * *

(j) *Trust office* means an office of a national bank, other than a main office or a branch, at which the bank engages in one or more of the activities specified

in § 9.7(d). Pursuant to 12 U.S.C. 36(j), a trust office is not a ''branch'' for purposes of 12 U.S.C. 36, unless it is also an office at which deposits are received, or checks paid, or money lent.

(k) *Trust representative office* means an office of a national bank, other than a main office, branch, or trust office, at which the bank performs activities ancillary to its fiduciary business, but does not engage in any of the activities specified in § 9.7(d). Examples of ancillary activities include advertising, marketing, and soliciting for fiduciary business; contacting existing or potential customers, answering questions, and providing information about matters related to their accounts; acting as a liaison between the trust office and the customer (*e.g.,* forwarding requests for distribution or changes in investment objectives, or forwarding forms and funds received from the customer); inspecting or maintaining custody of fiduciary assets or holding title to real property. This list is illustrative and not comprehensive. Other activities may also be ''ancillary activities'' for the purposes of this definition. Pursuant to 12 U.S.C. 36(j), a trust representative office is not a ''branch'' for purposes of 12 U.S.C. 36, unless it is also an office at which deposits are received, or checks paid, or money lent.

3. § 9.3 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 9.3 Approval requirements.

* * * * *

(b) A national bank that has obtained the OCC s approval to exercise fiduciary powers is not required to obtain the OCC s prior approval to engage in any of the activities specified in § 9.7(d) in a new state or to conduct, in a new state, activities that are ancillary to its fiduciary business. Instead, the national bank must follow the notice procedures prescribed by 12 CFR 5.26(e).

(c) A person seeking approval to organize a special-purpose national bank limited to fiduciary powers shall file an application with the OCC pursuant to 12 CFR 5.20.

4. A new § 9.7 is added to read as follows:

§ 9.7 Multi-state fiduciary operations.

(a) *Acting in a fiduciary capacity in more than one state.* Pursuant to 12 U.S.C. 92a and this section, a national bank may act in a fiduciary capacity in any state. If a national bank acts, or proposes to act, in a fiduciary capacity in a particular state, the bank may act in the following specific capacities:

(1) Any of the eight fiduciary capacities expressly listed in 12 U.S.C. 92a(a), unless the state prohibits its own state banks, trust companies, and other corporations that compete with national banks in that state from acting in that capacity; and

(2) Any other fiduciary capacity the state permits for its own state banks, trust companies, or other corporations that compete with national banks in that state.

(b) *Serving customers in other states.* While acting in a fiduciary capacity in one state, a national bank may market its fiduciary services to, and act as fiduciary for, customers located in any state, and it may act as fiduciary for relationships that include property located in other states. The bank may use a trust representative office for this purpose.

(c) *Offices in more than one state.* A national bank with fiduciary powers may establish trust offices or trust representative offices in any state.

(d) *Determination of the state referred to in 12 U.S.C. 92a.* For each fiduciary relationship, the state referred to in section 92a is the state in which the bank acts in a fiduciary capacity for that relationship. A national bank acts in a fiduciary capacity in the state in which it accepts the fiduciary appointment, executes the documents that create the fiduciary relationship, and makes discretionary decisions regarding the investment or distribution of fiduciary assets. If these activities take place in more than one state, then the state in which the bank acts in a fiduciary capacity for section 92a purposes is the state that the bank designates from among those states.

(e) *Application of state law.* (1) *State laws used in section 92a.* The state laws that apply to a national bank's fiduciary activities by virtue of 12 U.S.C. 92a are the laws of the state in which the bank acts in a fiduciary capacity.

(2) *Other state laws.* Except for the state laws made applicable to national banks by virtue of 12 U.S.C. 92a, state laws limiting or establishing preconditions on the exercise of fiduciary powers are not applicable to national banks.

5. Section 9.14(b) is revised to read as follows:

§ 9.14 Deposit of securities with state authorities

* * * * *

(b) *Acting in a fiduciary capacity in more than one state.* If a national bank acts in a fiduciary capacity in more than one state, the bank may compute the amount of securities that are required to be deposited for each state on the basis of the amount of assets for which the bank is acting in a fiduciary capacity at offices located in that state. If state law requires a deposit of securities on a basis other than assets (*e.g.,* a requirement to deposit a fixed amount or an amount equal to a percentage of capital), the bank may compute the amount of deposit required in that state on a pro-rated basis, according to the proportion of fiduciary assets for which the bank is acting in a fiduciary capacity at offices located in that state.

Dated: June 21, 2001.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 01–16329 Filed 6–29–01; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–261–AD; Amendment 39–12297; AD 2001–13–16]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 and Model A300 B4–600, A300 B4–600R, and A300 F4–600R (Collectively Called A300–600) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Model A310 and Model A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600) series airplanes, that requires replacement of the ejection jack on the ram air turbine (RAT). The actions specified by this AD are intended to prevent the ejection jack on the RAT from failing when the RAT is deployed at high airspeeds, leading to a loss of ability to properly restrain the movement of the RAT, possibly resulting in damage to the RAT itself and to other airplane components. In the event of an emergency, failure of the ejection jack on the RAT could also result in a reduction of hydraulic pressure or electrical power on the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective August 6, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 6, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Ave., SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A310 and Model A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600) series airplanes was published in the **Federal Register** on February 14, 2001 (66 FR 10234). That action proposed to require replacement of the ejection jack on the ram air turbine (RAT).

Comments

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

The commenter generally supports the proposed rule, but requests credit for accomplishment of the modification in accordance with the original issue of the service bulletins. The FAA agrees and has added a new NOTE 2 giving such credit.

Conclusion

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

Cost Impact

The FAA estimates that 117 Model A310 and Model A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600) series airplanes of U.S. registry will be affected by this AD, that it will take approximately 6 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. There will be no charge for required parts. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $42,120 or $360 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2001–13–16 Airbus Industrie: Amendment 39–12297. Docket 2000–NM–261–AD.

Applicability: Model A310 and Model A300 B4–600, A300 B4–600R, and A300 F4–600R (collectively called A300–600) series airplanes; certificated in any category, except for airplanes on which Airbus Modification 12259 has been embodied.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the ejection jack on the ram air turbine (RAT) from failing when the RAT is deployed at high airspeeds, leading to a loss of ability to properly restrain the movement of the RAT, possibly resulting in damage to the RAT itself and to other airplane components and in reduced hydraulic pressure or electrical power, if such failure occurs during an emergency, accomplish the following:

Modification

(a) Within 34 months after the effective date of this AD: Modify the RAT per Airbus Service Bulletin A310–29–2086, Revision 01 (for Model A310 series airplanes), or A300–29–6048, Revision 01 (for Model A300–600 series airplanes), both dated July 12, 2000, as applicable.

Note 2: Modification of the RAT accomplished prior to the effective date of this AD in accordance with Airbus Service Bulletin A300–29–6048 or Airbus Service Bulletin A310–29–2086, both dated April 6, 2000, as applicable, is considered acceptable for compliance with the action specified in paragraph (a) of this AD.

(b) As of the effective date of this AD, no person shall install on any airplane an ejection jack, part number 730820, unless it has been modified per paragraph (a) of this AD.

Note 3: The Airbus service bulletins refer to Hamilton Sundstrand Service Bulletin No. ERPS03/04EJ–29–1, as an additional source of service information for accomplishment of the modification of the RAT and testing of the modified RAT.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(e) The modification shall be done in accordance with Airbus Service Bulletin A300–29–6048, Revision 01, dated July 12, 2000; or Airbus Service Bulletin A310–29–2086, Revision 01, dated July 12, 2000; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in French airworthiness directive 2000–284–317(B), dated July 12, 2000.

Effective Date

(f) This amendment becomes effective on August 6, 2001.

Issued in Renton, Washington, on June 21, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–16201 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–194–AD; Amendment 39–12299; AD 2001–13–17]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2 and A300 B4; A300 B4–600, B4–600R, and F4–600R (Collectively Called A300–600); and A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Airbus Model A300 B2 and A300 B4; A300 B4–600, B4–600R, and F4–600R (collectively called A300–600); and A310 series airplanes. This action requires revising the Airplane Flight Manual to advise the flight crew of appropriate procedures to follow in the event of lost or erroneous airspeed indications. This action is necessary to prevent inadvertent excursions outside the normal flight envelope. This action is intended to address the identified unsafe condition.

DATES: Effective July 17, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 17, 2001.

Comments for inclusion in the Rules Docket must be received on or before August 1, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–194–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–194–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tamra Elkins, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2669; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on all Airbus Model A300 B2 and A300 B4; A300 B4–600, B4–600R, and F4–600R (collectively called A300–600); and A310 series airplanes. The DGAC advises that. Lost or erroneous airspeed indications could result in lack of sufficient information for the flight crew to safely operate the airplane, and consequent inadvertent excursions outside the normal flight fenvelope.

Explanation of Relevant Service Information

Airbus has issued the following Temporary Revisions (TRs) to the FAA-approved A300, A300–600, and A310 Airplane Flight Manuals (AFMs). The TRs provide updated procedures for the flight crew to follow in the event of lost or erroneous airspeed indications. The TRs are listed in the following table:

Model/series	Engine	TR No.	Date
A300	GE CF6–50C	4.02.00/08	April 25, 2001.
A300	GE CF6–50C2/C2R	4.02.00/09	April 26, 2001.
A300–600	GE CF6–80C2	4.02.00/11	March 21, 2000.
A300–600	PW 4000	4.02.00/13	March 28, 2000.
A310	GE CF6–80A3	4.02.00/11	March 21, 2000.
A310	GE CF6–80C2	4.02.00/12	March 22, 2000.
A310	PW JT9D–7R4	4.02.00/13	March 23, 2000.
A310	PW 4000	4.02.00/14	March 24, 2000.

The DGAC classified these TRs as mandatory and issued French airworthiness directive 2001–129(B), dated April 4, 2001, to ensure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent inadvertent excursions outside the normal flight envelope in the event of lost or erroneous airspeed indications. This AD requires revising the applicable FAA-approved AFMs to advise the flight crew of appropriate procedures to follow in the event of lost or erroneous airspeed indications.

Determination of Rule's Effective Date

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 shall 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.

Submit comments using the following format:

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the 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 rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket 2001–NM–194–AD.'' The postcard will be date-stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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:

2001–13–17 Airbus Industrie: Amendment 39–12299. Docket 2001–NM–194–AD.

Applicability: All Model A300 B2 and A300 B4; A300 B4–600, B4–600R, and F4–600R (collectively called A300–600); and A310 series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent inadvertent excursions outside the normal flight envelope in the event of lost or erroneous airspeed indications, accomplish the following:

Revision to Airplane Flight Manual (AFM)

(a) For Model A300 B2–1A series airplanes equipped with General Electric CF6–50A engines, and for Model A300 B4–600 series airplanes equipped with Pratt & Whitney JT9D–7R4H1 engines: Within 10 days after the effective date of this AD, revise the ''Procedures Following Failure'' Section of the FAA-approved AFM, in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA.

(b) For all airplanes not identified in paragraph (a) of this AD: Within 10 days after the effective date of this AD, revise the ''Procedures Following Failure'' Section of the applicable AFM by inserting into the AFM a copy of the applicable Temporary Revision (TR) listed in the following table:

TABLE 1.—TEMPORARY REVISIONS

Model/series	Engine	TR No.	Date
A300	GE CF6–50C	4.02.00/08	April 25, 2001.
A300	GE CF6–50C2/C2R	4.02.00/09	April 26, 2001.
A300–600	GE CF6–80C2	4.02.00/11	March 21, 2000.
A300–600	PW 4000	4.02.00/13	March 28, 2000.
A310	GE CF6–80A3	4.02.00/11	March 21, 2000.
A310	GE CF6–80C2	4.02.00/12	March 22, 2000.
A310	PW JT9D–7R4	4.02.00/13	March 23, 2000.
A310	PW 4000	4.02.00/14	March 24, 2000.

(c) When the information in the applicable TR listed in Table 1 of this AD has been incorporated into the FAA-approved general revisions of the AFM, the general revisions may be incorporated into the AFM, and the TR may be removed from the AFM.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Operations Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 1: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(f) The AFM revision required by paragraph (b) of this AD shall be done in accordance with A300 Flight Manual Temporary Revision 4.02.00/08, dated April 25, 2001; A300 Flight Manual Temporary Revision 4.02.00/09, dated April 26, 2001; A300–600 Flight Manual Temporary Revision 4.02.00/11, dated March 21, 2000; A300–600 Flight Manual Temporary Revision 4.02.00/13, dated March 28, 2000; A310 Flight Manual Temporary Revision 4.02.00/11, dated March 21, 2000; A310 Flight Manual Temporary Revision 4.02.00/12, dated March 22, 2000; A310 Flight Manual Temporary Revision 4.02.00/13, dated March 23, 2000; and A310 Flight Manual Temporary Revision 4.02.00/14, dated March 24, 2000; as applicable. (Only page 2 of each Temporary Revision contains the document date; no other page of these documents contains this information.) This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in French airworthiness directive 2001–129(B), dated April 4, 2001.

Effective Date

(g) This amendment becomes effective on July 17, 2001.

Issued in Renton, Washington, on June 21, 2001.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–16199 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–CE–09–AD; Amendment 39–12300; AD 2001–13–18]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech Models 45 (YT–34), A45 (T–34A, B–45), and D45 (T–34B) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This document supersedes Airworthiness Directive (AD) 99–12–02, which currently requires flight and operating limitations on Raytheon Aircraft Corporation (Raytheon) Beech Models 45 (YT–34), A45 (T–34A, B–45), and D45 (T–34B) airplanes. AD 99–12–02 resulted from a report of an in-flight separation of the right wing on a Raytheon Beech Model A45 (T–34A) airplane. The AD was issued as an interim action until the development of FAA-approved inspection procedures. Raytheon has developed procedures to inspect the wing spar assemblies of the above-referenced airplanes. This AD requires repetitive inspections of the wing spar assembly for cracks with replacement of any wing spar assembly found cracked (unless the spar assembly has a crack indication in the filler strip where the direction of the crack is toward the outside edge of the filler strip). This AD also includes a reporting requirement of the results of the initial inspection and maintains the flight and operating restrictions required by AD 99–12–02 until accomplishment of the initial inspection. The actions specified by this AD are intended to prevent wing spar failure caused by fatigue cracks in the wing spar assemblies and ensure the operational safety of the above-referenced airplanes.

DATES: This AD becomes effective on August 16, 2001.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of August 16, 2001.

ADDRESSES: You may get the service information referenced in this AD from Raytheon Aircraft Company, P.O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 625–7043 or (316) 676–4556. You may examine this information at FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000–CE–09–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: Paul Nguyen, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4125; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

Has FAA taken any action to this point? In-flight separation of the right wing on a Raytheon Beech Model A45 (T34A) airplane caused FAA to issue AD 99–12–02, Amendment 39–11193 (64 FR 31689, June 14, 1999). This AD requires:

—Incorporating flight and operating limitations that restrict the airplanes

to normal category operation and prohibit them from acrobatic and utility category operations;
—Limiting the flight load factor to 0 to 2.5 G; and
—Limiting the maximum airspeed to 175 miles per hour (mph) (152 knots).

AD 99–12–02 was issued as an interim action until the development of FAA-approved inspection procedures.

What has happened since AD 99–12–02 to initiate this action? Raytheon has developed procedures to inspect the wing spar assemblies on Raytheon Beech Models 45 (YT–34), A45 (T–34A, B–45), and D45 (T–34B) airplanes. We have reviewed and approved the technical aspects of these procedures.

To address this issue, FAA issued a notice of proposed rulemaking (NPRM) to supersede AD 99–12–02. This NPRM was published in the **Federal Register** on May 5, 2000 (65 FR 26149). The NPRM proposed to supersede AD 99–12–02 with a new AD that would require:

—Repetitively inspecting the wing spar assemblies for cracks and replacing any cracked wing spar assembly. A crack indication in the filler strip is allowed if the direction of the crack is toward the outside edge of the filler strip;
—Reporting the results of the initial inspection; and
—Maintaining the flight and operating restrictions that AD 99–12–02 currently requires until accomplishing the initial inspection and possible replacement proposed in this AD.

The flight and operating restrictions that AD 99–12–02 currently requires may be changed after inspection of the wing spar assemblies, and the wing spar assembly either is replaced, is crack free, or only has a crack indication in the filler strip where the direction of the crack is toward the outside edge of the filler strip.

Was the public invited to comment? The FAA encouraged interested persons to participate in the making of this amendment. At the request of several commenters, we issued an NPRM to extend the comment period from July 7, 2000, to October 15, 2000. This document was published in the **Federal Register** on July 5, 2000 (65 FR 41381). A summary of the comments received on both of these documents follow, along with our responses.

Comment Issue No. 1: Incorporate Alternative Methods of Compliance Into the Final Rule AD Action

What is the commenters' concern? The FAA received brief summaries of two requests for alternative methods of compliance to the actions in the proposed AD. Several commenters request that we incorporate each of these alternative methods of compliance into the final rule as a compliance option to the AD. A brief description of each alternative method of compliance follows:

—A proposal from the T–34 Technical Committee consists of accomplishing Raytheon SB 57–3329 as a one-time action (as long as no cracks are found) and cold working the boltholes. This would allow the airplanes to be operated at their original operating criteria; and
—A proposal from the T–34 Association consists of complying with parts of Raytheon SB 57–3329 and replacing the front spars with spars from Baron (55 and 58 series) airplanes as terminating action.

What is FAA's response to the concern? The brief summaries of these alternative methods of compliance do not contain sufficient data for us to consider them to provide an acceptable level of safety at the present time. If and when each of these groups submits the appropriate documentation, we will evaluate each proposal to see if it meets the safety intent of the AD. We will then approve any proposal that meets this criteria as an AMOC to the AD.

We are not changing the final rule as a result of these comments.

Comment Issue No. 2: Extend the Comment Period a Second Time

What is the commenters' concern? Several commenters request an extension to the comment period in order to have more time to finalize alternative methods of compliance.

What is FAA's response to the concern? As discussed previously, FAA extended the comment period to give the public an additional 60 days to respond. The comment period on the extension ended October 15, 2000. We have accepted late comments since that time. We have determined that the safety of the affected airplanes outweighs the necessity for waiting any longer for the completion of alternative methods of compliance, especially in light that it has been over 6 months since the comment period for the extension ended.

We are not changing the final rule as a result of these comments.

Comment Issue No. 3: Allow the Operating Restrictions and Limitations Required by AD 99–12–02 Instead of the Proposed Repetitive Inspections

What is the commenters' concern? Several commenters request that they be allowed to continue to implement the operating restrictions and limitations that are currently required by AD 99–12–02 rather than be required to accomplish the proposed repetitive inspections. These commenters state that the fastener removal process could cause more damage to the spars and the bolthole eddy current inspection method is subjective. For example, the commenters reference a recent inspection on 5 of the affected airplanes where the eddy current inspection revealed cracks in the front spar. According to the commenter, Raytheon then validated the inspection results and found no cracks in the front spars.

What is FAA's response to the concern? The FAA does not concur that the implementation of the flight and operating restrictions that are currently required by AD 99–12–02 should be an option to accomplishing this AD. We recognize that the fastener removal process could cause damage to the spars. However, the safety implications of allowing an airplane to continue operation with a cracked spar far outweigh the possible damage the fastener removal process could cause.

We established the current flight restrictions that AD 99–12–02 requires as a temporary safety solution until procedures were developed that could determine the condition of the wing spar assemblies of the affected airplanes. Once a crack develops, it can continue to grow through cyclic loads such as maneuvers or gusts, even while the airplane is operating under the current flight and operating restrictions. The only way we can ensure that the affected airplanes do not have cracked wing spar assemblies is through the accomplishment of this inspection and any necessary wing spar assembly replacement.

We also recognize that the Raytheon inspection procedure has the potential of indicating cracks when there are none. Again, the safety implications of allowing an airplane to continue operation with a cracked spar far outweigh the possibility of a false crack indication from the inspection.

We are not changing the final rule as a result of these comments.

Comment Issue No. 4: Return the Affected Airplanes to Their Original Flight Limitations and Limit the AD to Those Airplanes in Air Combat Operations

What is the commenters' concern? Several commenters state that only those airplanes that are utilized in air combat operations are subject to the fatigue stress that warrants this AD action. The commenters request that

FAA exempt those airplanes that do not fly in these operations.

Two other commenters state that the proposed AD is not necessary and recommend that we withdraw AD 99–12–02. These commenters also recommend closely monitoring the operations of air combat since they believe that is the reason for the fatigue damage to the wings of the affected airplanes.

What is FAA's response to the concern? Although we concur that air combat operations reduces the fatigue life of the wing spars of the affected airplane, fatigue problems can also exist for airplanes involved in acrobatic maneuvers, not just air combat operations. Therefore, we have determined that the AD is necessary for all of the airplanes referenced in the NPRM to address the unsafe condition.

We are not changing the final rule as a result of these comments.

Comment Issue No. 5: Change the Inspection Requirements

What is the commenters' concern? Several commenters provided information on the need for both initial and repetitive inspections. Specifically they are as follows:

—One commenter states that a one-time inspection in accordance with the service bulletin is sufficient;

—Four commenters recommend that FAA require only a visual inspection to locate displaced rivets, signs of fatigue, unusual wear, any stress related material, or corrosion. These commenters recommend this inspection to coincide with annual or 100-hour time-in-service (TIS) inspections;

—Six commenters recommend repetitive inspections at intervals of 500 hours TIS or 5 years, whichever occurs first. These commenters recommend more intense inspections for airplanes flown in high stress conditions;

—One commenter recommends repetitive inspections at intervals of 200 hours TIS;

—One commenter recommends no repetitive inspections if the airplane is found crack-free during the initial inspection; and

—Another commenter recommends no repetitive inspections or at the very least repetitive inspections at 1,000-hour TIS intervals. This commenter also suggests more stringent inspection requirements when cracks are found to monitor the crack growth.

What is FAA's response to the concern? We do not concur with any of these requests. Our analysis shows that the 80-hour TIS repetitive inspection interval is necessary to detect cracks at the earliest time before they progress to a point of failure. As discussed previously, we have data that shows fatigue problems for airplanes involved in acrobatic maneuvers as well as air combat operations.

However, we are changing the compliance time of the initial inspection to ''within the next 80 hours time-in-service (TIS) after the effective date of this AD or within 12 months after the effective date of this AD, whichever occurs later'' instead of ''* * * whichever occurs first.'' This will give operators of high-usage airplanes 12 months to accomplish the inspection and will give those operators who do not operate 80 hours TIS in a year more time to comply. All operators must maintain the flight and operating restrictions required by AD 99–12–02 until the initial inspection.

Comment Issue No. 6: Either Limit the Affected Airplanes to Utility Category Operation or Exclude Those Airplanes Only Operating in Utility Category

What is the commenters' concern? One commenter requests that, since the Model D45 (T–34B) airplanes are operated in the Utility category and not the Acrobatic category, the AD should not apply to these airplanes. Another commenter recommends that FAA require all affected airplanes to operate according to Utility category operating requirements after accomplishing the initial inspection.

What is FAA's response to the concern? We do not concur with these requests. We can neither exempt the Model D–45 (T–34B) airplanes from the AD nor can we change the operational category of all of the affected airplanes because the wings of the Model A45 (T–34A, B–45) are interchangeable with wings of the Model D45 (T–34B) airplanes. Field experience reveals that the wings of these airplanes have been interchanged. We have no assurance that reliable records exist of wing interchange between these airplanes. Therefore, we have determined that, if we incorporated these requests, an unsafe condition could exist or develop on these airplanes.

We are not changing the final rule as a result of these comments.

Comment Issue No. 7: Correct the Airspeed Indicator Glass Modification Information in the AD

What is the commenters' concern? One commenter requests that FAA change the information from the modification to the red radial line on the airspeed indicator glass from 225 miles per hour (mph) to 252 mph. This commenter also states that the word ''edge'' should be added after the word ''outside'' in the fourth bullet in paragraph (e)(4)(iv)(A) of the NPRM.

What is FAA's response to the concern? We concur with these changes. Since these are the type-certificated operating limitations, we are not repeating these in the final rule.

Comment Issue No. 8: Withdraw the NPRM and AD 99–12–02

What is the commenters' concern? Several commenters state that FAA should not only withdraw the NPRM, but should also withdraw AD 99–12–02. The commenters believe that we have no justification for issuing either of these regulatory documents.

What is FAA's response to the concern? We do not concur with these comments. Our decision to issue AD 99–12–02 was based on our analysis and examination of all available data concerning an in-flight separation of the right wing on a Raytheon Beech Model A45 (T–34A) airplane. Our decision to issue the NPRM was based on the development of inspection procedures that when accomplished would allow the airplane to operate in accordance with the original flight and operating restrictions. As discussed earlier in this document, we have determined that the unsafe condition is addressed by:

—Repetitively inspecting the wing spar assembly for cracks and replacing any wing spar assembly found cracked (unless the spar assembly has a crack indication in the filler strip where the direction of the crack is toward the outside edge of the filler strip); and

—Continuing the flight and operating restrictions required by AD 99–12–02 until the initial inspection is accomplished.

We are not making any changes to the final rule based on these comments.

FAA's Determination and Provisions of the AD

What is FAA's Final Determination on this Issue? After careful review of all available information related to the subject presented above, we have determined that air safety and the public interest require the adoption of the rule as proposed except for the change in the initial inspection compliance time and minor editorial corrections. We determined that this compliance time change and the minor editorial corrections:

—Will not change the meaning of the AD; and

Will not add any additional burden upon the public than was already

proposed (the compliance time change actually reduces the burden of when the inspection must be accomplished).

Why is the compliance of the initial inspection in hours time-in-service (TIS) and calendar time? We have established the compliance time of the initial inspection at the next 80 hours TIS or 12 months with the prevalent one being that which occurs later. This will give operators of high-usage airplanes 12 months to accomplish the inspection and will give those operators who do not operate 80 hours TIS in a year more time to comply. All operators must maintain the flight and operating restrictions required by AD 99–12–02 until the initial inspection. We have determined that the dual compliance time will ensure that the safety issue is addressed in a timely manner without inadvertently grounding any of the affected airplanes.

How many airplanes does this AD impact? The FAA estimates that this AD affects 476 airplanes in the U.S. registry.

What is the cost impact of the initial inspection on owners/operators of the affected airplanes? We estimate that it will take approximately 241 workhours per airplane to accomplish the initial inspection, at an average labor rate of $60 an hour. Based on these figures, FAA estimates the cost impact of the initial inspection on U.S. operators at $6,882,960, or $14,460 per airplane.

What about the cost of repetitive inspections and replacements? The figures above only take into account the cost of the initial inspection and do not take into account the cost of repetitive inspections or the cost to replace a cracked wing spar assembly. We have no way of determining the number of repetitive inspections each owner/operator will incur over the life of an affected airplane or the number of airplanes that will have a cracked wing spar(s) and need replacement.

The cost of each repetitive inspection will be $1,860 per airplane (31 workhours × $60 per hour).

Raytheon no longer produces wings spars for the affected airplanes. If a wing spar is found cracked, you will have to install an FAA-approved wing spar configuration in order to continue to operate the airplane. For cost estimate purposes, we are using information on installing a Raytheon Beech 55 or 58 series airplane wing spar on a Raytheon Beech Model A45 airplane in accordance with Supplemental Type Certificate (STC) No. SA5521NM. Nogle and Black Aviation, Inc., owns this STC. The cost to replace a cracked wing spar through this STC will be $14,100 (160 workhours × $60 per hour plus $4,500 for parts). The airplane will still be subject to the inspection requirements in this AD.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 Airworthiness Directive (AD) 99–12–02, Amendment 39–11193 (64 FR 31689, June 14, 1999), and by adding a new AD to read as follows:

2001–13–18 Raytheon Aircraft Company: Amendment 39–12300; Docket No. 2000–CE–09–AD, Supersedes AD 99–12–02, Amendment 39–11193.

(a) *What airplanes are affected by this AD?* This AD applies to Beech Models 45 (YT–34), A45 (T–34A, B–45), and D45 (T–34B) airplanes, all serial numbers, certificated in any category.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to detect and correct cracks in the wing spar assemblies and ensure the operational safety of the above-referenced airplanes.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must maintain the actions of AD 99–12–02 (superseded by this AD) that are outlined in paragraphs (d)(1), (d)(2), and (d)(3) of this AD, including all subparagraphs, until you accomplish the initial inspection required in paragraph (d)(5) of this AD (paragraphs d(1)–(d)(4) are actions retained from AD 99–12–02, and paragraphs (d)(5)–(d)(7) on actions new to this AD:

Action	When	In accordance with
(1) Accomplish the following placard requirements: (i) Fabricate two placards using letters of at least 1/10-inch in height with each consisting of the following words: ''Never exceed speed, Vne-175 MPH (152 knots) IAS; Normal Acceleration (G) Limits 0, and +2.5; ACROBATIC MANEUVERS PROHIBITED (ii) Install these placards on the airplane instrument panels (one on the front panel and one on the rear panel) next to the airspeed indicators within the pilot's clear view. (iii) Insert a copy of this AD into the Limitations Section on the Airplane Flight Manual (AFM).	All actions required prior to further flight after July 9, 1999 (the effective date of AD 99–12–02), unless already accomplished	Not Applicable.

Action	When	In accordance with
(2) Modify each airspeed indicator glass by accomplishing the following:		
(i) Place a red radial line on each indicator glass at 175 miles per hour (mph) (152 knots).	All actions required within 10 hours time-in-service (TIS) after July 9, 1999 (the effective date of AD 99–12–02), unless already accomplished	Not Applicable.
(ii) Place a white slippage index mark between each airspeed indicator glass and case to visually verify that the glass has not rotated.		
(3) Mark the outside surface of the ''g'' meters with lines of approximately 1/16-inch by 3/16-inch, as follows:		
(i) A red line at 0 and 2.5; and	All actions required within 10 hours time-in-service (TIS) after July 9, 1999 (the effective date of AD 99–12–02), unless already accomplished	Not Applicable.
(ii) A white slippage mark between each ''g'' meter glass and case to visually verify that the glass has not rotated.		
(4) The actions required by paragraph (d)(1), (d)(2), and (d)(3) are no longer required after the initial inspection required in paragraph (d)(5) of this AD is accomplished.	Upon accomplishment of the initial inspection required in paragraph (d)(5) of this AD, unless already accomplished	Raytheon Aircraft Mandatory Service Bulletin No. SB 57–3329, Issued: February, 2000.
(5) Inspect the wing spar assemblies for cracks	Initially inspect within the next 80 hours time-in-service (TIS) after August 16, 2001 (the effective date of this AD) or within 12 months after August 16, 2001 (the effective date of this AD), whichever occurs later, unless already accomplished. Inspect thereafter at intervals not to exceed 80 hours TIS	Raytheon Aircraft Mandatory Service Bulletin No. SB 57–3329, Issued: February, 2000.
(6) Replace any cracked wing spar assembly. A crack indication in the filler strip is allowed if the direction of the crack is toward the outside edge of the filler strip. If the direction of the crack is toward the inside edge of the filler strip or any crack is found in any other area, you must replace the cracked wing spar assembly	Prior to further flight after the required inspection where the cracked wing spar assembly is found	The applicable maintenance manual.
(7) Submit a report to FAA that describes the damage found on the wing spar. Use the chart on pages 58 through 60 of Raytheon Aircraft Mandatory Service Bulletin No. SB 57–3329, Issued: February, 2000	Within 10 days after the initial inspection or within 10 days after August 16, 2001 (the effective date of this AD), whichever occurs later, unless already accomplished	Page 58 through 60 of Raytheon Aircraft Mandatory Service Bulletin No. SB 57–3329, Issued: February, 2000.
(i) Submit this report even if no cracks are found		
(ii) Submit this report to FAA at the address found in paragraph (f) of this AD.		

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

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

(2) The Manager, Wichita Aircraft Certification Office (ACO), approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so 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.

(3) The one alternative method of compliance approved in accordance with AD 99–12–02, which is superseded by this AD, is approved as an alternative method of compliance with this AD.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Paul Nguyen, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4125; facsimile: (316) 946–4407.

(g) *What if I need to fly the airplane to another location to comply with this AD?* 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.

(h) *Are any service bulletins incorporated into this AD by reference?* You must accomplish the actions required by this AD in accordance with Raytheon Aircraft Mandatory Service Bulletin No. SB 57–3329, Issued: February, 2000. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You can get copies from Raytheon Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. 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) *Does this AD action affect any existing AD actions?* This amendment supersedes AD 99–12–02, Amendment 39–11193.

(j) *When does this amendment become effective?* This amendment becomes effective on August 16, 2001.

Issued in Kansas City, Missouri, on June 22, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–16250 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 00–ANM–29]

Revision of Class E Airspace, Salmon, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace at Salmon, ID. Newly developed Area Navigation (RNAV) and VOR/DME Standard Instrument Approach Procedure (SIAP), and the RNAV Departure Procedure (DP) at the Salmon Lemhi County Airport made this action necessary. Additional Class E 700-feet and 1,200-feet controlled airspace, above the surface of the earth is required to contain aircraft executing the RNAV and VOR/DME SIAP's, and RNAV DP at Salmon Lemhi County Airport.

EFFECTIVE DATE: 0901 UTC, September 6, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 00–ANM–29, 1601 Lind Avenue SW., Renton, Washington 98055–4056: telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On April 11, 2001, the FAA proposed to amend Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by revising Class E airspace at Salmon, ID, in order to accommodate new RNAV SIAP's at Salmon Lemhi County Airport, Salmon, ID (66 FR 18737). This amendment provides Class E5 airspace at Salmon, ID, to meet current criteria standards associated with the SIAP. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The Rule

This amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) revises Class E airspace at Salmon, ID, in order to accommodate a new SIAP to the Salmon Lemhi County Airport, Salmon, ID. This amendment revises Class E5 airspace at Salmon, ID, to meet current criteria standards associated with the RNAV and VOR/DME SIAP. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. The rule is designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument Flight Rules (IFR) at the Salmon Lemhi County Airport and between the terminal and en route transition stages.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for the airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth, are published in Paragraph 6005, of FAA Order 7400.9H dated September 1, 2000, and effective September 16, 2001, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1. of the Federal Aviation Administration Order 7400.9 H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM ID E5 Salmon, ID [Revised]

Salmon, Lemhi County Airport, ID
(Lat. 45°07′26″ N., long. 113° 52′53″ W.)
Salmon VORTAC
(lat. 45°01′17″ N., long. 114°05′04″ W.)

That airspace extending upward from 700 feet above the surface within the 12.2-mile radius of the Lemhi County Airport, and within 6.5 miles each side of the 328° bearing from the 12.2 mile radius extending to 17.9 miles, and within 7.8 miles each side of the Salmon VORTAC 054° and 234° radial extending from the 12.2 mile radius of the Airport to 17.5 miles southwest of the VORTAC; that airspace extending upward from 1,200 feet above the surface bounded by a line beginning at lat. 45°04′40″ N., long. 114°32′53″ W.; to lat. 45°12′31″ N., long. 114°16′24″ W.; to lat. 45°42′45″ N., long. 114°16′24″ W.; to lat. 45°42′45'' N., long. 113°48′29″ W.; to lat. 45°38′30″ N., long. 113°25′10″ W.; to lat. 45°24′35″ N., long. 113°18′25″ W.; to lat. 44°43′23″ N., long. 113°42′40″ W.; to lat. 44°43′23″ N., long. 114°32′53″ W. to the point of origin; excluding that airspace within Federal Airways.

* * * * *

Issued in Seattle, Washington, on June 26, 2001.

Lee Daniel,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 01–16605 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–ANM–03]

Establishment of Class E Airspace, Malta, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Malta, MT. Newly developed Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAP) to the Malta Airport has made this action necessary. Class E 700-feet and 1,200-feet controlled airspace, above the surface of the earth is required to contain aircraft executing procedures in the Instrument Flight Rules (IFR).

EFFECTIVE DATE: 0901 UTC, September 6, 2001.

FOR FURTHER INFORMATION CONTACT: Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 01–ANM–03, 1601 Lind Avenue SW., Renton, Washington 98055–4056: telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On April 11, 2001, the FAA proposed to amend Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by revising Class E airspace at Malta, MT, in order to accommodate new RNAV SIAP's at Malta Airport, Malta, MT (66 FR 18736). This amendment provides Class E5 airspace at Malta, MT, to meet current criteria standards associated with the SIAP. Interested parties were invited to participate in the rulemaking proceeding by submitting written comments on the proposal. No comments were received.

The Rule

This amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) revises Class E airspace at Malta, MT, in order to accommodate new SIAP's to the Malta Airport, Malta, MT. This amendment revises Class E5 airspace at Malta, MT, to meet current criteria standards associated with the RNAV SIAP. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. This rule is designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under IFR at the Malta Airport and between the terminal and en route transition stages.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth, are published in Paragraph 6005, of FAA Order 7400.9H dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM MT E5 Malta, MT [New]

Malta Airport, MT
(Lat. 48°22′01″ N., long. 107°55′10″ W.)

That airspace extending upward from 700 feet above the surface within the 4.3-mile radius of the Malta Airport, and within 2.5 miles each side of the 270° bearing from the Malta Airport extending from the 4.3-mile radius to 6.5 miles west of the Airport, and within 2.5 miles each side of the 090° bearing from the Malta Airport extending from the 4.3-mile radius to 5.4 miles east of the Airport; and that airspace extending upward from 1200 feet above the surface bounded by a line beginning at lat. 48°34′30″ N., long. 108°43′00″ W.; to lat. 48°34′30″ N., long. 107°00′00″ W.; to lat. 48°05′12″ N., long. 107°00′00″ W.; to lat. 48°17′41″ N., long. 108°43′00″ W., to the point of origin; excluding that airspace within Federal Airways.

* * * * *

Issued in Seattle, Washington, on June 26, 2001.

Lee Daniel,

Acting Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 01–16604 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 99–ANM–15]

RIN 2120–AA66

Establishment and Revision of Restricted Areas, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies R–3202A Saylor Creek, ID, by establishing High and Low areas within the existing area A, and revoking R–3202B and C. Additionally this action establishes three new Restricted Areas (R–3204A, B, and C) at Juniper Butte, ID, as part of the Enhanced Training in Idaho (ETI) initiative. The FAA is taking this action in response to a US Air Force (USAF) request for airspace modifications to support its rapid-response air expeditionary wing training requirements.

EFFECTIVE DATE: 0901 UTC, September 6, 2001.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Background

On April 25, 2000, the FAA proposed to revise and establish restricted airspace in Idaho to support the USAF rapid-response air expeditionary wing training requirements (65 FR 24142). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

One comment was received objecting to the proposal from the Wilderness Society representing the Committee for Idaho's High Desert, Idaho Rivers United, Middle Snake River Chapter of the Sierra Club, and the Idaho Conservation League. The Wilderness Society objected to the FAA issuing a proposed rule without being initially

notified and kept informed of the issue. They further objected to the **Federal Register** notice since it did not contain detailed maps of the proposed action.

The FAA does not agree with this commenter. The purpose of the notice of proposed rulemaking (NPRM) was to inform, and solicit, public comments on the overall regulatory, aeronautical, economic, environmental, and energy related impacts of the proposal. While the chart was not published in the **Federal Register** with the NPRM, the FAA believes that the proposed action contained sufficient information to convey the proposed action. Notwithstanding, the Wilderness Society's comments concerning the environment were reviewed as part of the FAA in-depth review, and adoption, of the ''Enhanced Training in Idaho Environmental Impact Statement (ETI EIS).''

Except for editorial changes, this amendment is the same as that proposed in the Notice.

The coordinates for this airspace docket are based on North American Datum 83. Section 73.32 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8H dated September 1, 2000.

The Rule

The FAA amends 14 CFR part 73 (part 73) of the Federal Aviation Regulations and re-designates R–3202A Saylor Creek ID, by reducing its size and sub-dividing the remaining airspace into High and Low areas, raising the ceiling of the high area from FL 180 to FL 290, and revoking R–3202B and C. In addition this action establishes three additional smaller Restricted Areas, R–3204A, R–3204B and R–3204C at Juniper, Butte, ID as part of the USAF ETI initiative.

The new restricted areas permit the safe delivery of training ordnance into an impact area. This action eliminates restricted airspace south of the existing Saylor Creek Range and results in an overall reduction of restricted airspace. The new restricted airspace for the Juniper Butte training range is being established over a 12,000-acre area with one 300-acre ordnance impact area. The USAF has requested these modifications to support its unique rapid-response air expeditionary wing training requirements.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This action was requested by the USAF as part of the ETI initiative, which also includes non-rulemaking airspace actions. Pursuant to Section 102(2) of the National Environmental Policy Act of 1969 (NEPA), regulations of the Council on Environmental Quality implementing NEPA, and other applicable law, the USAF prepared and published a Final Environmental Impact Statement (FEIS) that analyzed the potential environmental impacts associated with the ETI. The USAF issued a Record of Decision (ROD) for the ETI on March 10,1998, and selected the Juniper Butte alternative, which was identified as the environmentally preferred alternative. The ROD, and a Supplement to the ROD issued by the USAF in September 1998, included a number of measures to mitigate environmental impacts. Following litigation regarding the ETI and previous USAF actions in Idaho (*Greater Owyhee Legal Defense* v. *United States Department of Defense et al.,* No. CIV 92–0189–S–BLW (D. Idaho); *The Wilderness Society et al.* v. *United States Department of Defense et al.,* No. CIV 96–0326–BLW (D. Idaho); *Greater Owyhee Legal Defense* v. *Col. Gerald F. Pease, Jr. et al.,* No. CIV 98–0162–S–BLW (D. Idaho); *The Wilderness Society and Committee for Idaho's High Desert* v. *Bureau of Land Management,* IBLA No. 99–216 (Interior Board of Land Appeals 1999)), the USAF entered into a Settlement Agreement that included additional mitigation measures and established a Settlement Implementation Group.

The FAA has conducted a written reevaluation of the FEIS in accordance with FAA Order 1050.1D, paragraph 91, and is adopting the FEIS for this action pursuant to 40 CFR 1506.3(a) and (c). A copy of the written reevaluation has been placed in the public docket for this rulemaking. All practicable means to avoid or minimize environmental harm from the alternative selected have been adopted.

The FAA has also approved the non-rulemaking airspace actions included in the ETI initiative. The record of the non-rulemaking decision is contained in a Non-Rulemaking Decision Document (NRDD) dated June 22, 2001. A copy of the NRDD has been placed in the public docket for this rulemaking.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

The Amendment

The FAA amends 14 CFR part 73 as follows:

PART 73—[AMENDED]

1. The authority citation for 14 CFR part 73 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 73.32 [Amended]

2. Section 73.32 is amended as follows:

* * * * *

R–3202A Saylor Creek, ID [Revoke]

R–3202B Saylor Creek, ID [Revoke]

R–3202C Saylor Creek, ID [Revoke]

R–3202 Low Saylor Creek, ID [New]

Boundaries. Beginning at lat. 42°53′00″ N., long. 115°42′20″ W.; at lat. 42°53′00″ N., long. 115°24′15″ W.; at lat. 42°36′00″ N., long. 115°24′15″ W.; at lat. 42°36′00″ N., long. 115°42′20″ W.; to the point of beginning.

Designated altitudes. Surface to but not including FL 180.

Times of use. 0730–2200 local time, Monday through Friday, other times by NOTAM.

Controlling agency. FAA Salt Lake City, ARTCC.

Using agency. USAF, 366th Wing, Mountain Home AFB, ID.

R–3202 High Saylor Creek, ID [New]

Boundaries. Beginning at lat. 42°53′00″ N., long. 115°42′20″ W.; at lat. 42°53′00″ N., long. 115°24′15″ W.; at lat. 42°36′00″ N., long. 115°24′15″ W.; at lat. 42°36′00″ N., long. 115°42′20″ W.; to the point of beginning.

Designated altitudes. FL 180 to FL 290.

Times of use. 0730–2200 local time, Monday through Friday, other times by NOTAM.

Controlling agency. FAA Salt Lake City, ARTCC.

Using agency. USAF, 366th Wing, Mountain Home AFB, ID.

R–3204A Juniper Buttes, ID [New]

Boundaries. Beginning at lat. 42°20′00″ N., long. 115°22′30″ W.; at lat. 42°20′51″ N., long. 115°18′00″ W.; at lat. 42°19′00″ N., long. 115°17′00″ W.; at lat. 42°16′35″ N., long. 115°17′00″ W.; at lat. 42°16′35″ N., long. 115°22′30″ W.; to the point of beginning.

Designated altitudes. Surface to 100 feet AGL.

Times of use. 0730–2200 local time, Monday through Friday, other times by NOTAM.

Controlling agency. FAA Salt Lake City, ARTCC.

Using agency. USAF, 366th Wing, Mountain Home AFB, ID.

R–3204B Juniper Buttes, ID [New]

Boundaries. The airspace within a 5–NM radius centered on (lat.42°18′00″ N., long. 115°20′00″ W.;)

Designated altitudes. 100 feet AGL to but not including FL 180.

Times of use. 0730–2200 local time, Monday through Friday, other times by NOTAM.

Controlling agency. FAA Salt Lake City, ARTCC.

Using agency. USAF, 366th Wing, Mountain Home AFB, ID.

R–3204C Juniper Buttes, ID [New]

Boundaries. The airspace within a 5–NM radius centered on (lat. 42°18′00″ N., long. 115°20′00″ W.;)

Designated altitudes. FL 180 to FL 290.

Times of use. 0730–2200 local time, Monday through Friday, other times by NOTAM.

Controlling agency. FAA Salt Lake City, ARTCC.

Using agency. USAF, 366th Wing, Mountain Home AFB, ID.

* * * * *

Issued in Washington, DC, on June 26, 2001.

Reginald C. Matthews,

Manager, Airspace and Rules Division.

[FR Doc. 01–16603 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Insular Affairs

15 CFR Part 303

[Docket No. 991228350–1118–02]

RIN: 0625–AA57

Changes in the Insular Possessions Watch, Watch Movement and Jewelry Program

AGENCIES: Import Administration, International Trade Administration, Department of Commerce; Office of Insular Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: The Departments amend their regulations governing watch duty-exemption allocations and the watch and jewelry duty-refund benefits for producers in the United States insular possessions (the U.S. Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands) . The rule amends ITA regulations by further clarifying the range of documents that may be needed for verification of duty-free shipments of jewelry into the United States and by clarifying which wages qualify as creditable and which do not for purposes of calculating the duty-refund for watches and jewelry. Also, the regulations were amended by making minor editorial changes within the definition of new firm for watches. Finally, we amend the duty refund process by dividing the amount of the annual duty refund certificate into two installments. These amendments make grammatical changes, clarify a portion of the regulations, update methods of documentation and help producers receive benefits in a more timely fashion.

DATES: July 2, 2001.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 482–3526.

SUPPLEMENTARY INFORMATION: We published proposed regulatory revisions on May 23, 2001 (66 FR 28404) and invited comments. We received two letters with comments. Both letters pertained to the clarification of the definition of creditable wages. Both pointed out that the watch and jewelry factories have machinery that require plumbers, electricians and machine and maintenance people and that these people are integral to their assembly and manufacturing processes. It was also pointed out that security personnel were essential to the operations of some factories. We agree that wages paid to employees who maintain equipment essential to the assembly and manufacturing operations at the factories should be creditable towards the duty refund even if the employees include plumbers or electricians. We also agree wages paid to security staff should be creditable towards the duty refund and decided that specific language regarding security activities should be included in the regulations. In the proposed language we were trying to convey that wages paid for the construction of a building, an addition to an existing building or office construction within the shell of a building is beyond the scope of the program and the wages for those workers are not creditable. We thank the commenters for their input and we have revised the language to more clearly articulate which wages are creditable.

The insular possessions watch industry provision in Sec. 110 of Pub. L. No. 97–446 (96 Stat. 2331) (1983), as amended by Sec. 602 of Pub. L. No. 103–465 (108 Stat. 4991) (1994); additional U.S. Note 5 to chapter 91 of the Harmonized Tariff Schedule of the United States (‘‘ HTSUS’’), as amended by Pub.L. 94–241 (90 Stat. 263)(1976) requires the Secretary of Commerce and the Secretary of the Interior, acting jointly, to establish a limit on the quantity of watches and watch movements which may be entered free of duty during each calendar year. The law also requires the Secretaries to establish the shares of this limited quantity which may be entered from the Virgin Islands, Guam, American Samoa and the Commonwealth of the Northern Mariana Islands (‘‘CNMI’’). After the Departments have verified the data submitted on the annual application (Form ITA–334P), the producers' duty-exemption allocations are calculated from the territorial share in accordance with 15 CFR 303.14 and each producer is issued a duty-exemption license. The law further requires the Secretaries to issue duty-refund certificates to each territorial watch and watch movement producer based on the company's duty-free shipments and creditable wages paid during the previous calendar year.

Pub. L. 106–36 (113 Stat. 127) (1999) authorizes the issuance of a duty-refund certificate to each territorial jewelry producer for any article of jewelry provided for in heading 7113 of the HTSUS which is the product of any such territory. The value of the certificate is based on creditable wages paid and duty-free units shipped into the United States during the previous calendar year. Although the law specifically mentions the U.S. Virgin Islands, Guam and American Samoa, the issuance of the duty-refund certificate would also apply to the CNMI due to the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Pub. L. 94–241), which states that goods from the CNMI are entitled to the same tariff treatment as imports from Guam. *See also* 19 CFR 7.2(a). The law provides that during the first two years, beginning August 9, 1999, jewelry that is assembled in the territories shall be treated as a product of such territories. Thereafter, in order to be considered a product of such territories, the jewelry must meet the U.S. Customs Service substantial transformation requirements (the jewelry must become a new and different article of commerce as a result of production or manufacture performed in the territory). To receive duty-free treatment, the jewelry must also satisfy the requirements of General Note 3(a)(iv) of the HTSUS and applicable Customs Regulations (19 CFR 7.3).

The law specifies, in addition, that watch producer benefits shall not be diminished as a consequence of extending duty-refund benefits to jewelry manufacturers. In the event that the aggregate amount of the calculated duty refunds for both watches and jewelry exceeds the total amount available under Pub. L. 97–446, as amended by Pub. L. 103–465, the watch producers shall receive their calculated amounts; the jewelry producers would then receive amounts proportionately reduced from the remainder. *See* Pub. L. 106–36.

Amendments

We amend Subpart A § 303.2(a)(5), *see* 65 FR 8049 (Feb. 17, 2000), by making grammatical changes.

We also amend Subpart A § 303.2(a)(13) and Subpart B § 303.16(a)(9) to explain further what is meant by special services under the definition of wages excluded from being creditable towards the duty-refund in response to requests for additional clarification of this language. The new language on wages not creditable towards the duty refund includes wages paid for outside consultants or other professional personnel or those persons not involved in the day to day assembly operations or servicing and maintenance of equipment and fixtures necessary for the assembly or manufacturing operations or administrative work and security activities directly related to the operation of the company. Examples of wages that would not be creditable toward the duty refund would be wages paid to gardeners, construction workers or outside lawyers and accountants. A producer also wanted to know if two producers worked on the same single piece of jewelry, would each producer's wages for their portion of the work be creditable towards each producer's duty refund. The jewelry producer explained that the casting of precious metal is a highly technical process which is very capital intensive and expensive to set up. The producer explained that it would be very helpful if some companies could subcontract such work to a producer who was willing to make the capital investment. The producer also pointed out that having a local caster available would be an added inducement to other jewelry companies to locate in the insular possessions. We agree that given this unique two-step manufacturing process in the production of jewelry, that this request has merit. Therefore, we include specific language to address this situation. The regulatory language would allow two separate jewelry producers to have their portion of the wages credited toward their own duty refund for work on a single piece of jewelry which had entered the U.S. free of duty under the program if the companies demonstrate that they worked on the same piece of jewelry, the jewelry received duty-free treatment into the U.S., the companies maintained production and payroll records for dutiable as well as duty-free jewelry shipments into the U.S. or other destinations so that creditable as well as non-creditable wages may be determined, and the records are sufficient for the Departments' verification of the creditable wages and duty-free units shipped into the United States.

The rule adds alternative documents which may be needed or used during the verification of the amount of duty-free jewelry which entered the United States under the insular program. New shipping methods and the fact that jewelry, unlike watches, does not require a permit (Form ITA–340P), necessitate new ways to document duty-free entry into the United States. Therefore, we amend Subpart B § 303.17(b)(4) to include methods of verification such as requiring the consignee (receiver of goods in the U.S.) to certify that shipments which are otherwise unsupported by Customs entry documents or a certificate of origin did, in fact, receive duty-free treatment. These alternative reporting requirements are necessary in order to provide the Departments' auditors with sufficient documentation to verify duty-free shipments.

Finally, we amend Subpart A, § 303.2(b)(1) and § 303.12(a), and Subpart B, § 303.16(b)(1) and § 303.19(a)(1) by providing for the issuance of an interim duty refund certificate which would authorize a producer to receive a portion of the total amount of the annual duty refund certificate. The interim amount will be based on reported duty-free shipments and creditable wages paid during the first six months of the same calendar year in which the wages were paid. The interim duty refund certificate will be issued after the required company data are received and the calculations for each company are completed. We require the receipt of each producer's data by the end of July if the producer wishes to receive an interim duty refund certificate. The interim duty refund certificate will be issued by the end of August to all producers who have provided the Departments with the data necessary to calculate the duty refund by the end of July. The verification process and the calculation for the annual duty refund certificate will remain the same. However, that portion of the duty refund that has already been issued via the interim duty free certificate to each producer will be deducted from each producer's annual total duty refund amount. This amendment provides duty refund benefits to producers in a more timely fashion.

Under the Administrative Procedure Act, 5 U.S.C. 553(d)(1), the effective date of this rule need not be delayed for 30 days because this rule relieves a restriction by allowing each producer to receive a duty refund certificate in two installments instead of one.

Administrative Law Requirements

Regulatory Flexibility Act. In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Chief Counsel for Regulation at the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule will not have a significant economic impact on a substantial number of small entities. This rulemaking will make minor editorial changes and clarify current language regarding creditable wages neither of which will impose any cost or have any other adverse economic effect on the producers. The rulemaking will also divide the total annual amount of the duty refund certificate into two installments, thereby allowing producers to receive benefits in a more timely fashion. Although the total amount of a duty refund certificate will not change, the rule is intended to have a positive effect on the insular economies by helping the producers improve their cash flows. Finally, the rulemaking includes an alternative method of verification of duty-free shipments of jewelry into the United States for those entries that did not receive Customs entry documents or a certificate of origin for each shipment. If producers want credit for these duty-free shipments, once a year the consignee (receiver of the jewelry shipped into the United States) or producer (if the producer knows that the shipment received duty-free entry into the United States) will prepare a written certification for the Departments' auditors that the shipments received duty-free treatment into the United States. The certification is expected to have little, if any, economic impact on a company that did not receive Customs entry documentation. We estimate the certification statement, if used, would create a burden of about ten minutes to complete at a cost of approximately $20 annually.

Paperwork Reduction Act. This rulemaking involves new collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This collection has been approved by OMB. Changing the duty refund certificate from an annual to a biannual basis requires the use of three of the current forms, modified to accommodate the change. The public reporting burden for these collection-of-information requirements includes the time for reviewing instructions, searching existing data bases, gathering and maintaining the data needed, and completing and reviewing the collection of information. The issuance of payments under the duty refund certificate on a biannual bases requires the collection of data through the use of a modified version of the annual application, Form ITA–334P. We estimate this will involve a burden of about one hour per producer. One more certificate of entitlement to a duty refund, Form ITA–360P, will also need to be issued to each producer per year. This form is completed by the Department of Commerce and imposes no burden hours on the producers. Form ITA–361P, the request for refund of duties, is currently used once or twice a year per producer and takes about 10 minutes to complete. Because of the biannual duty refund, we anticipate that most producers will only complete the form between two to three times a year in order to receive such refunds in a more timely manner. We expect Form ITA–361P will only increase the burden by about 10 minutes per producer. Finally, the rulemaking will include an alternative method of verification of the duty-free shipments of jewelry into the United States for those entries that did not receive Customs entry documents or the country of origin certificates for each shipment. This alternative will be in the form of a written certification by the consignee or, if he or she knows, by the producer, that the shipments received duty-free treatment. Because the jewelry portion of the program is new, it is difficult at this time to determine whether this alternative certification will be needed by the new companies or whether they will be able to produce standard Customs entry documents or certificates of origin. The certification by the consignee or producer will be in the form of an annual statement prepared for the auditor. We estimate that it will take about ten minutes to complete at a cost of approximately $20. Collection activities are currently approved by the Office of Management and Budget under control numbers 0625–0040 and 0625–0134. Send comments regarding any of these burden estimates or any other aspect of the collection-of-information to U.S. Department of Commerce , ITA Information Officer, Washington, DC 20230 and Office of Information and Regulations Officer, Office of Management and Budget, Washington, DC 20503 (Att: OMB Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information unless it displays a currently valid OMB Control Number.

Plain English. The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this rule.

Executive Order 12866. It has been determined that this rulemaking is not significant for purposes of Executive Order 12866.

List of Subjects in 15 CFR Part 303

Administrative practice and procedure, American Samoa, Customs duties and inspection, Guam, Imports, Marketing quotas, Northern Mariana Islands, Reporting and recordkeeping requirements, Virgin Islands, Watches and jewelry.

For reasons set forth above, The Departments amend 15 CFR Part 303 as follows:

PART 303—WATCHES, WATCH MOVEMENTS AND JEWELRY PROGRAM

1. The authority citation for 15 CFR Part 303 continues to read as follows:

Authority: Pub. L. 97–446, 96 Stat. 2331 (19 U.S.C. 1202, note); Pub. L. 103–465, 108 Stat. 4991; Pub. L. 94–241, 90 Stat. 263 (48 U.S.C. 1681, note); Pub. L. 106–36, 113 Stat.127,167.

2. Section 303.2 is amended as follows:

A. The first sentence of § 303.2(a)(5) is amended by removing ''which may not be'' and adding in its place ''not'.

B. The second sentence of § 303.2(a)(13) is revised as set forth below.

C. The last sentence of § 303.2(b)(1) is amended by adding ''and by producers who wish to receive the duty refund in installments on a biannual basis'' at the end of the sentence.

§ 303.2 Definitions and forms.

(a) * * *

(13) * * * Excluded, however, are wages paid to any outside consultants or other professional personnel, such as lawyers and accountants, or to those persons not involved in the day-to-day assembly operations or servicing and maintenance of equipment and fixtures necessary for the assembly or manufacturing operations or administrative work and security activities directly related to the operations of the company, such as gardeners or construction workers, and for the repair of non-91/5 watches and movements to the extent that such wages exceed the foregoing percentage.

* * *

* * * * *

3. Section 303.12(a)(1) is revised to read as follows:

§ 303.12 Issuance and use of production incentive certificates.

(a) *Issuance of certificates.* (1) The total annual amount of the Certificate of Entitlement, Form ITA–360, may be divided and issued on a biannual basis. The first portion of the total annual certificate amount will be based on reported duty-free shipments and creditable wages paid during the first six months of the calendar year, using the formula in § 303.14(c). The Departments require the receipt of the data by July 31 for each producer who wishes to receive an interim duty refund certificate. The interim duty refund certificate will be issued on or before August 31 of the same calendar year in which the wages were earned unless the Departments have unresolved questions. The process of determining the total annual amount of the duty refund will remain the same. The completed annual application (Form ITA–334P) shall be received by the Departments on or before January 31 and the annual verification of data and the calculation of each producer's total annual duty refund, based on the verified data, will continue to take place in February. Once the calculations for each producer's duty refund has been completed, the portion of the duty refund that has already been issued to each producer will be deducted from the total amount of each producer's annual duty refund amount. The duty refund certificate will continue to be issued by March 1 unless the Departments have unresolved questions.

* * * * *

4. Section 303.16 is amended as follows:

A. The second sentence of § 303.16(a)(9) is removed and three sentences are added in its place as set forth below.

B. The last sentence of § 303.16(b)(1) is amended by adding ''and , with special instructions for its completion, by producers who wish to receive the total annual amount of the duty refund in installments on a biannual basis' at the end of the sentence.

§ 303.16 Definitions and forms.

(a) * * *

(9) * * * Excluded, however, are wages paid for outside consultants or other professional personnel, such as lawyers and accountants, or those persons not involved in the day-to-day assembly operations or servicing and maintenance of equipment and fixtures necessary for the assembly or manufacturing operations or the administrative work and security activities directly related to the operations of the company, such as gardeners or construction workers, plus any wages paid for the assembly of dutiable jewelry or for the repair of dutiable jewelry to the extent that such wages exceed the percentage set forth above. No more than two insular producers may have their wages credited for their portion of the wages paid for work on a single piece of jewelry which entered the U.S. free of duty under the program. Wages paid by the two producers will be credited proportionally provided both producers demonstrate to the satisfaction of the Secretaries that they worked on the same piece of jewelry, the jewelry received duty-free treatment into the U.S., and the producers maintained production and payroll records sufficient for the Departments' verification of the creditable wage portion (see § 303.17(b)).* * *

* * * * *

§ 303.17 [Amended]

5. Section 303.17(b)(4) is amended by adding '', or the certificate of origin for the shipment, or, if a company did not receive such documents from Customs, a certification from the consignee that the jewelry shipment received duty-free treatment, or a certification from the producer, if the producer can attest that the jewelry shipment received duty-free treatment'' at the end of the paragraph.

6. Section 303.19(a)(1) is revised to read as follows:

§ 303.19 Issuance and use of production incentive certificates.

(a) *Issuance of certificates.* (1) The total annual amount of the Certificate of Entitlement, Form ITA–360, may be divided and issued on a biannual basis. The first portion of the total annual certificate amount will be based on reported duty-free shipments and creditable wages paid during the first six month of the calendar year, using the formula in § 303.20(b). The Departments require the receipt of the data by July 31 for each producer who wishes to receive an interim duty refund certificate. The interim duty refund certificate will be issued on or before August 31 of the same year in which the wages were earned unless the Departments have unresolved questions. The process of determining the total annual amount of the duty refund will remain the same. The completed annual application (Form ITA–334P) shall be received by the Departments on or before January 31 and the annual verification of data and calculation of each producer's total annual duty refund, based on the verified data, will continue to take place in February. Once the calculations for each producer's duty refund has been completed, the portion of the duty refund that has already been issued to each producer will be deducted from the total amount of each producer's annual duty refund amount. The duty refund certificate will continue to be issued by March 1 unless the Departments have unresolved questions.

* * * * *

Richard W. Moreland,

Acting Assistant Secretary for Import Administration, Department of Commerce.

Nikolao Pula,

Acting Director, Office of Insular Affairs, Department of the Interior.

[FR Doc. 01–16599 Filed 6–29–01; 8:45 am]

BILLING CODE 3510–DS–P; 4310–93–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 24

[T.D. 01–46]

RIN 1515–AC64

Time Limitation for Requesting Refunds of Harbor Maintenance Fees

AGENCY: Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to establish a one year time limit within which a refund request must be filed for overpayments of Harbor Maintenance Fees that were paid on a quarterly basis. The time limit will provide an efficient and reasonable final resolution of claims against Customs, including claims for refunds of export harbor maintenance fees that were held unconstitutional by the United States Supreme Court in 1998. Refund requests for harbor maintenance fee payments that are more than a year old must be filed by the effective date of this document.

EFFECTIVE DATE: December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Deborah Thompson, Revenue Branch, National Finance Center (317) 298–1200 (ext. 4003).

SUPPLEMENTARY INFORMATION:

Background

The Harbor Maintenance Fee was created by the Water Resources Development Act of 1986 (Pub. L. 99–622; codified at 26 U.S.C. 4461 *et seq.*) (the Act) and is implemented by § 24.24 of the Customs Regulations (19 CFR 24.24). Pursuant to the Act, the harbor maintenance fee became effective on April 1, 1987.

Imposition of the fee is intended to require those who benefit from the maintenance of U.S. ports and harbors to share in the cost of that maintenance. The fee has been assessed on port use associated with imports, exports, imported merchandise admitted into a foreign trade zone, passengers, and movements of cargo between domestic ports. Since April of 1998, based on the U.S. Supreme Court's decision that harbor maintenance fees applied to exports of merchandise are unconstitutional (*United States Shoe Corporation* v. *United States,* 118 S. Ct. 1290, No. 97–372 (March 31, 1998)), Customs has not collected export harbor maintenance fees. Currently, except for export shipments, the fee is assessed based on 0.125 percent of the value of commercial cargo loaded or unloaded at certain identified ports or, in the case of passengers, on the value of the actual charge paid for the transportation.

Notice of Proposed Rulemaking Published on December 15, 2000

On December 15, 2000, Customs published a notice of proposed rulemaking (NPRM) in the **Federal Register** (65 FR 78430) proposing to amend § 24.24(e)(4) of the Customs Regulations (19 CFR 24.24(e)) to require the filing of a refund request for harbor maintenance fees paid on a quarterly basis within one year of the date of payment of the fee, except for fees paid relative to imported merchandise admitted into a foreign trade zone and subsequently withdrawn from the zone under 19 U.S.C. 1309, for which the refund request would have to be filed within one year of the date of withdrawal. The NPRM also proposed to amend § 24.73 of the Customs

Regulations (19 CFR 24.73) to require the filing of general claims against Customs—those not otherwise provided for under the Customs laws—within one year of the act giving rise to the claim.

The NPRM sets forth the bases for proposing these time limits, including the Court of Appeals for the Federal Circuit's (CAFC) acknowledgement of Customs authority to impose a time limit on the filing of harbor maintenance fee refund requests (*Swisher International, Inc.* v. *United States,* 205 F. 3d 1358 (No. 99–1277 C.A.F.C. February 28, 2000), cert. denied). (In *Swisher,* the court held Customs denial of a request for a refund of export harbor maintenance fee payments to be a protestable decision under 19 U.S.C. 1514.)

The notice pointed out that for harbor maintenance fee payments that are more than a year old, a refund request would be required to be received by Customs prior to the effective date of the final rule adopting the proposal.

Interim Regulation Published on March 28, 2001

On March 28, 2001, Customs published an interim regulation in the **Federal Register** (66 FR 16854) (hereafter, Interim Regulation) amending § 24.24(e)(4) of the Customs Regulations, the same section of the regulations amended in this final rule document. The Interim Regulation, effective on the date of publication, amended the regulations to provide a new procedure for requesting refunds of export harbor maintenance fees. (On April 27, 2001, a correction to the Interim Regulation was published in the **Federal Register** (66 FR 21086).)

The main features of the new procedure are that: (1) Most refund requests (those covering payments made on and after July 1, 1990) can be filed and processed without supporting documentation; and (2) exporters filing refund requests that require supporting documentation (covering payments made prior to July 1, 1990) will have an additional 120 days to submit documents or additional documents from the date Customs initially denies a request for lack of or insufficient documentation.

This final rule document incorporates the procedure set forth in the Interim Regulation. It is noted that pursuant to Customs consideration of the comments received in response to the NPRM (see discussion below), the effective date of the one year time limitation is 180 days from its date of publication in the **Federal Register**. This differs from the Interim Regulation's background discussion where it is stated that the effective date of the time limitation would be 30 days from date of publication.

Discussion of Comments

Customs received 21 comments in response to the NPRM. The comments can be divided into five subject categories: (1) The proposed one-year filing requirement as applied to requests for refunds of export harbor maintenance fee payments made more than one year ago; (2) the applicability of the Regulatory Flexibility Act (5 U.S.C. 603 and 604) to the proposed amendment's one-year filing requirement as applied to export fee refund requests; (3) the documentary requirements; (4) the applicability of interest to refunds of export fees; and (5) requests for a public hearing/meeting.

Most of the comments were provided on behalf of exporters concerned about filing requests for refunds of export harbor maintenance fees that were held unconstitutional in 1998 and are no longer required under the Customs Regulations. These exporters have a keen interest in Customs procedure for issuing refunds of these fees. The Interim Regulation's procedure for obtaining refunds of these fees addresses and, Customs believes, resolves satisfactorily the issues raised by the comments, as discussed below.

Comments concerning the proposed amendment of § 24.73 to impose a one year filing requirement relative to general claims against Customs are not discussed in this document, as Customs has decided to delay proceeding with that proposed amendment.

The One-Year Filing Requirement as Applied to Requests for Refunds of Export Fee Payments

Comment: Eighteen of the 21 commenters objected to the proposed amendment's one-year filing requirement for refund requests of quarterly-paid harbor maintenance fees. Some commenters objected to imposition of any time limit, while most others objected to how Customs would apply the time limit to refund requests covering payments made more than one year ago.

The various formulations of this objection can be summarized as a complaint that the time limit as applied to payments that are more than one year old—which includes all export harbor maintenance fee payments—does not provide exporters enough time to file claims, and to the extent that lack of time results in exporters being unable to file refund requests, it is unreasonable and unfair. At least one commenter pointed out how some exporters might have to review up to ten or eleven years of payments to Customs dating back to 1987, a formidible task, especially when records that old are often stored off-site. Many companies routinely and reasonably destroy records that old. One commenter contended that many companies have not been dilatory, but genuinely lack the resources necessary to stay on top of this matter. Some companies have been waiting for litigation to be resolved and then for Customs to issue instructions for a refund filing procedure. These companies, say the commenters, will need more time to prepare their requests for refund than the proposed time limit allows.

Some commenters characterized this provision as a time limit that retroactively cuts off rightful claims contrary to the spirit and language of the Swisher decision. For this reason, some raised due process objections. Some raised equal protection objections on the grounds that equally situated exporters will be treated differently where some are able to file their claims timely (and are issued refunds) while others are not (and are not issued refunds). All of these commenters feel strongly that the fact that the export fees at issue were unconstitutional and thus wrongly collected weighs in favor of Customs exercise of leniency regarding a time limit. Some stated that for this reason (unconstitutionality/wrongful collection), Customs should be assisting exporters to obtain refunds, not impeding them.

Many commenters believe that requiring refund requests for payments made more than a year ago by the effective date of the final rule would not be workable and would not be fair. (These comments indicate that most commenters contemplated a short period of delay between the publication date and the effective date. The usual delay period is 30 days. At least two commenters contemplated that the effective date would be the date of publication.) Some commenters suggested that this short deadline will result in a flood of claims that will be an inconvenience and distraction for Customs, will require much time to process, and will result in a ''hurry up and wait'' situation.

At least one commenter suggested that the effective date of the final rule should be delayed 60 days. Some commenters stated that there should not be a deadline for payments ruled unconstitutional. At least seven commenters recommended that, as applied to payments older than one year, filers should have one full year from the date of publication of the final

rule to file refund requests. Another commenter recommended that exporters should have eighteen months from the date of publication to file refund requests.

Customs response: Customs believes that a one year filing requirement is reasonable. Customs statutory and regulatory provisions that impose time limits generally do not provide more than a year to take whatever action is required under the provision. In fact, similar or shorter time limits exist in other contexts, such as the requirement to file a protest under 19 U.S.C. 1514 within 90 days of a Customs decision regarding the amount of duties chargeable, the amount of a charge or exaction, or the liquidation of an entry. The protest procedure is the basic procedure for challenging a variety of Customs decisions and obtaining a refund of overpaid duties or charges. It is noteworthy that the applicable Customs law grants no more than 90 days to take this important action. The requirement to file a petition for reliquidation to correct a clerical error under 19 U.S.C. 1520(c)(1) within one year of the date of liquidation is another example. A third example is the one year filing requirement of 19 U.S.C. 1520(d) imposed on requests for reliquidation of an entry involving goods qualifying under NAFTA rules of origin. The matter of requesting a refund of overpaid harbor maintenance fees is no more important than the matters these provisions address.

Generally, the process of obtaining refunds of harbor maintenance fees is well served by allowing up to one year to file the request/claim. It balances Customs legitimate need for efficient and final resolution of claims with the legitimate interest of exporters seeking to reclaim fees that should not have been paid or were paid in excess of what was due. Moreover, the CAFC in Swisher explicitly stated that Customs is ''free to alter the regulation to impose a time limit.'' Thus, in imposing this one year time limit, Customs is simply acting on the Court's suggestion, in addition to seeking to bring more order and reasonable finality to the refund procedure.

Regarding application of the time limit to export fee payments (or other quarterly harbor maintenance fee payments) that were made more than a year ago (as is the case with all export fee payments), Customs does not agree with the contention that it is unfair and unreasonable to require filing of the refund request by the effective date of the final rule.

The notion that exporters will be confined to only a short period between publication of the final rule and its effective date to file refund requests is simply inaccurate. Customs notes that the regulation authorizing a refund request was promulgated in 1991. Thus, exporters have had 10 years to file refund requests. As far back as 1995 when the fee as applied to exports was initially found to be unconstitutional by the U.S. Court of International Trade (CIT) in *U.S. Shoe Corp.* v. *United States*, 19 CIT 1284, 907 F. Supp. 408 (CIT 1995), exporters were on notice of their ability to recover these fees. That was six years ago. The regulation authorizing refund requests had been effective for four years by that time. While the *U.S. Shoe* case was appealed and was not affirmed by the Supreme Court until its 1998 decision, exporters who paid export fees were on notice during that three year period that they may be entitled to a refund. Nothing prevented exporters from filing refund requests under the existing regulations at any time during that period and many exporters did so. Neither were exporters precluded from filing refund requests during the period following the Supreme Court's conclusive ruling in 1998, and many did so.

Since February of 2000, when the court in *Swisher* stated that it had jurisdiction to review a refund request denial if properly protested within 90 days of the denial, over 130 exporters followed these procedures, making it clear that they were available to all exporters. In December of 2000, the NPRM gave exporters notice regarding the proposed change to the Customs regulations to impose a one year time limit within which to file a refund request. This was the fourth in a series of public actions (by the courts and Customs) over a five year period that served as notice to exporters that refunds of export harbor maintenance fees were obtainable. By the time the NPRM's proposed amendment is published as a final rule, exporters will have had another four to five months since publication of the NPRM to file timely refund requests.

Nevertheless, while Customs believes that requiring the filing of export fee refund requests by the effective date of the final rule is not unfair or unreasonable, Customs acknowledges the validity of sentiments expressed by those commenters who believe that more time to file refund requests furthers the interest held by those who have not yet requested refunds on fees paid more than a year ago. Customs intent at the time it issued the NPRM and, indeed, at the time it issued the Interim Regulation (regarding the amended procedure for filing refund requests) was to make the one year time limitation effective on the usual effective date of a final rule, 30 days from the date of its publication in the **Federal Register**. Based on the commenters' concerns, Customs is delaying the effective date of this final rule document to the date that is 180 days after publication. This extends by 150 days the time within which refund requests for export fees (and other quarterly harbor maintenance fees) paid over a year ago can be filed, as compared to the 30 day effective period contemplated by Customs at the time the NPRM was published and as set forth in the background discussion of the Interim Regulation.

With a delayed effective date of 180 days, exporters will have had approximately 12 months from the date of publication of the NPRM to file refund requests. As of the date of publication of this final rule document, over 2000 exporters have already filed refund requests since publication of the NPRM.

Given all of the above considerations, including the extended delayed effective date, Customs believes that exporters have had, and still have, ample time to file a refund request.

In regard to comments that the proposed amendment's time limit is retroactive, particularly with respect to payments made more than a year ago, Customs notes that an NPRM, by its very nature, is prospective, not retroactive. The amendments it proposes will become effective only upon later publication of a final rule which itself will become efffective prospectively (usually not until at least 30 days after its publication but, as above, 180 days for this final rule document). Customs therefore disagrees that the time limit at issue is retroactive. The fact that it does not retroactively cut off claims is evidenced by the more than 2000 exporters who have filed refund requests since the NPRM was published and by the additional numbers of exporters who surely will file timely refund requests after publication of this final rule document.

As for the comment that some exporters were waiting to see events transpire before filing a refund request, Customs again notes that the procedure for filing refund requests has been provided for under the Customs Regulations for a decade. Any of these exporters could have filed refund requests at any time. Exporters who waited may have done so at their own peril, but they still will have time to file a timely refund request. Again, this final rule is not effective until 180 days after publication, and the procedure set forth

in the Interim Regulation is less burdensome than the procedure it replaced. The procedure set forth in the Interim Regulation provides a simpler process and more time to perfect a refund request than was made apparent in the NPRM. It provides that exporters filing for refunds of payments made on or after July 1, 1990, need only file a letter of request containing certain information, and those who are required to submit supporting documentation (proof of payment) with their requests for refund (relative to payments made prior to July 1, 1990) will have an additional 120-day period to file additional documentation if a timely filed request is denied for lack of or insufficient documentation.

Based on the foregoing, Customs believes that the time limit as applied to payments made more than a year ago, as set forth in this final rule document, is fair, reasonable, and eminently capable of being complied with under the amended refund request procedure. Customs believes that the time limit makes the refund regulation more consistent with other Customs laws and regulations governing refunds, while still affording quarterly payors ample opportunity to file refund requests. In imposing this time limit that brings more order, efficiency, and measured finality to the process, Customs believes it is acting reasonably and responsibly in furtherance of its mission to administer the law.

Comments Regarding Applicability of the Regulatory Flexibility Act

Comment: Three commenters asserted that the one-year filing requirement as proposed in the NPRM will have a significant impact on small business entities whose rightful claims may be cut off by the short deadline (relative to payments made more than a year ago). These commenters thus contended that Customs must perform an analysis under the Regulatory Flexibility Act (RFA).

Customs response: The RFA (or Act) requires that an agency perform an analysis when that agency's regulatory action will have a significant economic impact on a substantial number of small entities. Customs does not believe that its action (in amending the regulations to impose a one year filing requirement and require, for payments that are more than one year old, the filing of requests by the effective date of this final rule document) will produce an impact that falls within the purview of the Act. More specifically, Customs believes that the potential impact complained of (failure to file a timely refund request by the effective date of this final rule) will not result from its action but from the inaction of exporters or others eligible to file for refunds.

The potential impact complained of is capable of being avoided without significant inconvenience or difficulty. There is no reason why an exporter should be unable to file a refund request by what Customs believes is a reasonable deadline. Numerous refund requests have been filed already since publication of the NPRM on December 15, 2000, and many were filed even before the NPRM's publication. By the effective date of this final rule, exporters will have had at least twelve months to file a request for a refund since publication of the NPRM. This period is in addition to the one year exporters have had to file refund requests since the CAFC's decision in *Swisher* in February of 2000, the three years exporters have had to file requests since the Supreme Court's 1998 decision in *U.S. Shoe*, and the six years they have had to file requests since the initial holding of unconstitutionality by the CIT in its 1995 *U.S. Shoe* decision.

Moreover, an exporter wishing to secure its claim under the instant time limit and the Interim Regulation's procedure need only file a letter of request prior to the effective date of this final rule, as prescribed under the Interim Regulation. Supporting documentation will not be required in most cases, and where it is required (for payments made prior to July 1, 1990), exporters will have an additional 120 days to produce that documentation after an initial claim is denied for lack of or insufficient documentation. For these reasons, Customs believes that an impact of the kind that triggers an analysis under the RFA will not result from its action in imposing the regulatory filing requirement at issue.

Comments Concerning Documentary Requirements

Comment: Many commenters objected to the requirement in the NPRM that a CF 349 be filed with requests for refunds. These commenters pointed out that Customs accepted other documents with fee payments before the regulations required use of the CF 349 sometime in 1991. Some stated that Customs accepted payments and issued refunds without CF 349s even after 1991. According to these commenters, these other documents include the Vessel Export Summary Sheet (with payment), cancelled checks (as proof of payment), and other documents (for both purposes) from time to time. These commenters urge Customs to amend the regulation to permit alternative documentation that reasonably establishes payment of the fee.

One commenter recommended that Customs allow submission of reconstructed CF 349s. Many commenters stated that Customs should not make a determination on any refund request where the exporter has a FOIA request pending. Some suggested that the amended regulation should provide that an exporter can file a refund request within 60 days (or some other period of time) after its receipt of a FOIA response. Other commenters recommended that Customs delay a refund determination on a timely filed refund request until the exporter receives a response to the FOIA request and is given time to supplement the refund request with the documentation received.

Customs response: These comments were received before the Interim Regulation was published simplifying the procedure for filing refund requests. The Interim Regulation was published because Customs agrees with the general tenor of these comments that there should exist a more expeditious and streamlined procedure for requesting an export harbor maintenance fee refund and because Customs understands the difficulty some exporters face in providing supporting documentation with the refund request. Under the Interim Regulation, an exporter requesting a refund of export fees need not provide supporting documentation, such as the CF 349 or the Export Vessel Movement Summary Sheet, for any quarter from July 1990 forward (through April of 1998 when collection of export fees ceased). Customs has relieved these exporters from this burden because Customs has retained documentation relative to payments made during this period. Since Customs possesses this documentation, exporters need not file it.

In doing this (relieving exporters from the documentary requirement), Customs removed the 10-year-old regulatory requirement that refund requests include supporting documentation. Under the Interim Regulation procedure, if there is a dispute as to any quarter from July 1990 forward, the exporter must then submit supporting documentation for Customs review and consideration. This new procedure effectively addresses the concerns exporters raised about FOIA requests, as it eliminates any need to obtain supporting documentation through a FOIA request for payments made after July of 1990. Documents that might be obtained through a FOIA request are not necessary to obtain a refund. Customs will apply the new procedure to all

previously filed refund requests regardless of whether they included supporting documentation.

With regard to the quarters preceding July of 1990, the Interim Regulation did not amend the 10-year-old refund request procedure because Customs has not retained copies of supporting documentation for payments made during this period. Thus, exporters must submit supporting documentation with refund requests for any quarter preceding July of 1990. The fact that Customs does not possess pre-July 1990 documentation effectively eliminates any legitimate reason to link a FOIA request with a refund request; that is, since Customs does not possess and cannot provide copies of the supporting documentation requested, a FOIA request would be fruitless.

Regarding the points made by some commenters concerning the documents, Customs acknowledges that the CF 349 was not required until 1991. Prior to use of the CF 349, Customs required a certified Export Vessel Movement Summary Sheet or, if the exporter filed automated summary monthly Shippers Export Declarations, a letter containing the following information: The exporter's identification, its EIN, the appropriate Census Bureau reporting symbol, and the quarter involved. Since the Interim Regulation continues to provide that copies of supporting documentation must accompany refund requests for quarters preceding July of 1990, failure to submit this documentation will result in the denial of the refund request. However, under the Interim Regulation's procedure, an exporter, whose refund request (covering pre-July 1, 1990, payments) is denied for lack of or insufficient documentation, will have an additional 120 days from the date of denial to submit documentation or additional documentation to support its claim. Again, Customs believes that the procedure provided for in the Interim Regulation addresses and resolves the commenters concerns regarding documentation requirements and FOIA requests.

Comments Regarding Payment of Interest on Export Harbor Maintenance Fee Refunds

Comment: Three commenters urged Customs to apply interest to export harbor maintenance fee refunds. One commenter stated that the court in Swisher ordered that Customs pay interest on refunds issued under the court-imposed procedure (applicable to only those who filed complaints with the court). This commenter contended that Customs administrative procedure should be consistent with the court's intentions and provide for the payment of interest.

Customs response: Customs disagrees with the commenters who called for the payment of interest on administrative refunds of export harbor maintenance fee payments. The CAFC ruled in *International Business Machines Corp.* v. *United States*, 205 F. 3d 1367 (Fed. Cir. 2000) (hereafter, *IBM*), a test case designated to resolve all export fee interest issues, that exporters are not entitled to interest on the refund of these fees. The court opined that there is no statutory waiver of sovereign immunity which would allow the United States to pay interest on adminstrative refunds. IBM attempted to appeal this ruling to the United States Supreme Court, but the Supreme Court refused to hear the case (*IBM* v. *United States*, cert. denied, 69 U.S.L.W. 3259 (Feb. 20, 2001)).

In the meantime, several exporters have filed lawsuits in the CIT arguing that interest should be paid on adminstrative refunds of export fees on grounds they claim were not considered by the CAFC in *IBM*. Unless there is a final ruling awarding interest in these lawsuits, or in any test case designated by the CIT to resolve this issue, Customs will abide by the ruling in *IBM* that bars the payment of interest on adminstrative refunds of export fees.

In addition, it should be noted that, as in *Swisher*, post-judgment interest is paid in lawsuits where a request for export fee refunds was denied by Customs, a protest was filed and denied, and a lawsuit was commenced under 28 U.S.C. 1581(a). However, this payment of post-judgment interest, which is statutorily mandated, does not apply to adminstrative refunds of export fees.

Comment: Six commenters stated that Customs should hold a public hearing or meeting on the proposed amendment. These commenters alleged that the short deadline for filing refund requests for payments that are more than a year old will have a significant and harmful impact on small business entities. Thus, a public meeting or hearing would be appropriate to consider applicability of the provisions of the RFA and to discuss the time limit proposed and its effect on the capability of exporters to meet the deadline and submit required documentation.

Customs response: Customs believes that a public hearing or meeting is not necessary because the issues raised in the comments as reasons for the meeting have been addressed and resolved by Customs since publication of the NPRM. More specifically, Customs believes that the following provisions, which were not included in the NPRM, will satisfactorily resolve the commenters' concerns: (1) This final rule document's delayed effective date, which will extend the date by which refund requests for payments made more than a year ago must be filed to 180 days from the date of publication in the **Federal Register** (as opposed to 30 days after publication, as indicated in the Interim Regulation); (2) the Interim Regulation's provision that exporters need not file supporting documentation with refund requests for payments made on and after July 1, 1990; and (3) the Interim Regulation's provision of an additional 120 days for filing supporting documentation where supporting documentation is required.

As these provisions change the circumstances contemplated by the commenters who suggested a public meeting, and since Customs believes they put to rest the commenters' concerns, Customs believes that a public meeting is not necessary.

Conclusion

After analysis of the comments and further review and consideration of the matter, Customs has determined to adopt as final the amendment proposed in the NPRM published in the **Federal Register** (65 FR 78430) on December 15, 2000, setting forth in § 24.24(e)(4) the one year time limitation on requesting refunds of quarterly-paid harbor maintenance fees. It is noted that because Customs has issued the Interim Regulation that amended § 24.24(e)(4) to simplify the procedures for requesting refunds of export harbor maintenance fees, after publication of the NPRM, the structure of § 24.24(e)(4) is revised from how it is set forth in the NPRM to reflect the substance of the Interim Regulation.

Customs notes that the text of the amended regulation does not explicitly set forth that refund requests for export fee payments that were made more than a year ago must be filed by the effective date of this final rule document. It only sets forth the one-year-from-payment filing requirement (with the aforementioned exception for foreign trade zone withdrawals). Customs therefore emphasizes that export fee refund requests for payments made more than a year ago that are not filed on or before the effective date of this final rule will be rejected as untimely. After a reasonable time, the regulation will be amended to delete the provision concerning refunds of export harbor maintenance fees, as these fees are no longer collected by Customs (and haven't been since April of 1998).

Regarding the other proposed changes in the NPRM, the technical change

proposed to § 24.24(e)(2)(ii) is adopted as proposed. As mentioned in the comment discussion, Customs has determined not to proceed at this time with the proposed amendment to § 24.73 imposing a one year filing requirement on general claims.

Paperwork Reduction Act

The collection of information contained in this regulation has previously been reviewed and approved by the Office of Management and Budget (OMB) under OMB control number 1515–0158. This rule does not include any changes to the existing approved information collection.

Regulatory Flexibility Act

Insofar as this amendment to the regulations merely adds a reasonable time limit within which to file for an already provided for Customs procedure under an existing regulation, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that this amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, the amendment is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Drafting Information

The principal author of this document was Bill Conrad, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices contributed in its development.

List of Subjects in 19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Fees, Financial and accounting procedures, Harbors, Imports, Reporting and recordkeeping requirements, Taxes, User fees.

Amendments to the Regulations

For the reasons stated in the preamble, Part 24 of the Customs Regulations (19 CFR Part 24) is amended as follows:

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The authority citation for part 24 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States), 1505, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701.

* * * * *

2. Section 24.24 is amended by revising the heading of paragraph (e), removing in paragraph (e)(2)(ii) the reference to ''(e)(3)(iii)'' and adding in its place ''(e)(2)(iii)'', and revising paragraph (e)(4) to read as follows:

§ 24.24 Harbor maintenance fee.

* * * * *

(e) *Collections, supplemental payments, and refunds*— * * *

(4) *Refunds and supplemental payments*—(i) *General.* To make supplemental payments or seek refunds of harbor maintenance fees paid relative to the unloading of imported cargo, the procedures applicable to supplemental payments or refunds of ordinary duties must be followed. To seek refunds of quarterly-paid harbor maintenance fees pertaining to export movements, the procedures set forth in paragraph (e)(4)(iv) of this section must be followed. To make supplemental payments on any quarterly-paid harbor maintenance fee or seek refunds of quarterly-paid harbor maintenance fees pertaining to other than export movements, the procedures set forth in paragraph (e)(4)(iii) must be followed. The address to mail supplemental payments of quarterly-paid harbor maintenance fees is: U.S. Customs Service, P.O. Box 70915, Chicago, Illinois 60673–0915. The address to mail requests for refunds of quarterly-paid harbor maintenance fees is: U.S. Customs Service, HMT Refunds, 6026 Lakeside Blvd., Indianapolis, IN, 46278.

(ii) *Time limit for refund requests.* A refund request must be received by Customs within one year of the date the fee for which the refund is sought was paid to Customs or, in the case of fees paid relative to imported merchandise admitted into a foreign trade zone and subsequently withdrawn from the zone under 19 U.S.C. 1309, within one year of the date of withdrawal from the zone.

(iii) *For fees paid on other than export movements.* If a supplemental payment is made for any quarterly-paid harbor maintenance fee or a refund is requested relative to quarterly fee payments previously made regarding the loading or unloading of domestic cargo, the unloading of cargo destined for admission into a foreign trade zone, or the boarding or disembarking of passengers, the refund request or supplemental payment must be accompanied by a Harbor Maintenance Fee Amended Quarterly Summary Report, Customs Form 350, along with a copy of the Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, for the quarter(s) covering the payment to which the refund request or supplemental payment relates. A request for a refund must specify the grounds for the refund.

(iv) *For fees paid on export movements.* Customs will process refund requests relative to fee payments previously made regarding the loading of cargo for export as follows:

(A) For export fee payments made prior to July 1, 1990, the exporter (the name that appears on the SED or equivalent documentation authorized under 15 CFR 30.39(b)) or its agent must submit a letter of request for a refund specifying the grounds for the refund and identifying the specific payments made. The letter must be accompanied by proof of payment then required under the regulations relative to each payment claimed. Proof of payment can be either a copy of the Export Vessel Movement Summary Sheet or, where an Automated Summary Monthly Shipper's Export Declaration was filed, a letter containing the exporter's identification, its employer identification number (EIN), the Census Bureau reporting symbol, and the quarter for which the payment was made. Upon receiving a letter of request for a refund, Customs will evaluate the supporting documentation submitted and issue the refund to the exporter or its agent if warranted. If the request lacks documentation or the documentation submitted is insufficient, the exporter's refund request will be denied, in which case the exporter will have an additional 120 days from the date of denial to submit documentation or additional documentation. If the documentation submitted during the 120 day period is insufficient, Customs will deny the request.

(B) For export fee payments made on or after July 1, 1990, the exporter or its agent must submit a letter of request for a refund specifying the grounds for the refund, identifying the quarters for which a refund is sought, and containing the following additional information: The exporter's name, address, and employer identification number (EIN); the name and EIN of any freight forwarder or other agent that made export fee payments on the exporter's behalf; and a name, telephone number, and facsimile number of a contact person. If a refund request is filed by a freight forwarder or other agent on the exporter's behalf, the request must include a properly executed power of attorney and/or a letter signed by the exporter authorizing the representation. Refund requests for payments made on or after July 1, 1990, need not be accompanied by supporting documentation. Upon receipt of the letter of request, Customs will search its

records for export fee payments made by or on behalf of the requesting exporter during the quarters identified in the letter of request. Customs will then mail to the exporter or its agent a ''Harbor Maintenance Fee Refund Report and Certification'' (Report/Certification) containing the results of the search and a statement of the amount of refunds owed to the exporter, if any. If the exporter agrees with the information in the Report/Certification, the exporter must sign the Report/Certification and submit it to Customs with a letter containing an address for mailing the refund. The Report/Certification must be signed by an officer of the company duly authorized to bind the company, or an agent (such as a broker or freight forwarder) authorized to sign the document under a properly executed power of attorney or a letter signed by an authorized officer of the company. Upon receipt of the signed Report/Certification, Customs will issue the refund. If the exporter disagrees with the information in the Report/Certification, the exporter must submit a letter explaining its claim along with proof of payment, either a copy of a Harbor Maintenance Fee Quarterly Summary Report, Customs Form 349, for the quarter(s) covering the refund requested or, if applicable, a copy of an Export Vessel Movement Summary Sheet or, where an Automated Summary Monthly Shipper's Export Declaration was filed, a letter containing the exporter's identification, its employer identification number (EIN), the Census Bureau reporting symbol, and the quarter for which the payment was made. Upon receiving the letter and documentation, Customs will conduct a second review and will either confirm the exporter's claim and mail a revised Report/Certification to the exporter or its agent, or notify the exporter or its agent that confirmation cannot be made. In the latter instance, the Report/Certification will not be revised. Upon receipt of a properly signed Report/Certification (initial or revised), Customs will issue the refund. The signed Report/Certification received by Customs constitutes the exporter's agreement that Customs payment of the refund amount determined to be owed in the Report/Certification is in full accord and satisfaction of all export fee refund claims. The signed Report/Certification also represents the exporter's release, waiver, and abandonment of all claims against the Government, its officers, agents, and assigns for costs, attorney fees, expenses, compensatory damages, and exemplary damages. Upon receipt of the signed Report/Certification, Customs releases, waives, and abandons all claims other than fraud against the exporter, its officers, agents, or employees arising out of all export fee payments.

* * * * *

Charles W. Winwood,

Acting Commissioner of Customs.

Approved: May 18, 2001.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–16479 Filed 6–29–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–01–031]

RIN 2115–AE46

Special Local Regulations for Marine Events; Maryland Swim for Life, Chester River, Chestertown, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations for the Maryland Swim for Life, a marine event to be held on the waters of the Chester River, Chestertown, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in a portion of the Chester River during the event.

DATES: This rule is effective from 6 a.m. to 2 p.m. eastern time on July 14, 2001.

ADDRESSES: You may mail comments and related material to Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or deliver them to the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays. Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–01–031 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, telephone number (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with 5 U.S.C. 553(b)(B) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The need for special local regulations for this event was determined on May 21, 2001. The Coast Guard became aware of the need for special local regulations with insufficient time to publish an NPRM, allow for comments, and publish a final rule 30 days prior to the event on July 14, 2001.

Background and Purpose

On July 14, 2001, the Maryland Swim for Life Association will sponsor the Maryland Swim for Life on the waters of the Chester River. Approximately 100 swimmers will start from Rolph's Wharf and swim upriver 2 miles then swim down river returning back to Rolph's Wharf. A large fleet of support vessels will be accompanying the swimmers. To provide for the safety of participants and support vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the swim.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Chester River, Chestertown, Maryland. The temporary special local regulations will be in effect from 6 a.m. to 2 p.m. eastern time on July 14, 2001. The effect will be to restrict general navigation in the regulated area during the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

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, 1979).

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

Although this regulation prevents traffic from transiting a portion of the Chester River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered 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 will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Chester River during the event.

Although this regulation prevents traffic from transiting a portion of the Chester River during the event, the effect of this regulation will not be significant because of the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES.**

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls 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 does not have implications for federalism under that Order.

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 and direct effect on one or more Indian tribes, on the relationship between the Federal Governments and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

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 will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are specifically excluded from further analysis and documentation under that section. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A temporary section, § 100.35–T05–031 is added to read as follows:

§ 100.35–T05–031 Maryland Swim for Life, Chester River, Chestertown, Maryland

(a) *Regulated Area.* The waters of the Chester River, from shoreline to shoreline bounded on the south by a

line drawn at latitude 39°10′16″ N and bounded on the north by a line drawn at latitude 39°11′35″ N. All coordinates reference Datum NAD 1983.

(b) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(c) *Special Local Regulations.* (1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(ii) Proceed as directed by any commissioned, warrant, or petty officer on board a vessel displaying a Coast Guard ensign.

(d) *Effective Date.* This section is effective from 6 a.m. to 2 p.m. eastern time on July 14, 2001.

Dated: June 21, 2001.

J.E. Shkor,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 01–16487 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

CGD 13–01–004

RIN 2115–AE46

Modification to Special Local Regulation (SLR) for Seattle Seafair Unlimited Hydroplane Race

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is updating the Seafair Special Local Regulation (SLR) to enhance the safe execution of Seafair's hydroplane and air show event. The rule adds one week to the time period within which the regulations of the SLR can become effective each year and adds restrictions on swimming and rafting within the regulated areas.

DATES: This rule is effective August 1, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD 13–01–004 and are available for inspection or copying at Commander, Thirteenth Coast Guard District (m), Jackson Federal Building, 915 Second Avenue, Room 3506, Seattle, WA, 98174–1067 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Jane Wong, either at the above address, or by phone at (206) 220–7224.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 6, 2001 we published a notice of proposed rulemaking (NPRM) entitled Modification to Special Local Regulation (SLR) for Seattle Seafair Unlimited Hydroplane Race in the **Federal Register** (66 FR 18219). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Background and Purpose

For more than 50 years the Seafair hydroplane races and air show on and over Lake Washington have been a Pacific Northwest tradition, entertaining millions of people over that period. However, these entertaining events involve risks to both spectators and participants. During the hydroplane races and air show, the marine congestion associated with the number of boats, swimmers, and spectators on shore challenges even the most experienced seaman. There is an inherent risk of a participating boat or plane losing control or crashing. This potentially violent and deadly scenario necessitates the maintenance of a regulated area to protect spectators while providing unobstructed vessel traffic lanes to ensure timely arrival of emergency response craft.

The Seafair SLR contained in 33 CFR 100.1301 has been in effect since 1986 and allows the regulations to be effective within a two-week time period. We are now expanding this to a three-week period. We are also adding language to address the hazards associated with swimmers and rafting of vessels, which are not included in 33 CFR 100.1301.

Discussion of Comments and Changes

No comments were received in connection with this rulemaking. No changes have been made to the proposed rule.

Regulatory Evaluation

This proposed 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, 1979).

We expect any economic impact as a result of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This rulemaking slightly modifies existing safety regulations, and should not effect the economic activities of any Seafair participant or spectator.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered 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.

(1) Small entities this rule may affect include owners and operators of vessels, including small passenger vessels, intending to transit or anchor in a portion of Lake Washington during the event.

(2) This regulation will not have a significant economic impact on these small entities because there will be no substantial change from the way vessel operations have been running in years past. Because these regulations are aimed at recreational vessels, commercial vessels will not be impacted.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT P. M. Stocklin, Jr. at Marine Safety Office Puget Sound, Waterways Management Branch, (206) 217–6237.

Small businesses may send comments on the actions of Federal employees

who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated as a significant energy action by the Administrator of the Office of Information and Regulatory Affairs. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34) (h), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. This rule makes minor changes to the existing rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and record-keeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Revise § 100.1301 to read as follows:

§ 100.1301 Seattle seafair unlimited hydroplane race.

(a) This section is in effect annually during the last week in July and the first two weeks of August from 8 a.m until 8 p.m. Pacific Daylight Time, as published in the Local Notice of Mariners. The event will be one week or less in duration. The specific dates during this time frame will be published in the Local Notice to Mariners.

(b) The area where the Coast Guard will restrict general navigation by this regulation during the hours it is in effect is: The waters of Lake Washington bounded by the Interstate 90 (Mercer Island /Lacey V. Murrow) Bridge, the western shore of Lake Washington, and the east/west line drawn tangent to Bailey Peninsula and along the shoreline of Mercer Island.

(c) The area described in paragraph (b) of this section has been divided into two zones. The zones are separated by a line perpendicular from the I–90 Bridge to the northwest corner of the East log boom and a line extending from the southeast corner of the East log boom to the southeast corner of the hydroplane race course and then to the northerly tip of Ohlers Island in Andrews Bay. The western zone is designated Zone I, the eastern zone, Zone II. (Refer to NOAA Chart 18447).

(d) The Coast Guard will maintain a patrol consisting of Coast Guard vessels, assisted by Auxiliary Coast Guard vessels, in Zone II. The Coast Guard patrol of this area is under the direction of the Coast Guard Patrol Commander (the ''Patrol Commander''). The Patrol Commander is empowered to control the movement of vessels on the racecourse and in the adjoining waters during the periods this regulation is in effect. The Patrol Commander may be assisted by other federal, state and local law enforcement agencies.

(e) Only authorized vessels may be allowed to enter Zone I during the hours this regulation is in effect. Vessels in the vicinity of Zone I shall maneuver and anchor as directed by Coast Guard Officers or Petty Officers.

(f) During the times in which the regulation is in effect, swimming, wading, or otherwise entering the water in Zone I by any person is prohibited while hydroplane boats are on the racecourse. At other times in Zone I, any person entering the water from the shoreline shall remain west of the swim line, denoted by buoys, and any person entering the water from the log boom shall remain within ten (10) feet of the log boom.

(g) During the times in which the regulation is in effect, any person swimming or otherwise entering the water in Zone II shall remain within ten (10) feet of a vessel.

(h) During the times this regulation is in effect, rafting to a log boom will be limited to groups of three vessels.

(i) During the times this regulation is in effect, up to six (6) vessels may raft together in Zone II if none of the vessels are secured to a log boom.

(j) During the times this regulation is in effect, only vessels authorized by the Patrol Commander, other law enforcement agencies or event sponsors shall be permitted to tow other watercraft or inflatable devices.

(k) Vessels proceeding in either Zone I or Zone II during the hours this regulation is in effect shall do so only at speeds which will create minimum wake, seven (07) miles per hour or less. This maximum speed may be reduced at the discretion of the Patrol Commander.

(l) Upon completion of the daily racing activities, all vessels leaving either Zone I or Zone II shall proceed at speeds of seven (07) miles per hour or less. The maximum speed may be reduced at the discretion of the Patrol Commander.

(m) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the Patrol Commander shall serve as signal to stop. Vessels signaled shall stop and shall comply with the orders of the patrol vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both. The Coast Guard may be assisted by other federal, state and local law enforcement agencies, as well as official Seafair event craft.

Dated: June 13, 2001.

Erroll Brown,

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

[FR Doc. 01–16484 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–01–030]

RIN 2115–AE46

Special Local Regulations for Marine Events; Northeast River, North East, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations for the Salute to Cecil County Veterans Fireworks Celebration, an event to be held over the waters of the Northeast River, North East, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Northeast River during the fireworks display.

DATES: This rule is effective from 9 p.m. to 10 p.m. eastern time on July 3, 2001.

ADDRESSES: You may mail comments and related material to Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or deliver them to the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays. Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–01–030 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S.L. Phillips, Project Manager, Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, telephone number (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with 5 U.S.C. 553(b)(B) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard received the request for special local regulations on May 23, 2001. We were notified of the need for special local regulations with insufficient time to publish a NPRM, allow for comments, and publish a final rule prior to the event on July 3, 2001.

Background and Purpose

On July 3, 2001, the Salute to Cecil County Veterans Committee will sponsor a fireworks display over the Northeast River, adjacent to North East Community Park, North East, Maryland. The pyrotechnics will be launched from a barge anchored approximately 1000 yards south of North East Community Park. A fleet of spectator vessels is expected to gather near the event site to view the fireworks display. To provide for the safety of spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the fireworks display.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the Northeast River adjacent to North East Community Park, North East, Maryland. The regulated area is a 300 yard radius around the fireworks barge. The temporary special local regulations will be in effect from 9 p.m. to 10 p.m. eastern time on July 3, 2001. The effect will be to restrict general navigation in the regulated area during the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. The Patrol Commander will notify the public of specific enforcement times by Marine Radio Safety Broadcast. These regulations are needed to control vessel traffic during the event to enhance the safety of spectators and transiting vessels.

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, 1979).

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

Although this regulation prevents traffic from transiting a portion of the Northeast River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered 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 will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the effected portions of the Northeast River during the event.

Although this regulation prevents traffic from transiting a portion of the Northeast River during the event, the effect of this regulation will not be significant because of the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES.**

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls 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 does not have implications for federalism under that Order.

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 and direct effect on one or more Indian tribes, on the relationship between the Federal Governments and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211

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 will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are specifically excluded from further analysis and documentation under that section. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A temporary § 100.35–T05–030 is added to read as follows:

§ 100.35–T05–030 Northeast River, North East, Maryland.

(a) *Regulated area.* All waters of the Northeast River, enclosed within the arc of a circle 600-yards in diameter with the center at latitude 39°35′18″ N, longitude 075°57′18″ W. All coordinates reference Datum NAD 1983.

(b) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(c) *Official Patrol.* The Official Patrol is any commissioned, warrant, or petty officer of the Coast Guard on board a vessel displaying a Coast Guard ensign.

(d) *Special local regulations.*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol.

(ii) Proceed as directed by any official patrol.

(e) *Effective dates.* This section is effective from 9 p.m. to 10 p.m. eastern time on July 3, 2001.

Dated: June 21, 2001.

J.E. Shkor,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 01–16582 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–01–032]

RIN 2115–AE46

Special Local Regulations for Marine Events; Patapsco River, Baltimore, MD

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the Baltimore 4th of July Celebration, a fireworks display to be held over the waters of the Patapsco River, at Baltimore, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Patapsco River during the event.

DATES: This rule is effective from 9 p.m. eastern time on July 4, 2001 until 10 p.m. eastern time on July 5, 2001.

ADDRESSES: You may mail comments and related material to Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or deliver them to the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays. Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–01–032 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S.L. Phillips, Project Manager, Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, telephone number (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with 5 U.S.C. 553(b)(B) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard received the request for special local regulations on May 21, 2001. We were notified of the need for special local regulations with insufficient time to publish a NPRM, allow for comments, and publish a final rule prior to the event on July 4, 2001.

Background and Purpose

On July 4, 2001, the Baltimore Office of Promotions will sponsor fireworks displays over the waters of the Patapsco River, Baltimore, Maryland. The events consist of pyrotechnic displays fired from 2 barges positioned in the Inner Harbor and Northwest Harbor. A large fleet of spectator vessels gathers nearby to observe the fireworks. Due to the need for vessel control during the fireworks displays, vessel traffic will be temporarily restricted to provide for the safety of spectators and transiting vessels.

Discussion of Regulations

The Coast Guard is establishing special local regulations on specified waters of the Patapsco River. The special local regulations will temporarily restrict general navigation in the event area during the fireworks. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area during the enforcement time period. These regulations are needed to control vessel traffic during the fireworks displays to enhance the safety of spectators and transiting vessels.

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, 1979).

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

Although this regulation prevents traffic from transiting a portion of the Patapsco River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601—612), we considered 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 will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in the effected portions of the Patapsco River during the event.

Although this regulation prevents traffic from transiting a portion of the Patapsco River during the event, the effect of this regulation will not be significant because of the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES.**

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's

responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls 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 does not have implications for federalism under that Order.

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 and direct effect on one or more Indian tribes, on the relationship between the Federal Governments and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

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 will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Environment

We prepared an ''Environmental Assessment'' in accordance with Commandant Instruction M16475.1C, and determined that this rule will not significantly affect the quality of the human environment. The ''Environmental Assessment'' and ''Finding of No Significant Impact'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A temporary § 100.35–T05–032 is added to read as follows:

§ 100.35–T05–032 Patapsco River, Baltimore, Maryland.

(a) *Regulated areas.*

(1) *Inner Harbor Regulated Area.* The Inner Harbor Regulated Area is defined as the waters of the Patapsco River enclosed within the arc of a circle with a radius of 400 feet and with its center located at latitude 39°16.9′ N, longitude 076°36.3′ W. All coordinates reference Datum NAD 1983.

(2) *Northwest Harbor Regulated Area.* The Northwest Harbor Regulated Area is defined as the waters of the Patapsco River enclosed within the arc of a circle with a radius of 500 feet and with its center located at latitude 39°16.6′ N, longitude 076°35.8′ W. All coordinates reference Datum NAD 1983.

(b) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(c) *Official Patrol.* The Official Patrol is any commissioned, warrant, or petty officer of the Coast Guard on board a vessel displaying a Coast Guard ensign.

(d) *Special local regulations:*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the Inner Harbor Regulated Area or the Northwest Harbor Regulated Area.

(2) The operator of any vessel in these areas shall:

(i) Stop the vessel immediately when directed to do so by any official patrol.

(ii) Proceed as directed by any official patrol.

(e) *Effective dates:* This section is effective from 9 p.m. eastern time on July 4, 2001 until 10 p.m. eastern time on July 5; 2001.

(f) *Enforcement times:* It is expected that this section will be enforced between 9 p.m. and 10 p.m. eastern time on July 4, 2001. If the fireworks display is cancelled for the evening due to inclement weather, then this section will be enforced between 9 p.m. and 10 p.m. eastern time on July 5, 2001. Notice of the enforcement time will be given via Marine Safety Radio Broadcast on VHF–FM marine band radio, Channel 22 (157.1 MHz).

Dated: 21 June 2001.

J.E. Shkor,

Vice Admiral, U.S. Coast Guard, Commander Fifth Coast Guard District.

[FR Doc. 01–16581 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD05–01–029]

RIN 2115–AE46

Special Local Regulations for Marine Events; Patuxent River, Solomons, Maryland

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is adopting temporary special local regulations for the Patuxent River 4th of July Fireworks Festival, an event to be held over the waters of the lower Patuxent River near Solomons, Maryland. These special

local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the lower Patuxent River during the fireworks display.

DATES: This rule is effective from 8:30 p.m. to 10 p.m. eastern time on July 4, 2001.

ADDRESSES: You may mail comments and related material to Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or deliver them to the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays. Comments and materials received from the public as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–01–029 and are available for inspection or copying at Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: S. L. Phillips, Project Manager, Commander (Aoax), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, telephone number (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

A notice of proposed rulemaking (NPRM) was not published for this regulation. In keeping with 5 U.S.C. 553(b)(B) and 553(d)(3), the Coast Guard finds that good cause exists for not publishing a NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. The Coast Guard received the request for special local regulations on May 10, 2001. We were notified of the need for special local regulations with insufficient time to publish a NPRM, allow for comments, and publish a final rule prior to the event on July 4, 2001.

Background and Purpose

On July 4, 2001, the Solomons Business Association will sponsor a fireworks display above a portion of the lower Patuxent River, at Solomons, Maryland. The pyrotechnics will be launched from a barge anchored in the lower Patuxent River. A fleet of spectator vessels is expected to gather near the event site to view the aerial display. To provide for the safety of spectators and other transiting vessels, the Coast Guard will temporarily restrict vessel traffic in the event area during the fireworks display.

Discussion of Regulations

The Coast Guard is establishing temporary special local regulations on specified waters of the lower Patuxent River. The regulated area is a 200-yard radius around the fireworks barge. The temporary special local regulations will be in effect from 8:30 p.m. to 10 p.m. eastern time on July 4, 2001. The effect will be to restrict general navigation in the regulated area during the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. The Patrol Commander will notify the public of specific enforcement times by Marine Radio Safety Broadcast. These regulations are needed to control vessel traffic during the event to enhance the safety of spectators and transiting vessels.

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, 1979).

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

Although this regulation prevents traffic from transiting a portion of the lower Patuxent River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered 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 will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the lower Patuxent River during the event.

Although this regulation prevents traffic from transiting a portion of the lower Patuxent River during the event, the effect of this regulation will not be significant because of the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, and area newspapers so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this temporary rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES.**

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls 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 does not have implications for federalism under that Order.

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 and direct effect on one or more Indian tribes, on the relationship between the Federal Governments and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

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 will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Environment

We considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph (34)(h), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine parade are specifically excluded from further analysis and documentation under that section. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 100 as follows:

PART 100—MARINE EVENTS

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. A temporary § 100.35–T05–029 is added to read as follows:

§ 100.35–T05–029 Patuxent River, Solomons, Maryland.

(a) *Regulated area.* All waters of the lower Patuxent River, enclosed within the arc of a circle 400-yards in diameter with the center at latitude 38°19′04.4″ N, longitude 076°27′42.5″ W. All coordinates reference Datum NAD 1983.

(b) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Activities Baltimore.

(c) *Official Patrol.* The Official Patrol is any commissioned, warrant, or petty officer of the Coast Guard on board a vessel displaying a Coast Guard ensign.

(d) *Special local regulations.*

(1) Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any official patrol.

(ii) Proceed as directed by any official patrol.

(e) *Effective dates.* This section is effective from 8:30 p.m. to 10 p.m. eastern time on July 4, 2001.

Dated: 21 June 2001.

J.E. Shkor,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 01–16580 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–01–033]

Special Local Regulations for Marine Events; Approaches to Annapolis Harbor, Spa Creek, and Severn River, Annapolis, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: The Coast Guard is implementing the special local regulations at 33 CFR 100.511 during a fireworks display to be held July 4, 2001, over the waters of Spa Creek and the Severn River, near the U.S. Naval Academy, Annapolis, Maryland. These special local regulations are necessary to control vessel traffic due to the confined nature of the waterway and expected vessel congestion during the fireworks display. The effect will be to restrict general navigation in the regulated area for the safety of spectators and vessels transiting the event area.

EFFECTIVE DATES: 33 CFR 100.511 is effective from 8:30 p.m. eastern time on July 4, 2001 to 11 p.m. eastern time on July 5, 2001.

FOR FURTHER INFORMATION CONTACT: Lieutenant Dulani Woods, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226–1971, (410) 576–2513.

SUPPLEMENTARY INFORMATION: The City of Annapolis will sponsor a fireworks display on July 4, 2001 over the waters of Spa Creek and the Severn River, near the U.S. Naval Academy, Annapolis, Maryland. The temporary special local regulations will be enforced from 8:30 p.m. to 11 p.m. eastern time on July 4, 2001. If the event is postponed due to weather conditions, the temporary special local regulations will be enforced from 8:30 p.m. to 11 p.m. eastern time on July 5, 2001. The fireworks display will be launched from a barge positioned within the regulated area. A fleet of spectator vessels is expected to gather nearby to view the aerial display. In order to ensure the safety of spectators and transiting vessels, 33 CFR 100.511 will be in effect

for the duration of the event. Under provisions of 33 CFR 100.511, a vessel may not enter the regulated area unless it receives permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel.

In addition to this notice, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly.

Dated: June 21, 2001.

J.E. Shkor,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 01–16589 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–013]

Drawbridge Operating Regulation; Sabine Lake, TX

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Eighth Coast Guard District has issued a temporary deviation from the regulation in governing the operation of the State Route 82, swing span bridge across Sabine Lake, mile 10.0 at Port Arthur, Texas. This deviation allows the State of Texas, Department of Transportation to close the bridge to navigation from 5 a.m. on July 9, 2001 through 9 p.m. on July 27, 2001. Presently, the draw is required to open on signal except that from 9 p.m. to 5 a.m., the draw shall open on signal if at least six hours notice is given to the Maintenance Construction Supervisor or the Maintenance Foreman at Port Arthur. This temporary deviation was issued to allow the replacement of mechanical and electrical equipment and switching over power and control to the recently constructed new control house.

DATES: This deviation is effective from 5 a.m. on July 9, 2001 through 9 p.m. on July 27, 2001.

ADDRESSES: Unless otherwise indicated, documents referred to in this notice are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Commander (ob), 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch maintains the public docket for this temporary deviation.

FOR FURTHER INFORMATION CONTACT: David Frank, Bridge Administration Branch, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: The State Route 82, swing span bridge across Sabine Lake, mile 10.2, near Port Arthur, Texas, has a vertical clearance of 9 feet above high water in the closed-to-navigation position and unlimited clearance in the open-to-navigation position. Navigation on the waterway consists primarily of fishing vessels, and recreational craft, although the bridge is occasionally transited by small tugs with tows, transporting sand, gravel and marine shells. The State of Texas, Department of Transportation requested a temporary deviation from the normal operation of the drawbridge in 33 CFR 117.979 in order to accommodate the maintenance work, involving construction of a new operator house and replacement of the submarine power supply cable and other electrical and mechanical repairs. This maintenance is necessary for the continued operation of the bridge. An alternate route via the Gulf Intracoastal Waterway is available.

This deviation allows the draw of the State Route 82 Bridge swing span drawbridge across Sabine Lake, mile 10.0, to remain closed to navigation from 5 a.m. on July 9, 2001 through 9 p.m. on July 27, 2001.

Dated: June 21, 2001.

Roy J. Casto,

RADM, USCG Commander, 8th CG District.

[FR Doc.01–16481 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–075]

RIN 2115–AA97

Safety Zone; Summerfest 2000—Harbor Island Lagoon Activities, Milwaukee, Wisconsin

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone which encompasses all of the Harbor Island Lagoon area in Milwaukee Harbor. This safety zone is necessary to protect personnel and property associated with Summerfest's Hole-In-One Golf Shoot as well as waterborne stunt/skill shows. This safety zone is intended to restrict vessel traffic from the waters of Harbor Island Lagoon.

DATES: This regulation is effective from 6 a.m. (CST) on June 28, 2001, through 12 midnight (CST) on July 12, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09–01–047 and are available for inspection or copying at Marine Safety Office (MSO) Milwaukee between 7 a.m. CST and 3:30 p.m. CST, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy Sickler, Port Operations Chief, MSO Milwaukee, 2420 S. Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747–7155

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application did not allow sufficient time for publication of an NPRM followed by a temporary final rule effective 30 days after publication. Any delay of the effective date of this rule would be contrary to the public interest due to the known hazards associated with the waterborne stunt/skill shows being performed in the Harbor Island Lagoon area and the possible loss of life, injury, and damage to property.

Background and Purpose

This safety zone is established to safeguard the public from hazards associated with the waterborne stunt/skill shows being performed in the Harbor Island Lagoon area. The size of the zone was determined by using previous experiences with waterborne stunt/skill shows in the Captain of the Port Milwaukee zone and local knowledge about wind, waves, and currents in this particular area.

The safety zone will be in effect from Thursday, June 28, 2001, at 6 a.m. (CST) through Thursday, July 12, 2001, at 12:00 midnight (CST) for the following coordinates: from 43° 02.015′N, 087° 53.767′W, on the Harbor Island point across the channel to 43° 02.058′N, 087° 53.841′W at the Summerfest Dock. The entire Harbor Island Lagoon will be secured for the duration of the festival.

Emergency vessels are permitted to enter the Safety Zone area with permission from the Captain of the Port or his duly appointed representative.

All persons and vessels shall comply with the instructions of the Captain of the Port Milwaukee or his designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Milwaukee or his designated on scene representative. The Captain of the Port Milwaukee may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). This safety zone should not adversely effect commercial shipping since shallow water depths do not allow them to transit the affected area.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered 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 will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities: the owners or operators of vessels intending to transit or anchor in the Harbor Island Lagoon area from June 28 to July 12, 2001.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The area that is being closed off is limited and its shallow water depths do not allow the transit of commercial shipping. Vessel traffic in the vicinity of Harbor Island Lagoon, Milwaukee, Wisconsin, is prohibited unless authorized by the Coast Guard Captain of the Port or his duly appointed representative. Before the effective period, we will issue maritime advisories widely available to users of the Port of Milwaukee.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Milwaukee. (See **ADDRESSES.**)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls 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 does not have implications for federalism under that Order.

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 unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This 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.

Protection of Children

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and Recordkeeping requirements, Security Measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–927 is added to read as follows:

§ 165.T09–927 Safety Zone: Milwaukee Harbor, Milwaukee, Wisconsin

(a) *Location:* All waters of Harbor Island Lagoon (Milwaukee Harbor) south of a line drawn at its mouth from 43° 02.015′ N, 087° 53.767′ W, on the Harbor Island point across to 43° 02.058′ N, 087° 53.841′ W (the Summerfest Dock).

(b) *Effective times and dates:* From Thursday, June 28, 2001 at 6 a.m. (CST), through Thursday, July 12, 2001, at 12 midnight (CST).

(c) *Regulation:* (1) The general regulations contained in § 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port Milwaukee or the designated on scene patrol personnel. Coast Guard patrol personnel including commissioned, warrant or petty officers of the U.S. Coast Guard. Upon being hailed by a

U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) The Captain of the Port may be contacted via U.S. Coast Guard Group Milwaukee on Channel 16, VHF–FM.

Dated: June 8, 2001.

M.R. DeVries,

Commander, U.S. Coast Guard, Captain of the Port Milwaukee.

[FR Doc. 01–16489 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD1–01–099]

RIN 2115–AA97

Safety Zone; Swampscott July 2nd Fireworks, Swampscott, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Swampscott July 2nd Fireworks, July 2, 2001 in Swampscott, MA. The safety zone will temporarily close all waters of Nahant Bay within a four hundred (400) yard radius of the fireworks barge. The safety zone prohibits entry into or movement within this portion of Nahant Bay and is needed to protect the maritime public from the hazards posed by a fireworks display.

DATES: This rule is effective from 8:30 p.m. July 2, 2001 until 10 p.m. on July 2, 2001.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) David Sherry, Marine Safety Office Boston, Waterways Management Division, at 617–223–3000.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after **Federal Register** publication. Conclusive information about this event was not provided to the Coast Guard until June 13, 2001, making it impossible to draft or publish a NPRM or a final rule 30 days in advance of its effective date. Any delay encountered in this regulation's effective date would be unnecessary and contrary to public interest since immediate action is needed to prevent traffic from transiting a portion of Nahant Bay, Swampscott, Massachusetts, and provide for the safety of life on navigable waters. Additionally, this temporary safety zone is only for an 1 hour 30 minute long local event and should have negligible impact on vessel transits due to the fact that vessels can safely transit around the zone and that they are not precluded from using any portion of the waterway except the safety zone area itself.

Background and Purpose

This regulation establishes a safety zone on the waters of Nahant Bay within a four hundred (400) yard radius around the fireworks barge located at 42°29.81′ N, 070°54.95′. The safety zone is in effect from 8:30 p.m. July 2, 2001 to 10 p.m. July 2, 2001. This safety zone prohibits entry into or movement within this portion of Nahant Bay and is needed to protect the maritime public from the dangers posed by this event. Marine traffic may transit safely outside of the safety zone during the event. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

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, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation prevents traffic from transiting a portion of Nahant Bay during this event, the effect of this regulation will not be significant for several reasons: The minimal time that vessels will be restricted from the area, that vessels may safely transit outside of the safety zone, and advance notifications which will be made to the local maritime community by marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered 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 will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Nahant Bay from 8:30 p.m. July 2, 2001 until 10 p.m. July 2, 2001. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic can safely pass outside of the safety zone during the event, the event is limited in duration, and the Coast Guard will issue maritime advisories before the effective period widely available to users of Nahant Bay by marine information broadcasts.

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

The Coast Guard analyzed this rule under EXECUTIVE ORDER 13132 and has determined that this rule does not have implications for federalism under that Order.

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.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive

Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not pose 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. A rule with tribal implications has 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

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES**.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.

2. Add temporary § 165.T01–099 to read as follows:

§ 165.T01–099 Safety Zone: Swampscott July 2nd Fireworks, Swampscott, Massachusetts

(a) *Location.* The following area is a safety zone: All waters of the Nahant Bay within a four hundred (400) yard radius of the fireworks barge at position 42°29.81′ N, 070°54.95′ W.

(b) *Effective date.* This section is effective from 8:30 p.m. July 2, 2001 until 10 p.m. on July 2, 2001.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: 19 June, 2001.

B.M. Salerno,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 01–16488 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–033]

RIN 2115–AA97

Safety Zone: Northcoast Rockin' & Roarin' Offshore Grand Prix, Lake Erie and Cleveland Harbor, Cleveland, OH

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary Safety Zone during the Northcoast Rockin' & Roarin' Offshore Grand Prix, Lake Erie and Cleveland Harbor, Cleveland, OH, between 12:30 p.m. and 4:30 p.m. on Saturday, August 11 and Sunday, August 12, 2001. The event will involve approximately 90 race boats traveling at speeds up to 125 m.p.h. These Safety Zone regulations are necessary to ensure the safe navigation of vessels and the safety of life and property. This safety zone is intended to restrict vessel traffic from a portion of the Cleveland Harbor and Lake Erie.

DATES: This rule is effective from 12:30 p.m. until 4:30 p.m. daily on Saturday, August 11 and on Sunday, August 12, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CDG09–01–033 and are available for copying at U.S. Coast Guard Marine Safety Office Cleveland, 1055 East Ninth Street, Cleveland, Ohio, 44114 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant John Natale, Chief Port Operations Department, U.S. Coast Guard Marine Safety Office, 1055 East Ninth Street, Cleveland, Ohio 44114; (216) 937–0111.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The Coast Guard had insufficient time to comply with the time requirements for publishing an NPRM. Publication of a notice of proposed rulemaking would be contrary to the public interest because immediate action is necessary to prevent possible loss of life, injury, or damage to property due to spectator vessel coming into close proximity with racing boats traveling at excessive speeds.

Background and Purpose

During this event, approximately 90 boats ranging from 24′ to 40′ will participate in a series of races. The race course will be a 9.9 mile loop including the waters of Lake Erie and Cleveland Harbor. The race course will consist of a loop beginning at a point just east of the eastern end of the Cleveland Harbor breakwall, proceed in a northwesterly

direction toward the Cleveland Water Crib, then south through the Cleveland Harbor main entrance and east to the starting point. Races consist of 7 to 12 laps per race. The race boats will travel at speeds up to 125 miles per hour. Hazards will consist of the potential for collision with other race vessels, spectator boats or on-shore structures. A perimeter of patrol boats will be placed around the course to help ensure the safety of spectators and race boats. There will be a minimum of six anchored turn boats to mark the course, six medical boats and four or five pace boats. There will be a 1 hour and 15 minute break between the two races on each day if the request is made by commercial shipping vessels to allow commercial shipping traffic to enter and exit the harbor. Such requests can be made by calling Captain of the Port Cleveland or his designated on scene representative on VHF/FM channel 16.

The vessel congestion due to the large number of participating and spectator vessels poses a significant threat to the safety of life. This safety zone is necessary to ensure the safety of life on the navigable waters of the United States.

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, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The safety zone will be in effect for a limited time, and extensive advance notice will be made to the maritime community via Local Notice to Mariners, facsimile, and marine safety information broadcasts. These temporary regulations are tailored to impose a minimal impact on maritime interests without compromising safety. Compensating for any adverse impacts are the favorable economic impacts that these events will have on commercial activity in the area as a whole from the boaters and tourists these events are expected to attract.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered whether this proposed 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 will not have a significant economic impact on a substantial number of small entities.

The rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit within the area of the safety zone between 12:30 p.m. and 4:30 p.m. on Saturday, August 11 or Sunday, August 12, 2001. The rule will not have a significant economic impact on a substantial number of small entities for the following reasons: The rule will be in effect for a short time, and though it would apply to the harbor channel and entrance, commercial traffic may be allowed to pass through during a 1 hour and 15 minute break between races. Before the effective period, we will issue an extensive advance notice of the event to the maritime community via Local Notice to Mariners, facsimile, marine safety information broadcasts, and through the local Harbor Safety Committee.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact U.S. Coast Guard Marine Safety Office Cleveland (see **ADDRESSES**).

Collection of Information

This rule calls 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 does not have implications for federalism under that Order.

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 will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We considered the environmental impact of this rule and concluded that

under figure 2–1, paragraph 34(g) and (h), and paragraph 35(a) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. This rule will not cause significant impacts on the environment; significantly change existing environmental conditions; have more than a minimal impact on protected properties; or provide inconsistencies with State, local or Federal laws. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Add temporary section 165.T09–950 to read as follows:

§ 165.T09–950 Safety zone: Northcoast Rockin' & Roarin' Offshore Grand Prix, Lake Erie and Cleveland harbor, Cleveland, OH.

(a) *Location.* This safety zone includes all waters of Lake Erie within 300-yards of the powerboat race course which is defined by an imaginary line connecting the course turn markers. The race will proceed around the following turn markers, from race start to finish: Beginning at 41°32′34″ N, 081°39′02″ W, proceeding in a northerly direction to 41°32′37″ N, 081°39′02″ W; going westerly to 41°32′37″ N, 081°39′06″ W; continuing northwesterly to 41°31′24.5″ N, 081°41′50″ W, and then northwesterly to 41°31′33″ N, 081°43′38″ W; and continuing to 041°31′33″ N, 081°43′41″ W; then to 041°31′31″ N, 081°43′42″ W; then southerly to 41°30′27″ N, 081°42′48″ W; and back to the starting point. These coordinates are based on North American Datum 1983 (NAD 83).

(b) *Effective Dates.* These regulations are in effect between 12:30 and 4:30 p.m. on Saturday, August 11; and during these same times on Sunday, August 12, 2001.

(c) *Regulations.* (1) No vessels shall enter the Safety Zone during the specified times. Permission to deviate from this rule must be obtained from the Coast Guard Captain of the Port or his representative at (216)–937–0111, any time before August 11, 2001; and during the days of the event (August 11–12) by contacting the Captain of the Port designated on scene representative via VHF/FM radio Channel 16.

Dated: June 22, 2001.

R.J. Perry,

Commander, U.S. Coast Guard, Captain of the Port, Cleveland, Ohio.

[FR Doc. 01–16486 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–009]

RIN 2115–AA97

Tall Ships Challenge 2001, Moving Safety Zone, Muskegon Lake, Muskegon, MI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary Moving Safety Zone during the Tall Ships Challenge 2001 of tall ships in Muskegon Lake and vicinity, Muskegon, Michigan, from 11 a.m. until 5 p.m. on Monday, August 13, 2001. This regulation is necessary to control vessel traffic within the immediate vicinity of the event and to ensure the safety of life and property during this event. This rule is intended to restrict vessel traffic from a portion of Muskegon Lake and Lake Michigan.

DATES: This rule is effective from 11 a.m. (local) until 5 p.m. (local) on Monday, August 13th, 2001.

ADDRESSES: Comments and related material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD09–01–009 and are available for inspection of copying at U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd Street suite D, Burr Ridge, IL. 60521. Marine Safety Office between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: BM3 Joe C. Corpuz, U.S. Coast Guard Marine Safety Office Chicago, 215 W. 83rd street suite D, Chicago, IL 60521, (630) 986–2175.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On April 4th, 2001 we published a notice of proposed rulemaking (NPRM) entitled Tall Ships Challenge 2001, Moving Safety Zone, Muskegon Lake, Muskegon, MI in the **Federal Register** (66 FR 17832). We received no letters commenting on the proposed rule. No public hearing was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Any delay of this effective rule would be contrary to the public interest because immediate action is necessary to protect the spectators, spectator vessels, as well as the participating Tall Ships from possible loss of life, injury, or damage to property. Due to their design, the Tall Ships have restricted maneuverability and, in addition, will be transiting an area where maneuverability is restricted by water depths. A moving safety zone around the vessels will help ensure their safety as well as the safety of spectator vessels watching the vessels.

Background and Purpose

The Port of Muskegon American Sail Training Association Tall Ships Challenge 2001 will take place in Muskegon, Michigan, from August 9, 2001, through August 13, 2001. During the Tall Ships Challenge 2001, a large number of tall ships will visit Muskegon Lake, with waterside events, in-port tours, and waterside moored vessel viewing. On Monday, August 13, 2001, from 11 a.m. to 5 p.m., the tall ships will take part in a ceremonial departure parade of tall ships, which is expected to attract a large number of spectator vessels. The Coast Guard is establishing a Moving Safety Zone surrounding the participating tall ships to ensure the safety of participating and spectator vessels and personnel.

The Moving Safety Zone will include the areas around and between all the vessels participating in the Tall Ships Challenge 2001 parade of tall ships during their transit in Muskegon Lake and vicinity on Monday, August 13, 2001. The Moving Safety Zone will include the area extending a distance of 100 yards ahead of the lead vessel in the parade, 100 yards abeam each vessel in the parade, and 100 yards astern of the last vessel in the parade. The Moving Safety Zone will ensure that spectator craft do not impede the path of any of the parade vessels.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 on Regulatory Planning and Review and therefore 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 this rule under that order. It is non-significant under Department of Transportation regulatory policies and procedures (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The moving safety zone will be in effect for a limited time, and extensive advance notice will be made to the maritime community via Local Notice to Mariners and marine safety information broadcasts. This temporary regulation is tailored to impose minimal impact on maritime interests without compromising safety. Compensating for economic impacts are the favorable economic impacts that these events will have on commercial activity in the area as a whole from the boaters and tourists these events are expected to attract.

Small Entities

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), we have determined that this rule will not have a significant 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. The rule will affect the following entities, some of which might be small entities: the owners of businesses along Muskegon Lake and vicinity. The rule will not have a significant economic impact on a substantial number of small entities for the following reasons: the rule will be in effect for a short time, and we will issue extensive advance notice of the event to the maritime community via the methods discussed above.

Assistance for Small Entities

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

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls 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 does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The Coast Guard has considered the environmental impact of this rule and concluded that, under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

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.

Energy Effects

We have analyzed this rule under Executive order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Add temporary § 165.T09–013 to read as follows:

§ 165.T09–013 Moving Safety Zone: tall ships challenge 2001, Muskegon Lake and Lake Michigan, Muskegon, Michigan.

(a) *Location.* The waters of Muskegon Lake and Lake Michigan, Muskegon, Michigan.

(b) *Effective date.* This rule is effective from 11 a.m. EDT until 5 p.m. EDT on Monday, August 13th, 2001.

(c) *Regulations.* (1) The following area is designated as a Moving Safety Zone for the Tall Ships Challenge 2001 parade of tall ships: All waters in an area extending a distance of 100 yards ahead of the lead vessel in the parade, 100 yards abeam of each vessel in the parade, and 100 yards astern of the last vessel in the Tall Ships Challenge 2001 parade of tall ships. The Moving Safety Zone for the parade will begin at 11 a.m. on Monday, August 13th, 2001 in Muskegon Lake at approximate position 43°14′36″ N, 086°15′44″ W, and will remain in effect for the parade of tall ships past waypoint 43°14′07″ N, 086°19′21″ W, then outbound through Muskegon Lake Entrance Channel to the final parade waypoint in Lake Michigan at 43°13′11″ N, 086°21′36″ W. These coordinates are based upon North American Datum 1983 (NAD 83).

(2) All vessel operators shall comply with the instructions of the Coast Guard Captain of the Port Chicago or the designated on-scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers. Permission to deviate from the above rules must be obtained from the Captain of the Port Chicago or his representative by VHF/FM radio, Channel 9 or by telephone at (616) 204–2877.

Dated: June 21, 2001.

James D. Hull,

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

[FR Doc. 01–16485 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–074]

RIN 2115–AA97

Safety Zone; Firstar Fireworks Display, Milwaukee Harbor

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the Firstar fireworks display on July 3, 2001. This safety zone is necessary to control vessel traffic within the immediate vicinity of the fireworks launch site and to ensure the safety of life and property during the event. This safety zone is intended to restrict vessel traffic from a portion of Milwaukee Harbor.

DATES: This temporary final rule is effective from 9:25 p.m. on July 3, 2001, until 10 p.m. on July 3, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–046] and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy Sickler, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747–7155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received in time to publish an NPRM followed by a final rule before the necessary effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Milwaukee has determined firework launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platforms will help ensure the safety of person and property at these events and help minimize the associated risk.

The safety zone will be in effect on July 3 and 4, 2001, from 9:25 p.m. (CST) until 10 p.m. (CST). The safety zone will encompass all waters bounded by the arc of a circle with a 1000 foot radius with its center in approximate position 43°02.40 N, 087°53.50 W encompass all waters within 1000-yards of a fireworks barge located approximately 1000 ft offshore of Veterans Park, Milwaukee Harbor. The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Detroit or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

This proposed 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 this rule under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this proposed 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 determination is based on the minimal time that vessels will be restricted from the zone, and the zone is in an area where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of an activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The proposed zone is only in effect for few hours on the day of the event. Vessel traffic can safely pass outside the proposed safety zone during the event. Traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Milwaukee. Before the effective period, we will issue maritime advisories widely available to users of the Port of Milwaukee by the Ninth Coast Guard District Local Notice to Mariners, Marine information broadcasts, and facsimile broadcasts may also be made.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Milwaukee (see **ADDRESSES.**)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed 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 proposed rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

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 proposed rule would not impose an unfunded mandate.

Taking of Private Property

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard has analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 32(g) of Commandant Instruction M16475.1C, this proposed rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES.**

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.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–917 is added to read as follows:

§ 165.T09–917 Safety zone: Firstar fireworks display, Milwaukee, Harbor.

(a) *Location.* The safety zone will encompass all waters bounded by the arc of a circle with a 1000 foot radius with its center in approximate position 43° 02.40 N, 087° 53.50 W encompass all waters within 1000-feet of a fireworks barge located approximately 1000 feet offshore of Veterans Park, Milwaukee Harbor.

(b) *Effective time and date.* This section is effective from 9:25 p.m. (local time) until 10 p.m. (local time) on July 3rd, 2001. In the event the fireworks display is cancelled due to inclement weather, this section is effective during these same times on July 4th, 2001. The Coast Guard Captain of the Port Milwaukee and the designated Patrol Commander have the authority to terminate this event at any time. The designated on scene Patrol Commander may be contacted via VHF Channel 16.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Milwaukee, or his designated on scene representative.

Dated: June 6, 2001.

M.R. Devries,

Commander, U.S. Coast Guard, Captain of the Port, Milwaukee.

[FR Doc. 01–16483 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–065]

RIN 2115–AA97

Safety Zone; 4th of July Celebration, Weymouth, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the 4th of July Celebration Fireworks, July 3, 2001 in Weymouth, MA. The safety zone will temporarily close all waters of the Weymouth Fore River within a four hundred (400) yard radius of the fireworks barge. The safety zone prohibits entry into or movement within this portion of the Weymouth Fore River and is needed to protect the maritime public from the hazards posed by a fireworks display.

DATES: This rule is effective from 8:30 p.m. July 3, 2001 until 11:15 p.m. on July 3, 2001.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) David Sherry, Marine Safety Office Boston, Waterways Management Division, at (617) 223–3000.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after **Federal Register** publication. Conclusive information about this event was not provided to the Coast Guard until June 14, 2001, making it impracticable to draft or publish a NPRM or a final rule 30 days in advance of its effective date. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to prevent traffic from transiting a portion of the Weymouth Fore River, Weymouth, Massachusetts, and provide for the safety of life on navigable waters. Additionally, this temporary safety zone is only for a 2 hour 45 minute long local event and should have negligible impact on vessel transits due to the fact that vessels can safely transit around the zone and that they are not precluded from using any portion of the waterway except the safety zone area itself.

Background and Purpose

This regulation establishes a safety zone on the waters of the Weymouth Fore River four hundred (400) yards around the fireworks barge located at 42°15′12″ N, 070°56′45″ W. The safety zone is in effect from 8:30 p.m. July 3, 2001 to 11:15 p.m. July 3, 2001. This safety zone prohibits entry into or movement within this portion of the Weymouth Fore River and is needed to protect the maritime public from the dangers posed by this event. Marine traffic may transit safely outside of the safety zone during the event. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

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, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation prevents traffic from transiting a portion of the Weymouth Fore River during this event, the effect of this regulation will not be significant for several reasons: The minimal time that vessels will be restricted from the area, that vessels may safely transit outside of the safety zone, and advance notifications which will be made to the local maritime community by marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered 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 will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Weymouth Fore River from 8:30 p.m. July 3, 2001 until 11:15 p.m. July 3, 2001. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: Vessel traffic can safely pass outside of the safety zone during the event, the event is limited in duration, and the Coast Guard will issue maritime advisories before the effective period widely available to users of the Harbor by marine information broadcasts.

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

The Coast Guard analyzed this rule under Executive Order 13132 and has determined that this rule does not have implications for federalism under that Order.

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.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not pose 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. A rule with tribal implications has 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

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.

2. Add temporary § 165.T01–065 to read as follows:

§ 165.T01–065 Safety zone: 4th of July celebration, Weymouth, Massachusetts.

(a) *Location.* The following area is a safety zone: All waters of the Weymouth Fore River within a four hundred (400) yard radius of the fireworks barge at position 42°15′12″ N, 070°56′45″ W.

(b) *Effective date.* This section is effective from 8:30 p.m. July 3, 2001 until 11:15 p.m. on July 3, 2001.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: June 19, 2001.

B.M. Salerno,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 01–16482 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–090]

RIN 2115–AA97

Safety Zone: Fireworks Display, Lewis Bay, Hyannis, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone within a five hundred (500) yard radius of the fireworks barge located in Lewis Bay, Hyannis, Massachusetts, on July 2, 2001. The safety zone is needed to safeguard the public from possible hazards associated with a fireworks display. Entry into this zone will be prohibited unless authorized by the Captain of the Port, Providence, Rhode Island.

EFFECTIVE DATE: This rule is effective from 8 p.m. on July 2 until 10 p.m. on July 3, 2001.

ADDRESSES: Documents relating to this temporary final rule are available for inspection and copying at U.S. Coast Guard Marine Safety Office Providence, 20 Risho Avenue, E. Providence, RI. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Casey L. Chmielewski at Marine Safety Office Providence, (401) 435–2335.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds good cause exists for not publishing a NPRM. The sponsor of the event did not provide the Coast Guard with the final details for the event in sufficient time to publish a NPRM. The delay encountered if normal rulemaking procedures were followed would effectively cancel the event. Cancellation of this event is contrary to the public interest since the fireworks display is for the benefit of the public.

Background and Purpose

The Town of Barnstable is hosting a fireworks display in celebration of the 4th of July. This regulation establishes a safety zone in all waters within a five hundred (500) yard radius of the fireworks barge located approximately 1000 yards to the northeast of Dunbar Point, Hyannis, Massachusetts, approximate position 41°38.2′ N, 070°15.8′ W, on July 2, 2001 from 8 p.m. until 10 p.m., with an inclement weather date of July 3, 2001 from 8 p.m. until 10 p.m.. This safety zone is needed to protect the maritime community from possible hazards associated with a fireworks display. No vessel may enter the safety zone without permission of the Captain of the Port (COTP), Providence, Rhode Island.

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, 1979). We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The effect of this regulation will not be significant due to the late hour it is effective, the safety zone involves a very small area of Lewis Bay, Hyannis Massachusetts, allowing vessel traffic to safely transit around this safety zone, and extensive maritime advisories will be made in advance of the event.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered 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 will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit Lewis Bay in the fireworks area. The safety zone will not have a significant impact on a substantial number of small entities due to the late hour it is effective, the safety zone involves a very small area of Lewis Bay, Hyannis Massachusetts, allowing vessel traffic to safely transit around this safety zone, and extensive maritime advisories will be made in advance of the event.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization would be affected by this rule and you have any questions concerning its provisions or options for compliance, please call LT Casey Chmielewski at (401) 435–2335. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

We have analyzed this action under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

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 having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This temporary rule will 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.

Civil Justice Reform

This temporary 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.

Protection of Children

We have analyzed this temporary 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. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, 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

The Coast Guard has considered the environmental impact of implementing this temporary rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine Safety, Navigation (water), Reports and Record Keeping Requirements, Security Measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–090 to read as follows:

§ 165.T01–090 Safety zone: fireworks display, Hyannis, MA.

(a) *Location.* The safety zone includes all waters within a five hundred (500) yard radius of the fireworks barge area located approximately 1000 yards to the northeast of Dunbar Point, Hyannis, Massachusetts, approximate position 41°38.2′ N, 070°15.8′ W.

(b) *Effective date.* This section is effective from 8 p.m. until 10 p.m. on July 2, 2001. If the evolution is cancelled due to inclement weather, than this section is effective from 8 p.m. until 10 p.m. on July 3, 2001.

(c) *Regulations.* (1) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 18, 2001.

Mark G. VanHaverbeke,

Captain, U.S. Coast Guard, Captain of the Port, Marine Safety Office Providence.

[FR Doc.01–16587 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–043]

RIN 2115–AA97

Safety Zone; Festa Italiana 2001, Milwaukee Harbor, WI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the Milwaukee Harbor for the Festa Italiana 2001 fireworks display. This safety zone is necessary to protect spectators and vessels from the hazards associated with the storage, preparation, and launching of fireworks. This safety zone is intended to restrict vessel traffic from a portion of Milwaukee Harbor, Milwaukee, Wisconsin.

DATES: This temporary rule is effective from 9:50 p.m. (CST) on July 19 until 10:25 p.m. (CST) on July 22, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–043] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy Sickler, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747–7155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application did not allow sufficient time for the publication of an NPRM followed by a temporary final rule effective 30 days after publication. Any delay of the effective date of this rule would be contrary to the public interest by exposing the public to the known dangers associated with fireworks displays and the possible loss of life, injury, and damage to property.

Background and Purpose

This Safety Zone is established to safeguard the public from the hazards associated with the launching of fireworks on the Milwaukee Harbor, Milwaukee, Wisconsin. The size of the zone was determined by using previous experiences with fireworks displays in the Captain of the Port Milwaukee zone and local knowledge about wind, waves, and currents in this particular area.

The safety zone will be in effect on July 19 through 22, from 9:50 p.m. (CST) until 10:25 p.m. (CST). The safety zone will encompass all waters bounded by the following coordinates: from the point of origin at 43° 02.209′ N, 087° 53.714′ W; southeast to 43° 02.117′ N, 087° 53.417′ W; south to 43° 01.767′ N, 087° 53.417′ W; southwest to 43° 01.555′ N, 087° 53.772′ W; then north along the shoreline back to the point of origin. These coordinates are based upon North American Datum 1983 (NAD 83).

All persons and vessels shall comply with the instructions of the Captain of the Port Milwaukee or his designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Milwaukee or his designated on scene representative. The Captain of the Port Milwaukee may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered 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 will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities: The owners or operators of vessels intending to transit or anchor in the vicinity of Harbor Island in Milwaukee's outer harbor from 9:50 p.m. (CST) until 10:25 p.m. (CST) on July 19 through 22, 2001.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only thirty five minutes on three days and late in the day when vessel traffic is minimal. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Milwaukee or his designated on scene representative. Before the effective period, we will issue maritime advisories widely available to users of the Milwaukee Harbor.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Milwaukee (See **ADDRESSES**).

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you

wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls 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 does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34) (g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation.

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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–930 is added to read as follows:

§ 165.T09–930 Safety Zone: Milwaukee Harbor, Milwaukee, WI.

(a) *Location.* All waters of the Milwaukee Harbor encompassed by the following coordinates: from the point of origin at 43° 02.209′ N, 087° 53.714′ W; southeast to 43° 02.117′ N, 087° 53.417′ W; south to 43° 01.767′ N, 087° 53.417′ W; southwest to 43° 01.555′ N, 087° 53.772′ W; the north along the shoreline back to the point of origin (NAD 83).

(b) *Effective times and dates.* From 9:50 p.m. until 10:25 p.m. on July 19 through 22, 2001, unless terminated earlier by the Coast Guard Captain of the Port Milwaukee or the designated on scene Patrol Commander.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port Milwaukee or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant or petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) This safety zone should not adversely affect shipping. However, commercial vessels may request permission from the Captain of the Port Milwaukee to enter or transit the safety zone. Approval will be made on a case-by-case basis. Requests must be in advance and approved by the Captain of the Port Milwaukee before transits will be authorized. The Captain of the Port Milwaukee may be contacted via U.S. Coast Guard Group Milwaukee on Channel 16, VHF–FM.

Dated: June 6, 2001.

M.R. DeVries,

Commander, U.S. Coast Guard, Captain of the Port Milwaukee, Milwaukee, Wisconsin.

[FR Doc. 01–16586 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–046]

RIN 2115–AA97

Safety Zone; Manitowoc 4th of July 2001, Manitowoc, WI

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones in the waters off the Manitowoc municipal marina and in Manitowoc Harbor for the Manitowoc 4th of July 2001 fireworks display. These safety zones are necessary to protect spectators and vessels from the hazards associated with the storage, preparation, and launching of fireworks. These safety zones will restrict vessel traffic from a portion of the Manitowoc municipal marina and Manitowoc Harbor, Manitowoc, Wisconsin.

DATES: This temporary rule is effective from 8:20 p.m. through 10:10 p.m. (CST) on July 4, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of

docket [CGD09–01–046] and are available for inspection or copying at U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207, between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy Sickler, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747–7155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application did not allow sufficient time for the publication of an NPRM followed by a temporary final rule effective 30 days after publication. Any delay of the effective date of this rule would be contrary to the public interest by exposing the public to the known dangers associated with fireworks displays and the possible loss of life, injury, and damage to property.

Background and Purpose

These safety zones are established to safeguard the public from the hazards associated with the launching of fireworks off Manitowoc's municipal marina, Manitowoc, Wisconsin. The size of the zone was determined by using previous experiences with fireworks displays in the Captain of the Port Milwaukee zone and local knowledge about wind, waves, and currents in this particular area.

The safety zones will be in effect on July 4, 2001, from 8:20 p.m. through 10:10 p.m. (CST). The primary safety zone encompasses all waters bounded by the arc of a circle with a 840-foot radius with its center in approximate position 44° 06.05′ N, 087° 38.37′ W, offshore of the Manitowoc Yacht Club, Manitowoc, Wisconsin. The secondary safety zone, to be used in the event of inclement weather, encompasses all waters bounded by the arc of a circle with a 420-foot radius with its center in approximate position 44° 05.34′ N, 087° 38.58′ W, located in the Manitowoc Harbor approximately 420 feet from the mouth of the Manitowoc River. The sizes of the zones were determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Captain of the Port Milwaukee or his designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Milwaukee or his designated on scene representative. The Captain of the Port Milwaukee may be contacted via VHF Channel 16.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered 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 will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities: the owners or operators of vessels intending to transit or anchor in the vicinity of Manitowoc municipal marina in Manitowoc from 8:20 p.m. (CST) until 10:10 p.m. (CST) on July 4, 2001.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only one hour and 50 minutes on one day and late in the day when vessel traffic is minimal. Vessel traffic may enter or transit through the safety zone with the permission of the Captain of the Port Milwaukee or his designated on scene representative. Before the effective period, we will issue maritime advisories widely available to users of the Manitowoc municipal marina.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Milwaukee (See **ADDRESSES.**)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls 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 does not have implications for federalism under that Order.

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 unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to

minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

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

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.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–930 is added to read as follows:

§ 165.T09–930 Safety Zone: Waters off Manitowoc's Municipal Marina, Manitowoc, Wisconsin.

(a) *Location.* The following areas are safety zones:

(1) All waters bounded by the arc of a circle with a 840-foot radius with its center in approximate position 44° 06.05′ N, 087° 38.37′ W, located approximately 840 feet offshore from the Manitowoc Yacht Club, Manitowoc, Wisconsin, and

(2) All waters bounded by the arc of a circle with a 420-foot radius with its center in approximate position 44° 05.34′ N, 087° 38.58′ W, located in the Manitowoc Harbor approximately 420 feet from the mouth of the Manitowoc River, Manitowoc, Wisconsin.

(b) *Effective periods.* The primary safety zone in paragraph (a)(1) of this section will be effective from 8:20 p.m. through 10:10 p.m. (CST) on July 4, 2001. In the event of inclement weather, the secondary safety zone in paragraph (a)(2) of this section will be effective at the same time.

(c) *Regulations.* (1) The general regulations contained in § 165.23 of this part apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port Milwaukee or the designated on scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant or petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) This safety zone should not adversely effect shipping. However, commercial vessels may request permission from the Captain of the Port Milwaukee to enter or transit the safety zone. Approval will be made on a case-by-case basis. Requests must be in advance and approved by the Captain of the Port Milwaukee before transits will be authorized. The Captain of the Port Milwaukee may be contacted via U.S. Coast Guard Group Milwaukee on Channel 16, VHF–FM.

Dated: June 22, 2001.

M.R. DeVries,

Commander, U.S. Coast Guard, Captain of the Port, Milwaukee, Milwaukee, Wisconsin.

[FR Doc. 01–16584 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–072]

RIN 2115–AA97

Safety Zone; South Shore Frolics Fireworks Display, Milwaukee Harbor

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the South Shore Frolics fireworks display on July 13, 14, and 15, 2001. This safety zone is necessary to ensure the safety of persons and property in this area during the event. This safety zone is intended to restrict vessel traffic from a portion of Milwaukee Harbor.

DATES: This temporary final rule is effective from 9:45 p.m. through 11 p.m. on July 13, 14 and 15, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD09–01–072] and are available for inspection or copying at: U.S. Coast Guard Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207, between 7 a.m. and 3:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Timothy Sickler, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747–7155.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM, and under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The permit application was not received with sufficient time to publish an NPRM followed by a temporary final rule that would be effective before the required effective date. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property. The Coast Guard has not received any complaints or negative comments previously with regard to this event.

Background and Purpose

A temporary safety zone is necessary to ensure the safety of vessels and spectators from the hazards associated with fireworks displays. Based on recent accidents that have occurred in other Captain of the Port zones, and the explosive hazard of fireworks, the Captain of the Port Milwaukee has determined firework launches in close proximity to watercraft pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platforms will help ensure the safety of person and property at these events and help minimize the associated risk.

The safety zone will be in effect on July 13, 14 and 15, from 9:45 p.m. through 11 p.m. (CST). The safety zone will encompass all waters bounded by the arc of a circle with a 700-foot radius with its center in approximate position 42° 34.50 N, 087° 52.75 W, offshore of South Shore Park, Milwaukee Harbor. The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge concerning wind, waves, and currents.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Milwaukee or his designated on scene representative. The Captain of the Port or his designated on scene representative may be contacted via VHF Channel 16.

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 this rule under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). We expect the economic impact of this proposed 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 determination is based on the minimal time that vessels will be restricted from the zone, and the activated zone is located in an area where the Coast Guard expects insignificant adverse impact to mariners.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant 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 proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of commercial vessels intending to transit a portion of an activated safety zone.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: The proposed zone is only in effect for few hours each day of the event; vessel traffic can safely pass outside the proposed safety zone during the event; and traffic may be allowed to pass through the safety zone under Coast Guard escort with the permission of the Captain of the Port Milwaukee. Before the effective period, we will issue maritime advisories widely available to users of the Port of Milwaukee by the Ninth Coast Guard District Local Notice to Mariners, Marine information broadcasts, and facsimile broadcasts may also be made.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects and participate in the rulemaking process. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Marine Safety Office Milwaukee (see **ADDRESSES**.)

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This 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 does not have implications for federalism under that Order.

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.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard has analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an

environmental risk to health or risk to safety that may disproportionately affect children.

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 32(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A written categorical exclusion determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T09–933 is added to read as follows:

§ 165.T09–933 Safety Zone: South Shore Frolics Fireworks Display, Milwaukee, Harbor.

(a) *Location.* The safety zone encompasses all waters bounded by the arc of a circle with a 700-foot radius with its center in approximate position 42° 34.50 N, 087° 52.75 W located approximately 700 feet offshore South Shore Park, Milwaukee Harbor.

(b) *Effective time and date.* This section is effective from 9:45 p.m. until 11 p.m. (local time) on July 13, 14 and 15, 2001. The Coast Guard Captain of the Port Milwaukee and the designated Patrol Commander have the authority to terminate this event at any time. The designated on scene Patrol Commander may be contacted via VHF Channel 16.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Coast Guard Captain of the Port Milwaukee, or his designated on scene representative.

Dated: June 6, 2001.

M.R. DeVries,

Commander, U.S. Coast Guard, Captain of the Port Milwaukee.

[FR Doc. 01–16583 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–066]

RIN 2115–AA97

Safety Zone; City of Lynn Fireworks, Lynn, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for the City of Lynn Fireworks, July 4, 2001 in Lynn, MA. The safety zone will temporarily close all waters of Nahant Bay within a four hundred (400) yard radius of the fireworks barge. The safety zone prohibits entry into or movement within this portion of Nahant Bay and is needed to protect the maritime public from the hazards posed by a fireworks display.

DATES: This rule is effective from 8 p.m. through 10 p.m. on July 4, 2001.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at Marine Safety Office Boston, 455 Commercial Street, Boston, MA 02109, between the hours of 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant (junior grade) David Sherry, Marine Safety Office Boston, Waterways Management Division, at (617) 223–3000.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing a NPRM and for making this regulation effective in less than 30 days after **Federal Register** publication. Conclusive information about this event was not provided to the Coast Guard until June 13, 2001, making it impracticable to draft or publish a NPRM or a final rule 30 days in advance of its effective date. Any delay encountered in this regulation's effective date would be contrary to public interest since immediate action is needed to prevent traffic from transiting a portion of Nahant Bay, Lynn, Massachusetts, and provide for the safety of life on navigable waters. Additionally, this temporary safety zone is only for a 2-hour long local event and should have negligible impact on vessel transits due to the fact that vessels can safely transit around the zone and that they are not precluded from using any portion of the waterway except the safety zone area itself.

Background and Purpose

This regulation establishes a safety zone on the waters of Nahant Bay within a four hundred (400) yard radius around the fireworks barge located at 42°27′34″ N, 070°55′33″ W. The safety zone is in effect from 8 p.m. through 10 p.m. July 4, 2001. This safety zone prohibits entry into or movement within this portion of Nahant Bay and is needed to protect the maritime public from the dangers posed by this event. Marine traffic may transit safely outside of the safety zone during the event. The Captain of the Port does not anticipate any negative impact on vessel traffic due to this event. Public notifications will be made prior to the effective period via local notice to mariners and marine information broadcasts.

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, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Although this regulation prevents traffic from transiting a portion of Nahant Bay during this event, the effect of this regulation will not be significant for several reasons: the minimal time that vessels will be restricted from the area, that vessels may safely transit outside of the safety zone, and advance notifications which will be made to the local maritime community by marine information broadcasts.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered 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 will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or anchor in a portion of Nahant Bay from 8 p.m. through 10 p.m. July 4, 2001. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: vessel traffic can safely pass outside of the safety zone during the event, the event is limited in duration, and the Coast Guard will issue maritime advisories before the effective period widely available to users of Nahant Bay by marine information broadcasts.

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

The Coast Guard analyzed this rule under Executive Order 13132 and has determined that this rule does not have implications for federalism under that Order.

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.

Taking of Private Property

This rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

The Coast Guard analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not pose 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. A rule with tribal implications has 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

The Coast Guard considered the environmental impact of this rule and concluded that, under figure 2–1, (34)(g), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.

2. Add temporary § 165.T01–066 to read as follows:

§ 165.T01–066 Safety Zone: City of Lynn Fireworks, Lynn, Massachusetts

(a) *Location.* The following area is a safety zone: All waters of the Nahant Bay within a four hundred (400) yard radius of the fireworks barge at position 42°27′34″ N, 070°55′33″ W.

(b) *Effective Date.* This section is effective from 8 p.m. through 10 p.m. on July 4, 2001.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port Boston.

(2) All vessel operators shall comply with the instructions of the COTP or the designated on-scene U.S. Coast Guard patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, local, state, and federal law enforcement vessels.

Dated: 19 June, 2001.

B.M. Salerno,

Captain, U.S. Coast Guard, Captain of the Port, Boston, Massachusetts.

[FR Doc. 01–16579 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

CGD01–01–074

RIN 2115–AA97

Safety Zone: Fireworks Display, Provincetown, MA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone within a five hundred (500) yard radius of the fireworks barge located in Provincetown Harbor, Provincetown, Massachusetts, on July 4, 2001. The safety zone is needed to safeguard the public from possible hazards associated with a fireworks display. Entry into this zone will be prohibited unless authorized by the Captain of the Port, Providence, Rhode Island.

EFFECTIVE DATE: This rule is effective from 8 p.m. on July 4 until 10 p.m. on July 5, 2001.

ADDRESSES: Documents relating to this temporary final rule are available for inspection and copying at U.S. Coast Guard Marine Safety Office Providence, 20 Risho Avenue, E. Providence, RI. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Casey L. Chmielewski at Marine Safety Office Providence, (401) 435–2335.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds good cause exists for not publishing a NPRM. The sponsor of the event did not provide the Coast Guard with the final details for the event in sufficient time to publish a NPRM. The delay encountered if normal rulemaking procedures were followed would effectively cancel the event. Cancellation of this event is contrary to the public interest since the fireworks display is for the benefit of the public.

Background and Purpose

This regulation establishes a safety zone in all waters within a five hundred (500) yard radius of the fireworks barge located approximately 800 yards to the southeast of Provincetown, Massachusetts, approximate position 42°02′00″ N, 070°10′00″ W, on July 4, 2001 from 8 p.m. until 10 p.m., with an inclement weather date of July 5, 2001 from 8 p.m. until 10 p.m.. This safety zone is needed to protect the maritime community from possible hazards associated with a fireworks display. No vessel may enter the safety zone without permission of the Captain of the Port (COTP), Providence, Rhode Island.

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, 1979). We expect the economic impact of this 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 safety zone involves a very small area of Provincetown Harbor, Provincetown, Massachusetts. The effect of this regulation will not be significant due to the lateness of the hour, all vessel traffic may safely transit around this safety zone, and extensive maritime advisories will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we considered 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 will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners and operators of vessels intending to transit Provincetown Harbor in the fireworks area. The safety zone will not have a significant impact on a substantial number of small entities due to the lateness of the hour, all vessel traffic may safely transit around this safety zone, and the extensive maritime advisories that will be made.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization would be affected by this rule and you have any questions concerning its provisions or options for compliance, please call LT Casey Chmielewski at (401) 435–2335. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

We have analyzed this action under E.O. 13132 and have determined that this rule does not have implications for federalism under that Order.

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 having first provided the funds to pay those costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This temporary rule will 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.

Civil Justice Reform

This temporary 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.

Protection of Children

We have analyzed this temporary 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. A rule with tribal implications has a substantial direct effect on one or more Indian tribe, 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

The Coast Guard has considered the environmental impact of implementing this temporary rule and concluded that, under figure 2–1, paragraph 34(g), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket.

List of Subjects

Harbors, Marine safety, Navigation (water), Reports and record keeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–074 to read as follows:

§ 165.T01–074 Safety Zone: Fireworks Display, Provincetown, MA.

(a) *Location.* The safety zone includes all waters within a five hundred (500) yard radius of the fireworks barge area located approximately 800 yards to the southeast of Provincetown Harbor, Provincetown, Massachusetts, approximate position 42°02′00″ N, 070°10′00″ W.

(b) *Effective date.* This section is effective from 8 p.m. until 10 p.m. on July 4, 2001. If the evolution is cancelled due to inclement weather, than this section is effective from 8 p.m. until 10 p.m. on July 5, 2001.

(c) *Regulations.*

(1) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: June 18, 2001.

Mark G. VanHaverbeke,

Captain, U.S. Coast Guard, Captain of the Port, Marine Safety Office Providence.

[FR Doc. 01–16588 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7004–3]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Arcanum Iron & Metal, Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region V is publishing a direct final notice of deletion of the Arcanum Iron & Metal, Superfund Site (Site), located near the Village of Arcanum, Twin Township, Darke County, Ohio from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final notice of deletion is being published by EPA with the concurrence of the State of Ohio, through the Ohio Environmental Protection Agency because EPA has determined that all appropriate response actions under CERCLA have been completed and, therefore, further remedial action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective August 31, 2001 unless EPA receives adverse comments by August 1, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Kenneth Glatz, Remedial Project Manager (RPM), Glatz.Kenneth@EPA.Gov or Gladys Beard, State NPL Deletion Process Manager, *Beard.Gladys@EPA.Gov,* (SR–6J), U.S. EPA Region V, 77 W. Jackson, Chicago, Il 60604.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA Region V Library, 77 W. Jackson, Chicago, IL, 60604 (312) 353–5821, Monday through Friday 8:00 a.m. to 4:00 p.m.; Arcanum Public Library, 101 North Street, Arcanum, Ohio (937) 692–8484; Monday through Thursday 9:00 a.m to 8:00 p.m. and Friday and Saturday 9:00 a.m. to 5:00 p.m., Ohio Environmental Protection Agency, 122 S. Front Street, Lozarus Government Building, Columbus, OH 43215, (614) 644–3020, Monday through Friday 8 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Kenneth Glatz, Remedial Project Manager at (321) 886–1434, Glatz.Kenneth.@EPA.Gov or Gladys Beard, State NPL Deletion Process Manager at (312)886–7253, Beard.Gladys@EPA.Gov or 1–800–621–8431, (SR–6J), U.S. EPA Region V, 77 W. Jackson, Chicago, IL 60604.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

EPA Region V is publishing this direct final notice of deletion of the Arcanum Iron & Metal, Superfund Site from the NPL.

The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective August 31, 2001 unless EPA receives adverse comments by August 1, 2001 on this notice on this notice of deletion. If adverse comments are received within the 30-day public comment period on this notice of deletion, EPA will publish a timely

withdrawal of this direct final notice of deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Arcanum Iron & Metal, Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed (Hazardous Substance Superfund Response Trust Fund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c) requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) The EPA consulted with Ohio on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

(2) Ohio concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the ''Proposed Rules'' section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this notice of deletion, EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Location

The Arcanum Iron & Metal (AIM) Site is located in west-central Ohio, approximately 25 miles northwest of Dayton, Ohio, in Twin Township, Darke County, Ohio. The site occupies about 4.5 acres and is just southeast of the Village of Arcanum, Ohio.

Site History

The AIM Site is zoned for light industrial or commercial operations. There is a Federal Lien on 18.341 acres of property owned by Mr. Harold M. Shane, which includes the 4.5 acre AIM Site. The lien is dated August 31, 1989, and was sent to the Darke County Recorder in Greenville, Ohio on September 19, 1989. EPA and the State of Ohio negotiated a Consent Decree in places of the lien on the property.

The AIM Site consisted of a lead battery reprocessing facility from the early 1960's until 1982. The AIM facility processed automobile and industrial batteries to recover the lead cores. This process generated by-product plastic, rubber casings and battery acid. The battery acid was dumped on the ground. The plastic and rubber by-products were recycled. An on-site lead smelter, used in the lead recovery step, may have emitted lead-containing particulates during operations.

During processing, lead oxide sludge from the batteries was stored on site. During dry weather the lead oxide sludge dust was controlled by water sprays. Run-off from the pile, contaminated with lead oxide particulate and soluble lead salts, flowed to ground surface depressions. The battery casings were ground and stockpiled for recycling. The battery casing chips also contained high concentrations of lead. During rainstorms lead particles were washed into on-site surface ponds. Approximately 3,200 cubic yards of battery casing chips were stored in the Saw Building, and about 800 cubic yards were in a pile at the southeastern portion of the Site, near the smelter building. A drainage pipe connecting the AIM Site to Sycamore Ditch also caused contamination of the ditch sediments.

The battery casing chips, lead oxide sludge, and contaminated soils were exposed and represented a continuing source of contamination at the AIM Site.

Site History

- The earliest date the State of Ohio has on file regarding the AIM site is 1964, when a fish kill was reported in Painter Creek caused by contamination flowing from Sycamore Ditch.
- In 1972, the Ohio EPA personnel visited the AIM Site in response to another fish kill in the local watershed, and determined that the source of the fish kill came from the AIM Site.
- In October 1973, the Ohio EPA's Division of Waste Management and Engineering made the first of many site visits to investigate AIM's operation.
- Over the next ten years, the Ohio EPA conducted data collection activities and took legal actions against AIM to install on-site water treatment and waste storage systems.

• In January 1974, the Ohio EPA requested that the owner of the AIM Site apply for a permit to install an acid treatment system.

• The Ohio EPA was unable to get AIM to install the treatment system and adhere to the conditions and restrictions of the permit.

• In June 1979, the Ohio Attroney General on behalf of the Ohio EPA initiated enforcement proceedings against AIM.

• In October 1979, a Consent Decree was signed by the site owner to clean up the site. However, cleanup efforts were not satisfactorily completed to Ohio EPA's satisfaction. Subsequently, AIM was found to be in contempt of court in April 1980.

• From April 1980, the Ohio Attroney General's office continued to pursue legal actions for the cleanup of the AIM Site.

• In September 1980, a Citation and Notification of Penalty were issued to AIM for failure to install a treatment system.

• In April 1982, the Ohio EPA requested that legal action be taken to close the AIM facility.

• The AIM Company ceased operations at the AIM Site in December 1982.

• The processing equipment was removed from the site by the owner in January 1983.

• The Site was proposed for listing on the NPL on December 30, 1982, 47 FR 58476 and was made final on the NPL on September 8, 1983, 48 FR 40658.

• The owner of the AIM Site had also operated a downtown Arcanum facility AIM II as a battery processing plant, prior to startup of the present AIM facility location.

• In January and February of 1986 approximately 300 cubic yards of lead-contaminated soils from AIM II were placed on the AIM Site during an emergency removal action conducted by the owner of the two Sites.

Remedial Investigation and Feasibility Study (RI/FS)

Groundwater investigations at the AIM Site have shown historical groundwater contamination of up to 980 parts per billion lead. The 1985 Remedial Investigation (RI) detected lead in 2 of 8 residential wells and 8 of 15 ground-water monitoring wells sampled. Concentrations in three monitoring wells exceeded the interim primary drinking water standard (50 ug/l) at the time the Record of Decision (ROD) was signed on September 26, 1986. However, sampling logs indicated turbidity in these samples. The same sampling methodology was used in 1989, and lead was detected in 20 of 22 unfiltered monitoring well samples, but filtered samples taken during the same sampling event were found to be mostly non-detects, indicating that lead detections were attributable to turbidity. Based upon groundwater monitoring from 1995 through 2000 by the U.S. Army Corps of Engineers (USACE), using low flow purging and sampling methodology (not used previously) to minimize turbidity, there is no evidence of groundwater contamination at the AIM Site.

Record of Decision Findings

The Record of Decision (ROD) was signed on September 26, 1986. The remedy consisted of the excavation, treatment, and disposal of battery casing chips and cleaning up lead-contaminated soils to industrial/commercial cleanup levels. Lead-contaminated sediments in Sycamore Ditch were excavated, treated on-site, and disposed of in an off-site U.S. EPA-approved landfill. The office, smelter, and saw buildings were decontaminated, demolished and hauled to a U.S. EPA approved landfill. All equipment, on-site drums (left by previous contractors), two flat-bed trailers, and a 500 gallon tank were demolished and disposed of along with the demolition debris. A ROD Amendment was signed on June 18, 1997, after the completion of a new human health and ecological risk assessment. The RI investigations indicated that there were lead levels above drinking water standards in several of the residential wells in the area. The wells were resampled, post ROD, using EPA recommended low-flow sampling methods. A risk analysis was conduced by the USACE using the results from this study. It indicated that there was no unacceptable human health or ecological risk at the site. Based on the results of the risk analysis a ROD amendment was issued in June, 1997, removing the ground water remedy component from the ROD.

The ROD Amendment signed on June 18, 1997, did not specify any remedial activity for groundwater. Based upon eight separate groundwater monitoring events to date: 1985 RI, 1989 site investigation, plus five sampling events by the USACE between 1996 and 1998, and three by the Settling Defendants (two conducted post RA), there is no evidence of groundwater contamination above drinking water standards. The U.S. EPA in consultation with the Ohio EPA, concluded that no groundwater remediation is necessary. All groundwater monitoring wells have been abandoned consistent with Ohio EPA guidelines.

The Consent Decree (CD) with the Settling Defendants was lodged on September 11, 1998, in the U.S. District Court for Southern District of Ohio, Western Division, Dayton, Ohio, for remedial design (RD) and remedial action (RA); and was entered by the Court on April 12, 1999. On October 19, 1999, the U.S. District Court entered a separated CD with Mr. Harold Shane, owner of the AIM Site property.

Characterization of Risk

The AIM Final Remedial Action Report was approved by EPA on July 26, 2000. The AIM Site remedial action performed by the AIM Settling Defendants, resulted in a clean closure. On December 1, 1999, the U.S. EPA, the Ohio EPA, and the USACE conducted the final inspection of the AIM Site. The Preliminary Close Out Report (PCOR) was issued in 1999. Since then two rounds of groundwater sampling have been completed, the groundwater monitoring wells have been properly abandoned, and two post excavation sampling events for Sycamore Ditch have confirmed that no contamination above clean-up levels has been left on or off the site. A Final Close-out Report was issued in March 2001.

Response Actions

• The RD/RA Work Plan was approved by the U.S. EPA on July 14, 1999.

• The Notice of Authorization to Proceed with RA was issued on July 14, 1999.

• The Pre-Construction Inspection Meeting was conducted on August 18, 1999.

• The RA construction commenced on Monday, August 30, 1999.

• The AIM Site was cleared of all trees and the cleared trees were disposed of in accordance with State of Ohio requirements.

• The drums left on-site by previous contractors, were cleaned, crushed, and disposed of along with the demolition debris.

• The office, smelter, and saw building were decontaminated, demolished and hauled to a U.S. EPA-approved landfill.

• All equipment, including the flat-bed trailers and a 500 gallon tank were demolished and disposed of along with the demolition debris from the buildings.

• No underground storage tanks were found on-site.

• Post-Excavation Confirmatory Soil Sampling was conducted to confirm that all soils with lead contamination above

400 parts per million, had been excavated and removed from the AIM Site.

- About 200 cubic yards of lead-contaminated sediments in Sycamore Ditch were excavated, treated on-site, and disposed of in an off-site U.S. EPA-approved landfill.
- Over 30,000 tons of treated battery casing chips, treated lead-contaminated soils, and construction debris were hauled off-site to a U.S. EPA-approved landfill.
- All areas disturbed during the RA were backfilled with clean backfill and a minimum of 6 inches of topsoil was placed over the backfill.
- The Site was regraded to promote positive drainage and prevent ponding of water.
- EPA, and the UACE conducted site inspections on August 18, 1999, September 22, 1999, October 20, 1999, and November 17, 1999.
- Air and groundwater monitoring were performed during the RA.
- The access road (Pop Rite Lane) to the AIM Site was resurfaced after completion of the AIM Site RA. The private road was used by contractor trucks to transport and dispose of the battery casing chips, contaminated soils, demolition debris, as well as to haul backfill to the AIM Site.
- Restrictive covenants that would limit land or water use will not need to be executed since the RA resulted in a clean up that allows unlimited use and unrestricted exposure. Cleanup Standards

A clean closure was implemented at the AIM Site. No hazardous substances remain on the AIM Site which present a health risk.

Five-Year Review—If Applicable

The selected RA utilized permanent solutions and considered the use of alternative treatment technologies to the maximum extent practicable. There is no health risk from remaining exposure to lead and therefore, the use of the AIM Site is not restricted. Consequently, a five-year review will not be required in accordance with section 121 of CERCLA.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

V. Deletion Action

The EPA, with concurrence of the State of Ohio, has determined that all appropriate responses under CERCLA have been completed, and that no further response actions, under CERCLA, are necessary. Therefore, EPA is deleting the AIM Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective August 31, 2001 unless EPA receives adverse comments by August 1, 2001. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect and, EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 20, 2001.

David A. Ullrich,

Acting Regional Administrator, Region V.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by removing the entry for ''Arcanum Iron & Metal, Darke County, OH.''

[FR Doc. 01–16287 Filed 6–29–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 010112013–1160–05; I.D. 061401A]

RIN 0648–A082

Fisheries of the Exclusive Economic Zone Off Alaska; Correction to the Emergency Interim Rule; Closure

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

ACTION: Correction to the emergency interim rule for Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska; Closure.

SUMMARY: NMFS amends an emergency interim rule by removing the 150 metric ton (mt) of the seasonal allocation of Pacific halibut prohibited species catch (PSC) apportioned to the ''shallow water trawl fishery'' during June 10 to July 1. NMFS is also prohibiting directed fishing by vessels using trawl gear in the Gulf of Alaska (GOA) for species that comprise the shallow water species fishery, except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock. This action is necessary to preserve limited bycatch amounts of Pacific halibut while NMFS reviews the seasonal allocation of GOA Pacific cod total allowable catch (TAC) recommended by the North Pacific Fishery Management Council (Council).

DATES: Tables 24 and 25 to the preamble are effective 1200 hrs, Alaska local time (A.l.t.), June 27, 2001, through 2400 hrs, A.l.t., July 17, 2001. The closure for the shallow water species fishery by vessels using trawl gear in the GOA is effective 1200 hrs, A.l.t., June 27, 2001, through 1200 hrs, A.l.t., July 1, 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) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens 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.

Correction to the Emergency Interim Rule

In December 2000, the Council recommended seasonal Pacific halibut PSC apportionments in order to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of Pacific halibut. The seasonal apportionments of the Pacific halibut PSC were published in Tables 24 and 25 of the emergency interim rule implementing the Steller sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001). However, at an emergency January 12, 2001, meeting, NMFS presented the Council with the 2001 Steller sea lion protection measures, one of which separates the GOA Pacific cod TAC into two separate seasonal allowances. The A season, January 1, 2001, through noon, A.l.t., June 10, 2001, is allocated 60 percent of the annual TAC. The B season, starting at noon, A.l.t., June 10, 2001, through midnight, A.l.t., December 31, 2001, is allocated 40 percent of the annual TAC. In response to the new seasonal apportionments of the GOA Pacific cod TAC, the Council requested NMFS to also reapportion seasonal Pacific halibut PSC amounts to support the seasonal Pacific cod fisheries (66 FR 17087, March 29, 2001).

At its April 2001 meeting, the Council recommended delaying the Pacific cod ''B'' season from June 10 to September 1. When the Council made this recommendation, it took no action on the Pacific halibut PSC seasonal allowance, i.e., the seasonal allowance became available on June 10. At the Council's June 2001 meeting, certain industry representatives expressed their concern that fishermen could start fishing for the other species in the ''shallow water trawl fishery'' and could catch substantial amounts of the Pacific halibut PSC seasonal limit, leaving insufficient amounts of this seasonal limit to support a Pacific cod fishery ''B'' season.

Regulations at § 679.21(d)(3)(iii) authorize apportionments of the trawl Pacific halibut PSC limit to the ''shallow water trawl fishery.'' This apportionment is further allocated seasonally. The current seasonal allowance is available June 10 to July 1. In response to industry concerns, at its June meeting, the Council recommended that the 150 mt seasonal apportionment of the Pacific halibut trawl PSC available during June 10 to July 1 season be held aside to preserve bycatch amounts of Pacific halibut that would be necessary to support a ''B'' season that may occur during the latter part of the year.

NMFS is reviewing the Council's recommendation to delay the Pacific cod ''B'' season from June 10 to September 1 and will make a final determination on that recommendation by July 17.

Accordingly, Tables 24 and 25 of the Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska; Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001) are adjusted to read as follows:

TABLE 24 - FINAL 2001 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS. THE PACIFIC HALIBUT PSC LIMIT FOR HOOK-AND-LINE GEAR IS ALLOCATED TO THE DEMERSAL SHELF ROCKFISH (DSR) FISHERY AND FISHERIES OTHER THAN DSR. THE HOOK-AND-LINE SABLEFISH FISHERY IS EXEMPT FROM HALIBUT PSC LIMITS.

(Values are in mt)

Trawl gear		Hook-and-line gear			
		Other than DSR		DSR	
Dates	Amount	Dates	Amount	Dates	Amount
Jan 1-Apr 1	550 (28%)	Jan 1-May 7	205 (70%)	Jan 1-Dec 31	10 (100%)
Apr 1-Jun 10	400 (20%)	May 17-Aug 31	Any rollover		
Jun 1-Jul 1	0 (0%)	Aug 31-Dec 31	85 (30%)		
Jul 1-Sep 1	600 (7%)				
Oct 1-Dec 31	300 (15%)				
Total	1,850 (100%)		290 (100%)		10 (100%)

TABLE 25 - FINAL 2001 APPORTIONMENT OF PACIFIC HALIBUT PSC TRAWL LIMITS BETWEEN THE TRAWL GEAR DEEP-WATER SPECIES COMPLEX AND THE SHALLOW-WATER SPECIES COMPLEX.

(Values are in metric tons)

Season	Shallow-water	Deep-water	Total
Jan. 20-Apr. 1	450	100	550
Apr. 1-Jun. 10	100	300	400
Jun. 10-Jul. 1	0	0	0
Jul. 1-Sep. 1	200	400	600
Subtotal			
Jan. 20-Sep. 30	750		
Oct. 1-Dec. 31			300
Total			1,850

No apportionment between shallow-water and deep-water fishery complexes during October 1 through December 31.

Closure

The GOA trawl shallow-water species fishery started June 10, 2001, under the Final 2001 Harvest Specifications and Associated Management Measures for the Groundfish Fisheries Off Alaska (66 FR 7276, January 22, 2001) and adjusted (66 FR 17087, March 29, 2001). Because this rulemaking removes the trawl Pacific halibut PSC for the June 10 to July 1 season, the Pacific halibut PSC allocation will no longer be available for the current shallow water species fishery.

Consequently, NMFS is prohibiting directed fishing for species included in the shallow-water species fishery by vessels using trawl gear in the GOA,

except for vessels fishing for pollock using pelagic trawl gear in those portions of the GOA open to directed fishing for pollock, since such gear is expected to use little, if any, of the Pacific halibut PSC allocation. The species and species groups that comprise the shallow-water species fishery are: pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and ≥other species.'' Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that this emergency interim rule is necessary for the conservation and management of the groundfish fisheries of the Bering Sea and Aleutian Islands (BSAI) and GOA. The Regional Administrator also has determined that this rule is consistent with the Magnuson-Stevens Act and other applicable laws.

This amendment has been determined to be not significant for purposes of Executive Order 12866. This amendment to an emergency interim rule contains no reporting, recordkeeping, or compliance requirements, and no relevant Federal rules exist that may duplicate, overlap, or conflict with this rule.

This amendment must be implemented immediately to avoid foregone catch in the B season GOA trawl gear Pacific cod fishery. By removing the halibut PSC available to trawl gear from the June 10 through July 1 seasonal allowance until subsequent interim rulemaking is implemented by mid-July 2001 to establish new fishing seasons for the shallow-water species fishery by vessels using trawl gear and other Steller sea lion protection measures for the second half of 2001, this amendment will accommodate the new Pacific cod season and optimize the harvest of Pacific cod. Therefore, NMFS finds that good cause exists 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 contrary to the public interest. Similarly, the need to implement these measures in a timely fashion to optimize the harvest of GOA Pacific cod 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.

Because this emergency interim rule is not subject to the requirement to provide notice or an opportunity for comment by 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable. Thus, no initial or final regulatory flexibility analysis has been prepared.

Dated: June 26, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 01–16574 Filed 6–27–01; 4:09 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 66, No. 127
Monday, July 2, 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 THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 7

[Docket No. 01–15]

RIN 1557–AB76

Electronic Banking

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to amend its regulations in order to facilitate national banks' ability to conduct business using electronic technologies, consistent with safety and soundness. This proposal groups together new and revised regulations addressing: National banks' exercise of their Federally authorized powers through electronic means; the location, for purposes of the Federal banking laws, of a national bank that engages in electronic activities; and the disclosures required when a national bank provides its customers with access to other service providers through hyperlinks in the bank's website or other shared electronic ''space.''

DATES: Comments must be received by August 31, 2001.

ADDRESSES: Please send your comments to: Office of the Comptroller of the Currency, Public Information Room, 250 E Street, SW., Mail Stop 1–5, Washington, DC 20219, Attention: Docket No. 01–15. You may make an appointment to inspect and photocopy comments at the same location by calling (202) 874–5043. In addition, you may fax your comments to (202) 874–4448 or electronic mail them to regs.comments@occ.treas.gov.

FOR FURTHER INFORMATION CONTACT: Stuart Feldstein, Assistant Director, or Heidi M. Thomas, Counsel, Legislative and Regulatory Activities, at (202) 874–5090; James Gillespie, Assistant Chief Counsel, at (202) 874–5200; or Clifford Wilke, Director, Bank Technology, at (202) 874–5920.

SUPPLEMENTARY INFORMATION:

Background

Automation, the Internet, wireless communications, and other technologies are impacting not just how financial products and services are delivered, but also the substantive characteristics of those products and services.[1] By the end of 2000, approximately 37 percent of national banks offered Internet banking via transactional World Wide Web (Web) sites, with another 18 percent expecting to offer Internet banking services in the future.[2] By the end of 2003, an estimated 25 million to 40 million households will bank on-line.[3]

The OCC has approved a number of activities involving innovative uses of new technology, including the establishment of transactional Web sites, virtual marketplaces, Internet access services, and electronic payment systems. We have also permitted national banks to provide digital certification and electronic correspondent banking services.[4]

To ensure that electronic banking activities are conducted consistent with bank safety and soundness, we have issued guidance addressing supervisory issues relating to banks' use of technology.[5] Together with the other Federal banking agencies, we have recently issued guidelines prescribing information security standards that implement the requirements of the Gramm-Leach-Bliley Act (GLBA).[6] We also have issued a comprehensive handbook on Internet banking that discusses business and technical issues associated with providing goods and services via the World Wide Web, the risks presented by these activities, and the OCC's procedures for Internet-related examinations.[7] In addition, we recently issued ''The Internet and the National Bank Charter,'' as part of the Comptroller's Corporate Manual (January 2001). These and other issuances, including Internet-related regulatory updates, are available on our Electronic Banking website.

Finally, we have initiated a review of the OCC's regulations with a view toward removing unnecessary impediments to national banks' use of technology. In an advance notice of proposed rulemaking (ANPR) published on February 2, 2000,[8] the OCC invited public comment on issues involving Internet banking and other uses of electronic technology. Specifically, the ANPR focused on three issues: (1) How should the OCC adapt its regulations and supervisory policies to facilitate national banks' use of electronic technology consistent with bank safety and soundness? (2) What statutes can the OCC interpret more flexibly to accommodate new technologies? and (3) How can the OCC enhance the operational flexibility of banks engaging in electronic banking consistent with bank safety and soundness?[9]

The OCC received 16 comments on the ANPR, including 7 from banks, 6 from trade associations, 2 from individuals, and 1 from a company that provides information processing

[1] John D. Hawke, Jr., ''The Internet Impact,'' Independent Banker, March 2001; Veronica Agosta, ''Nation's Small Banks Have Big Plans for the Internet,'' The American Banker, March 9, 2001, at 5; Leslie Walker, ''E-Mail Money Gains Currency,'' The Washington Post, October 5, 2000, at E1; Steve Marlin, ''B2B: Swirling E-Marketplace Pulls in Banks,'' Bank Systems & Technology, June 2000, at 32; ''Online Finance Survey: Paying Respects,'' The Economist, May 20, 2000, at 24; Carol Power, ''Banks Start to Click into Wireless Banking,'' The American Banker, June 7, 2000, at 16.

[2] *See* OCC Internet Banking Questionnaire, December 31, 2000.

[3] ''Online Finance Survey: Branching Out,'' The Economist, May 20, 2000, at 19.

[4] The OCC has established a website that contains information relating to electronic banking activities. *See www.occ.treas.gov/netbank/netbank.htm* (Electronic Banking website). The site includes a listing of opinions, approval letters, supervisory guidance, and other issuances on this subject and provides links to the documents listed.

[5] *See, e.g.*, OCC Bulletin 98–3, Technology Risk Management—Guidance for Bankers and Examiners (February 4, 1998).

[6] 66 FR 8616 (Feb. 1, 2001) (information security guidelines issued jointly by the OCC, the Board of Governors of the Federal Reserve, the Federal Deposit Insurance Corporation, and the Office of Thrift Supervision). These guidelines implement the requirements of section 501(b) of GLBA, Pub. L. 106–102, sec. 501(b), 113 Stat. 1338, 1436–37 (Nov. 12, 1999), *codified at* 15 U.S.C. 6801.

[7] Comptroller's Handbook, Other Income Producing Activities: Internet Banking (Oct. 1999).

[8] 65 FR 4895 (Feb. 2, 2000).

[9] Section 729 of GLBA requires the OCC and the other Federal banking agencies to conduct a study of banking regulations pertaining to the delivery of on-line financial services and to make recommendations on adapting existing regulations and legislative requirements to on-line banking and lending. We noted in the ANPR that commenters' suggestions would be helpful in formulating recommendations for legislative action or for actions that may be appropriately undertaken on an interagency basis. We continue to invite commenters to address these points.

management, outsourcing services, and application software to banks. The commenters strongly supported the OCC's initiative, emphasizing that outdated and inflexible regulations are one of the largest obstacles banks face as they attempt to adopt new technologies. The comments offered suggestions in each of the three areas identified in the ANPR and raised a wide variety of additional issues.

After reviewing these comments, the OCC has developed a proposed rule to update its regulations to reflect national banks' use of new technologies and to provide simpler, clearer guidance to banks engaging in electronic activities.

Shortly after the ANPR was published, Congress passed the Electronic Signatures in Global and National Commerce Act (the E-Sign Act), which was enacted on June 30, 2000.[10] Among other provisions, the E-Sign Act establishes certain uniform Federal rules concerning the use of electronic signatures and records in commercial and consumer transactions and establishes certain requirements for making disclosures to consumers electronically. Although it does not require implementing regulations, the E-Sign Act gives the OCC (and other Federal and state regulatory agencies) authority to interpret the Act's requirements with respect to the statutes they administer, subject to specified limitations. The OCC is considering whether it would be appropriate to further revise its regulations in light of the E-Sign Act. Any such revisions would be undertaken in a separate rulemaking, however, and are, accordingly, not covered by this proposal.

Section-by-Section Analysis of the Proposal

In the following discussion, the changes included in this proposal are grouped in three categories: national bank powers, location with respect to the conduct of electronic activities, and safety and soundness requirements for shared electronic ''space.''

A. National Bank Powers

1. National Bank Finder Authority (revised § 7.1002)

The OCC has long permitted a national bank to act as a finder to bring together buyers and sellers of financial and nonfinancial products and services. Under our current rules, a national bank, acting as a finder, may identify potential parties, make inquiries as to interest, introduce or arrange meetings of interested parties, and otherwise bring parties together for a transaction that the parties themselves negotiate and consummate.[11] National banks have used the finder authority to engage in several new activities made possible by technological developments, particularly the Internet.[12]

The proposal makes several changes to section 7.1002. First, the proposal clarifies that it is part of the business of banking for a national bank to engage in finder activities. This provision codifies the position the OCC has taken in recent interpretative letters.[13]

Second, the proposal adds a number of specific examples illustrating the full range of finder activities that we have authorized. For example, the proposal states that a national bank may communicate information about third-party providers, their services and products, and proposed offering prices and terms to potential markets. These examples are illustrative and not exclusive, and the OCC may find new activities to be authorized under the finder authority that are not included in the examples.

Finally, the current rule contains the express statement that acting as a finder does not include activities that would characterize the bank as a broker under applicable Federal law. Like other aspects of the financial services business, the concept of what constitutes acting as a broker is changing in response to technology and is expanding in some Federal regulatory regimes.[14] Accordingly, the proposed rule restates the exclusion contained in the current rule to provide that the authority to act as a finder does not enable a national bank to engage in activities that would characterize the bank as a broker under Federal law that are not otherwise permissible for national banks. This change is prompted in response to changes in the definition of ''broker'' under Federal law and does not affect whether activities regulated as brokerage under state law are permissible for a national bank. In addition, as under the current regulation, a national bank acting as finder may not represent or bind either of the parties to a transaction, nor may it take title to goods as finder.

2. Electronic Banking—Scope (new Subpart E and § 7.5000)

The proposal creates a new Subpart E to part 7, which collects regulations pertaining to electronic activities. New section 7.5000 describes the scope of Subpart E, which addresses national

[10] Pub. L. 106–2299, 114 Stat. 464 (June 30, 2000).

[11] 12 CFR 7.1002.

[12] *See* OCC Conditional Approval No. 369 (Feb. 25, 2000) (national bank may, incidental to its hosting of a virtual mall, provide at that site access to a limited amount of nonfinancial information (e.g., information on current events and weather) that is necessary to attract persons to the virtual mall site); OCC Interpretive Letter No. 875, *reprinted in* [Current Transfer Binder] Fed. Banking L.Rep. (CCH) ¶ 81–369 (Oct. 31, 1999) (the components of Internet services package that involve hosting of commercial web sites, registering merchants with search engines and obtaining URLs, and electronic storage and retrieval of the data set for a merchant's on-line catalog are permissible finders activities authorized for national banks pursuant to 12 U.S.C. 24(Seventh)); OCC Conditional Approval No. 221 (Dec. 4, 1996) (national banks, in the exercise of their finder authority, may establish hyperlinks between their home pages and the Internet pages of third party providers so that bank customers will be able to access those non-bank web sites from the bank site); Letter from Julie L. Williams, Chief Counsel, October 2, 1996 (unpublished) (national bank as finder could use electronic means to facilitate contacts between third party providers and potential buyers); OCC Interpretive Letter No. 611, reprinted in [1992–1993 Transfer Binder] Fed. Banking L. Rep. (CCH) P 83,449 (Nov. 23, 1992) (national bank linking non-bank service providers to its communications platform of smart phone banking services was within its authority as a finder ''in bringing together a buyer and seller;'' national banks may act as finders by providing to their customers links to non-banking, third-party vendors' Internet web sites); OCC Interpretive Letter No. 516, reprinted in [1990–1991 Transfer Binder] Fed. Banking L. Rep. (CCH) P 83,220 (July 12, 1990) (national banks as finder may provide electronic communications channels for persons participating in securities transactions).

[13] *See, e.g.*, OCC Interpretive Letter No. 824 (Feb. 27, 1998) (determining, in the context of insurance activities, that the ''finder function is an activity authorized for national banks under 12 U.S.C. 24(Seventh) as part of the business of banking.''). The OCC makes this determination pursuant to its authority under section 24(Seventh) to authorize activities as part of the business of banking. *NationsBank* v. *Variable Annuity Life Insurance Co.*, 513 U.S. 251, 258 n.2 (1995) (VALIC) (''We expressly hold that the ''business of banking'' is not limited to the enumerated powers in [section] 24(Seventh) and that the Comptroller therefore has discretion to authorize activities beyond those specifically enumerated.''). In VALIC, the Court noted that the Comptroller's exercise of discretion is subject to a reasonableness standard. *Id.* It is clear that our determination that finder activities are part of the business of banking satisfies this standard. *See Norwest Bank* v. *Sween Corporation*, 118 F.3d 1255 (8th Cir. 1997) (determining that finder activities were authorized for a national bank because ''allowing banks to use their expertise as an intermediary effectuating transactions between parties facilitates the flow of money and credit through the economy.''). The *Sween* court did not distinguish between activities that are ''part of'' the business of banking and those that are ''incidental to'' that business, relying, instead, on the pre-VALIC formulation of the analysis as whether an activity is ''closely related to an express power and is useful in carrying out the business of banking.'' *Id.* at 1260. The court's conclusions are nonetheless clear that finder activities are authorized pursuant to section 24(Seventh) and that the Comptroller's determination to that effect, embodied in the OCC's regulations, was a reasonable construction of the statute.

[14] *See, e.g.*, ''SEC Redefines What Triggers B/D Registration,'' VII *Compliance Rep.* 1 (April 10, 2000) and ''On-line Brokerage: Keeping Apace of Cyberspace,'' Report of Laura S. Unger, Commissioner, U.S. Securities and Exchange Commission 98–106 (Nov. 1999).

banks' use of electronic technology to deliver products and services, consistent with safety and soundness.

3. Electronic Banking Activities That Are Part of, or Incidental to, the Business of Banking (§ 7.5001)

The rapid development of new technologies requires banks to be able to respond quickly and effectively to changing customer needs. As they take up the new lines of business and offer the new financial products needed to serve their customers, national banks must continually evaluate their authority, pursuant to 12 U.S.C. 24(Seventh), to conduct electronic activities that are part of, or incidental to, the business of banking.[15] Proposed new § 7.5001 assists banks that are contemplating new electronic activities by identifying the factors the OCC uses to determine whether the electronic activity would be authorized pursuant to section 24(Seventh).

Section 7.5001(a) provides the purpose and scope of the new section and describes the general parameters of national banks' ability to engage in electronic activities. First, it sets out expressly the OCC's authority to impose conditions on the exercise of newly authorized activities if necessary to ensure that they are conducted safely and soundly and in accordance with applicable law and supervisory policies. Second, it clarifies that state law applies to a national bank's conduct of electronic activities to the extent it would apply if the activity were conducted through traditional means. The provision clarifies that the same analysis governs the applicability of state law to Federally authorized activities that national banks conduct whether using new technologies or using more traditional means.[16]

Electronic banking activities that are part of the business of banking (new § 7.5001(b)). Proposed § 7.5001(b) provides that an electronic activity is authorized for national banks as part of the business of banking if the activity is permitted under 12 U.S.C. 24(Seventh) or other statutory authority applicable to national banks, or otherwise constitutes part of the business of banking. The proposal sets forth four factors the OCC considers in determining whether an electronic activity is part of the business of banking. A proposed activity does not necessarily have to satisfy all four criteria in order to be permissible. Rather, we recognize that one or more of these factors may predominate, depending on the specific facts and circumstances presented.[17]

The first factor is whether the electronic activity is functionally equivalent to, or a logical outgrowth of, a recognized banking activity. This factor is based on judicial precedents approving activities that have traditionally been performed by banks, that are functionally similar to recognized banking activities, or that represent advances in recognized banking practices.[18]

The second factor that we consider is whether the proposed activity strengthens the bank by benefitting its customers or its business. Courts have long recognized that banks' ability to serve the needs of their customers by offering appropriate products and services is crucial to the capability of national banks to compete successfully. Therefore, the courts have also approved many activities on the basis that they benefit a bank's customers or the bank's business itself.[19] Examples of the types of activities the OCC would look to that would benefit bank customers or may be useful or convenient to banks include those where the activity increases service, convenience, or options for bank customers or lowers the cost to banks of providing a product or service.

The third factor that we consider in determining whether an electronic activity is part of the business of banking is whether the activity presents the types of risk that banks are experienced in managing.[20]

Finally, the proposal recognizes the relevance of state law in the analysis the OCC conducts when it receives requests regarding the permissibility of new electronic activities for national banks. Since the statutory reference to the ''business of banking'' does not imply that there are two distinct businesses of banking, one for Federally-chartered and another for state-chartered banks, activities that are recognized as permissible for state banks are at least a relevant factor in determining whether an electronic activity is part of the business of banking.[21]

Electronic activities that are incidental to the business of banking (new § 7.5001(c)). We are also proposing to set forth the factors the OCC considers in determining whether an electronic activity is incidental to the business of banking. In *Arnold Tours, Inc.* v. *Camp,* 472 F.2d 427, 432 (1st Cir. 1972), the court held that a national bank's activity is authorized as an incidental power if it is convenient or useful in connection with the performance of one of the bank's established activities pursuant to the five express powers enumerated in 12 U.S.C. 24(Seventh). Consistent with the Supreme Court's holding in *VALIC* that national banks' authority to engage in the business of banking is not limited to the five express powers, proposed § 7.5001(c) updates this standard to provide that an activity is incidental to the business of banking if it is convenient or useful to an activity that is specifically authorized for national banks or to an activity that is otherwise part of the business of banking.

[15] *VALIC,* 513 U.S. at 258.

[16] In brief, state law applies to a national bank's exercise of a Federally authorized activity if a Federal statute directs that result or if the state law is found to apply under principles of Federal preemption derived from the Supremacy Clause of the U.S. Constitution and applicable judicial precedent. *See, e.g., Barnett Bank* v. *Nelson,* 517 U.S. 25 (1996).

[17] *See, e.g.,* Conditional Approval No. 267 (January 12, 1998) (A national bank may engage in certification authority activities that are the functional equivalent to and a logical outgrowth of established banking functions) and Conditional Approval No. 220 (December 2, 1996) (The creation, sale and redemption of electronic stored value in exchange for dollars are part of the business of banking because these activities comprise the electronic equivalent of issuing circulating notes or other paper-based payment devices like travelers checks).

[18] *See, e.g., M&M Leasing* v. *Seattle First National Bank,* 563 F.2d 1377 (9th Cir. 1977), *cert. denied,* 436 U.S. 956 (1978) (national bank leasing of personal property permissible because it was functionally interchangeable with loaning money on personal security and therefore incidental to the express power of loaning money on personal security); *VALIC,* 513 U.S. at 259–60 (national bank annuity sales are permissible because they are functionally similar to other financial investment products banks have long been authorized to sell).

[19] *Merchants' Bank* v. *State Bank,* 77 U.S. 604, 648 (1871) (''The practice of certifying checks has grown out of the business needs of the country.'') *See Clement National Bank* v. *Vermont,* 231 U.S. 120, 140 (1923) (''the bank should be free to make * * *reasonable [depositors'] agreements, and thus promote the convenience of its business * * * .'').

[20] *See Merchants' Bank,* 77 U.S. at 648 (''A bank incurs no greater risk in certifying a check than in giving a certificate of deposit.''); *M&M Leasing,* 563 F. 2d at 1383 (leasing personal property functionally equivalent to secured lending because the risks to the bank of such leasing were essentially the same as if the bank had made secured loans to buyers of the same property). *See also* Decision of the Comptroller of the Currency on the Operating Subsidiary Application by Zions First National Bank, Salt Lake City, Utah, OCC Conditional Approval No. 267 (January 12, 1998) at 13 (acting as a certification authority involves core competencies of national banks and thus entails risks similar to those that banks are already expert in handling).

[21] The U.S. Supreme Court has relied upon the permissibility of an activity for state banks as a factor in the analysis of permissible national bank powers. *See Colorado National Bank* v. *Bedford,* 310 U.S. 41 (1940), in which the Court, concluding that national banks had the authority to conduct a safe-deposit business, stated that ''State banks, quite usually, are given the power to conduct a safe-deposit business. We agree with the appellant bank that such a generally adopted method of safeguarding valuables must be considered a banking function authorized by Congress.'' 310 U.S. at 51.

Proposed § 7.5001(c) relies on Federal incidental powers precedents to identify the factors the OCC uses in determining whether an activity is convenient or useful to the business of banking. As with determinations about whether an activity is part of the business of banking, specific facts may implicate one or more factors, and the activity need not satisfy each factor to be permissible as incidental to that business.

The first factor listed in the proposal as part of the OCC's determination as to whether an electronic banking activity is incidental to the business of banking is whether the activity facilitates the production or delivery of a bank's products or services, enhances the bank's ability to sell or market its products or services, or improves the effectiveness or efficiency of the bank's operations in light of risks presented, innovations, strategies, techniques and new technologies for providing financial products and services. For example, relying on well established judicial precedents,[22] the OCC has determined that the provision of certain products and services is permissible as incidental to the business of banking when needed to package successfully or promote other banking services. [23]

In addition to incidental activities based on specific banking services or products, proposed § 7.5001(c)(1) also recognizes a category of incidental activities based on the operation of the bank itself as a business concern. Banking activities that fall in this category may include hiring employees, issuing stock to raise capital, owning or renting equipment, borrowing money for operations, purchasing the assets and assuming the liabilities of other financial institutions, and operating through optimal corporate structures, such as subsidiary corporations or joint ventures. Various Federal statutes have implicitly recognized national banks' authority to perform the activities necessary to conduct their business. For example, Federal laws refer to limits on persons who can serve as bank employees, to the permissible disposition of bank stock, and to the existence of bank subsidiaries.[24] In each case, the statutes presume the existence of corporate power to conduct the bank's business under 12 U.S.C. 24(Seventh).

The authority of banks to deliver and sell products and services or improve the effectiveness of its operations must be viewed in light of innovations, strategies, techniques and new technologies for marketing financial products and services. For example, in *VALIC,* the Supreme Court recognized that the concepts of the ''business of banking'' and of activities ''incidental'' to that business must be sufficiently flexible to accommodate the constant evolution of banking services. These grants of power must be given a broad and flexible interpretation to allow national banks to utilize modern methods and meet modern needs. The court in the *M&M Leasing* case also focused on this point noting that ''commentators uniformly have recognized that the National Bank Act did not freeze the practices of national banks in their nineteenth century form* * *. [W]e believe the powers of national banks must be construed so as to permit the use of new ways of conducting the very old business of banking.'' [25] Proposed § 7.5001(c)(1) recognizes that market and technological changes that will affect the banking industry will shape the OCC's future determinations of whether an activity is incidental to the business of banking.

The second factor is whether the activity enables the bank to profitably use capacity acquired for its banking operations or otherwise avoid economic waste or loss. For example, it is well settled that a nonbanking activity can be validly incidental when it enables a bank to realize gain or avoid loss from activities that are part of, or necessary to, its banking business. Federal statutes and case law also recognize national banks' need to optimize the value of bank property by authorizing banks to sell excess space or capacity in that property.[26] Proposed § 7.5004, which pertains to excess capacity, is a specific application of this general principal.

4. Furnishing of Products or Services by Electronic Means and Facilities (§ 7.5002).

The OCC's rules currently provide that a national bank may perform, provide, or deliver through electronic means and facilities any function, product, or service that it is otherwise authorized to perform, provide or deliver.[27] This so-called ''transparency doctrine'' is a key provision for national banks engaging in electronic activities because it requires the OCC to look through the means by which the product is delivered and focus instead on the authority of the national bank to offer the underlying product or service.

The proposed rule moves the transparency rule to new subpart E and expands it to include examples of permissible activities under the rule. For example, we have relied on the transparency doctrine in § 7.1019 to approve a number of technology-based activities, such as web site hosting and the operation of a ''virtual mall,'' that are otherwise permissible under a national bank's finder authority. Similarly, we have approved electronic bill presentment activities because billing and collecting services are permissible for national banks.[28] We believe that moving this section under new subpart E and providing concrete examples of how it may be used will provide clearer guidance to national banks that wish to engage in new electronic activities.[29]

5. Composite Authority To Engage in Electronic Banking Activities (§ 7.5003)

An electronic banking activity may appear to be novel but may actually comprise a collection of interrelated activities, each of which is permissible under well-settled authority. For example, the authority for a national bank to offer a commercially enabled web site service to merchants is actually

[22] *See Franklin Nat'l Bank* v. *New York,* 347 U.S. 373 (1954) (national bank may advertise savings accounts); *Clement National Bank,* 231 U.S. at 140 (national bank may promote its deposit services by computing, reporting and paying the state tax levied upon the interest earned by bank customers on their deposits).

[23] *See* OCC Interpretative Letter No. 754, *reprinted in* [1996–97 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–118 (Nov. 6, 1996) (national bank operating subsidiary may sell general purpose computer hardware to other financial institutions as part of larger product or service when necessary, convenient, and useful to bank permissible activities.)

[24] *See, e.g.,* 12 U.S.C. 78 (defining persons ineligible to be bank employees); 12 U.S.C. 83 (limiting national bank's purchase of its own stock); 12 U.S.C. 24 (Seventh) (limiting presupposed authority of national bank to own a subsidiary engaged in the safe deposit business; 12 U.S.C. 371d(1994) (defining ''affiliates'' to include subsidiaries owned by national banks); GLBA section 121 (defining financial subsidiary as a subsidiary ''other than'' a subsidiary that conducts bank-permissible activities under the same terms and conditions as apply to the parent bank or a subsidiary expressly authorized by Federal statute).

[25] 563 F.2d at 1382.

[26] *See* 12 U.S.C. 24(Seventh) and 29; *Perth Amboy National Bank* v. *Brodsky,* 207 F.Supp. 785, 788 (S.D.N.Y. 1962) (''It is clear beyond cavil that the statute [12 U.S.C. 29] permits a national bank to lease or construct a building, in good faith, for banking purposes, even though it intends to occupy only a part thereof and to rent out a large part of the building to others.'')

[27] 12 CFR 7.1019.

[28] OCC Conditional Approval No. 304 (Mar. 5, 1999).

[29] *See also,* Conditional Approval No. 220 (December 2, 1996) (The creation, sale and redemption of electronic stored value in exchange for dollars is part of the business of banking because it is the electronic equivalent of issuing circulating notes or other paper based payment devices like travelers checks); Conditional Approval No. 267 (January 12, 1998) (A national bank may store electronic encryption keys as an expression of the established safekeeping function of banks.)

a blend of established authorities to offer the constituent parts of the service, including the authorities to act as finder, to process banking or financial data, and to engage in payments processing and collection. To clarify national banks' conduct of this type of ''composite'' activity, proposed § 7.5003 codifies the approach we have used in our approval letters by providing that an electronic product or service that comprises several elements, or activities, is authorized if each of the constituent elements or activities is authorized. This provision does not authorize activities that are not otherwise permissible for national banks under Federal law.

6. Excess Electronic Capacity (§ 7.5004)

The OCC has long permitted national banks to rely on the ''excess capacity'' doctrine to avoid waste and deploy resources efficiently. The excess capacity doctrine holds that a bank acquiring an asset in good faith to conduct its banking business is permitted, under its incidental powers, to make full economic use of the property if using the property solely for banking purposes would leave the property underutilized.[30] While the doctrine originated to allow banks to use excess real property efficiently, it has taken on particular significance as banks conduct more business through developing technologies. We have applied the excess capacity doctrine to a broad range of electronic products and services, including Internet access, software production and distribution, long line telecommunications and data processing equipment, electronic security systems and a call center.[31]

The OCC's rules currently recognize the excess capacity doctrine with respect to excess electronic capacities acquired or developed by a bank in good faith for banking purposes. The proposal relocates the excess electronic capacity rule from current § 7.1019 to new subpart E and adds specific examples. These examples, while not exclusive, illustrate uses of excess electronic capacity that we have approved. The proposal retains the requirement that the excess capacity must be acquired in good-faith for banking purposes.[32] As our approvals to date demonstrate, the determination that a particular use of excess electronic capacity is permissible is fact specific. Accordingly, we encourage banks considering appropriate uses of excess electronic capacity to consult with the OCC.

This proposal does not affect other bases upon which the OCC has approved similar types of activities. For example, this proposal does not affect the so-called '' by-product theory,'' where a national bank may sell by-products, such as software, developed by the bank for or during the performance of its permissible data processing functions.[33]

7. National Bank Acting as a Digital Certification Authority (§ 7.5005).

Digital signatures are a form of electronic authentication that permit the recipient of an electronic message to verify the sender's identity. In order for a digital signature system to operate successfully, the message recipient must have assurance that the public key [34] used to decode a message is uniquely associated with the sender. One method of providing that assurance is for a trusted third party—called a certification authority—to issue a digital certificate attesting to this association. The certification authority generates and signs digital certificates to verify the identity of the person transmitting a message electronically.

To date, we have permitted a national bank to act as a certification authority that issues certificates verifying the *identity* of the certificate holder.[35] The proposed rule would codify this position.

National banks also have demonstrated increasing interest in issuing certificates that verify the *authority* or *financial* capacity of the certificate holder. In these instances, for example, the bank could issue a certificate that the individual has the authority to debit a particular account (account authority digital certificates) or has the financial capacity to make a purchase or engage in a particular transaction. We invite comment on the extent to which national banks propose to engage in these activities, how they will be structured, and whether permitting national banks to issue certificates to verify authority or financial capacity presents unique risks.

8. Data Processing (§ 7.5006)

We have repeatedly confirmed that a national bank may collect, process, transcribe, analyze and store banking, financial and economic data for itself and its customers as part of the business of banking.[36] The proposed rule would codify these interpretations. Commenters are invited to address whether more modern terminology should be used to better describe what functions should be considered to be (or not to be) ''data processing'' in light of advances in technology.

We have also found that national banks, under their authority to conduct activities incidental to the business of banking, may provide limited amounts of nonfinancial information processing to their customers to enhance marketability or use of a banking service.[37] We typically inquire whether the processing of nonfinancial data is convenient or useful to the specific processing of financial data or other business of banking activities in a specific contract or relationship. In the final rule, we could codify this case-

[30] OCC Conditional Approval No. 361 (Mar. 3, 2000).

[31] *See* OCC Interpretative Letter No. 742, *reprinted in* [1996–1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶81–106 (Aug. 19, 1996); OCC Interpretative Letter No. 677, *reprinted in* [1994–1995 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,625 (June 28, 1885); unpublished letter from William Glidden (June 6, 1986); unpublished letter from Stephen Brown (Dec. 20, 1989); and OCC Conditional Approval No. 361 (Mar. 3, 2000).

[32] *See* OCC Interpretive Letter No. 888 (Mar.14, 2000).

[33] Until 1984, the OCC's data processing rule specifically recognized the by-product theory. 12 CFR 7.3500 (1983). Although this language was deleted from the rule in 1984, *see* 49 FR 11157 (Mar. 26, 1984), this deletion did not indicate a change in the OCC's position regarding this theory. The 1984 revision was merely a non-substantive format change in the rule. *Id; see also* 47 FR 46526 (Oct. 19, 1982).

[34] The mathematical function the sender uses to encode a message is called the sender's private key. The related function that the recipient of the message uses to decode the message is called the sender's public key. In public key infrastructure systems based on asymmetric encryption, each private key is uniquely associated with a particular counterpart public key. Thus, if one has assurance that a specific private key is associated with a person and under their sole control, any message that can be decoded using that person's public key may be assumed to have been sent by that person.

[35] *See* OCC Conditional Approval No. 267 (Jan. 12, 1998).

[36] *See, e.g.,* OCC Conditional Approval No. 289 (Oct. 2, 1998); OCC Interpretative Letter No. 805 (Oct. 9, 1997). A prior OCC interpretive ruling on electronic banking specifically stated that ''as part of the business of banking and incidental thereto, a national bank may collect, transcribe, process, analyze and store for itself and others, banking, financial, or related economic data.'' 39 FR 14192, 14195 (Apr. 22, 1974). This language was deleted from former 12 CFR 7.3500 because the OCC was concerned that the specific examples of permissible activities in the ruling, such as the marketing of excess time, by-products, and the processing of ''banking, financial, or related economic data'' had led to confusion and misinterpretation. *See* 47 FR at 46526, 46529 (Oct. 19, 1982). However, the preamble to the proposal to simplify the rule stated that ''the Office wishes to make clear that it does not intend to indicate any change in its position regarding the permissibility of data processing services.'' *Id.* Since 1982, the risk of confusion and misinterpretation of a regulation has significantly diminished due to, among other reasons, the substantial number of interpretive letters the OCC has issued on permissible data processing that can provide a context for understanding the proposed rule if it is adopted.

[37] *See, e.g.,* OCC Conditional Approval No. 369 (Feb. 25, 2000).

specific approach to incidental nonfinancial data processing.

However, we also are considering whether to issue a rule on incidental data processing that would recognize that a national bank may generally derive a certain specified percentage of its total annual data processing revenue from processing nonfinancial data as incidental to its financial data processing services. We are aware of anecdotal evidence suggesting that national banks attempting to market financial data processing services are frequently confronted with customer demands that the bank also process some nonfinancial data so that the customer can avoid the inconvenience of having to use two different processors: the bank for financial data and some other firm for nonfinancial data. Indeed, one commenter to the ANPR suggested that bank customers would like their banks to offer broader processing services and that competitors in the marketplace are providing these services. We are interested in comments and evidence on the extent of this phenomenon so we can determine whether it is so pervasive as to warrant a general rule establishing a limited and specific safe harbor for processing nonfinancial data in connection with financial data processing in lieu of our current case by case approach.[38]

We invite comment on all aspects of this provision. We specifically invite commenters to provide any evidence indicating whether or not national banks' data processing customers need incidental nonfinancial data processing services on a routine basis. We also invite comment on what percentage of nonfinancial data revenue would be appropriate for such a safe harbor if it were adopted.

9. Correspondent Banking (§ 7.5007)

The OCC has long permitted national banks to perform for other entities an array of activities called ''correspondent services'' as part of the business of banking.[39] These activities include any corporate or banking service that a national bank may perform for itself.[40] A national bank may perform these activities for any of its affiliates or for other financial institutions.[41] The proposed rule would codify this position.

In addition, the OCC has approved a number of electronic- and technology-related activities as permissible correspondent services for national banks. These activities have included:

- Providing computer networking packages and related hardware that meet the banking needs of financial institution customers;[42]
- Processing bank, accounting, and financial data, such as check data, other bookkeeping tasks, and general assistance of correspondents' internal operating, bookkeeping, and data processing;[43]
- Selling data processing software;[44]
- Developing, operating, managing, and marketing products and processing services for transactions conducted at electronic terminal devices including, but not limited to, ATMs, POS terminals, scrip terminals, and similar devices;[45]
- Item processing services and related software development;[46]
- Document control and record keeping through the use of electronic imaging technology;[47]
- Internet merchant hosting services for resale to merchant customers;[48] and
- Communication support services through electronic means, such as the provision of electronic ''gateways'' in order to communicate and receive financial information and to conduct transactions; creating, leasing, and licensing communications systems, computers, analytic software, and related equipment and services for sharing information concerning financial instruments and economic information and news; and the provision of electronic information and transaction services and linkage for financial settlement services.[49]

This proposal would codify these interpretations and include these activities in the text of the regulation as examples of electronic activities that banks may offer as correspondent services.

B. Location

1. Location of a national bank conducting electronic banking activities (§ 7.5008)

The effect of several statutes affecting national banks turns in part on where the bank in question is ''located.'' The scope of this term—specifically, whether it refers only to the bank's main office, includes branches as well, or means something different—varies from statute to statute and depends on the specific statutory context.[50] Moreover, national banks often conduct a significant portion of their operations in locations that are distinct from their main office and branches. For example, a bank that has a branch in State A and its main office in State B may have an automated loan processing center in State C and depend on a third party vendor in State D for certain ministerial lending functions.

One commenter on the ANPR said that a national bank's location for Federal banking law purposes should not be determined by the physical site of its technology-related equipment. The OCC agrees with that result, and the

[38] We note that the Board of Governors of the Federal Reserve System's Regulation Y currently authorizes bank holding companies to conduct data processing and data transmission activities where the data to be processed or furnished is not financial, banking, or economic if the total annual revenue derived from those activities does not exceed 30% of the company's total annual revenue derived from data processing and data transmission activities. 12 CFR 225.28(b)(14) (2000). Further, the Board of Governors recently proposed amending this rule to expand the permissible nonfinancial revenue percentage to 49%. 65 FR 80384 (Dec. 21, 2000).

[39] *See, e.g.,* OCC Interpretative Letter No. 875, *reprinted in* [1999–2000 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–369 (Oct. 31, 1999); OCC Interpretative Letter No. 811, *reprinted in* [1997–1998 Transfer Binder] Fed. Banking L. Rep. ¶ 81–259 (Dec. 18, 1997); Corporate Decision 97–79 (July 11, 1997).

[40] *See* OCC Interpretative Letter No. 467, *reprinted in* [1988–1989 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,691 (Jan. 24, 1989) (national bank may offer wide range of correspondent services); Letter from Wallace S. Nathan, Regional Counsel (Dec. 3, 1982) (unpublished) (microfiche services); Letter from John E. Shockey, Chief Counsel (July 31, 1978) (unpublished) (advertising services).

[41] *E.g.,* OCC Interpretative Letter No. 875, supra; OCC Interpretative Letter No. 513, *reprinted in* [1990–1991 Transfer Binder] Fed. Banking L. Rep. ¶ 83,215 (June 18, 1990).

[42] *See* OCC Interpretative Letter No. 754, *reprinted in* [1996–1997 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–118 (Nov. 6, 1996).

[43] *See, e.g.,* Letter from Vernon E. Fasbender, Director for Analysis, Southeastern District (Dec. 6, 1990); OCC Interpretative Letter No. 345, *reprinted in* [1985–1987 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,515 (July 9, 1985); Letter from Joe H. Selby, Deputy Comptroller (November 22, 1978); Letter from Vernon E. Fasbender, Director for Analysis, Southeastern District (Dec. 6, 1990).

[44] *See, e.g.,* OCC Interpretative Letter No. 868, *reprinted in* [Current Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–362 (Aug. 16, 1999).

[45] *See, e.g.,* OCC Interpretative Letter No. 890, *reprinted in* [1999–2000 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–409 (May 15, 2000).

[46] *See, e.g.,* Letter from Vernon E. Fasbender, Director for Analysis, Southeastern District (Dec. 6, 1990); and Letter from J.T. Watson, Deputy Comptroller of the Currency (Mar. 22, 1973).

[47] *See* OCC Interpretative Letter No. 805, reprinted in [1997–1998 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–252 (Oct. 9, 1997).

[48] *See* Corporate Decision No. 2000–08 (June 1, 2000); and OCC Interpretative Letter No. 875, *reprinted in* [Current Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 81–369 (Oct. 31, 1999).

[49] OCC Interpretative Letter No. 611, *reprinted in* [1992–1993 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,449 (Nov. 23, 1992); OCC Interpretative Letter No. 516, *reprinted in* [1990–1991 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 83,220 (July 12, 1990); and OCC Interpretative Letter No. 346, *reprinted in* [1985–1987 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 85,516 (July 31, 1985).

[50] *See,* 12 U.S.C. 24(8) (charitable contributions); 12 U.S.C. 29 (authority to hold real estate); 12 U.S.C. 36 (branching); 12 U.S.C. 72 (director qualifications); 12 U.S.C. 92a (trust powers); 12 U.S.C. 94 (venue); and 12 U.S.C. 548 (State taxation).

proposal, accordingly, provides that a national bank will not be considered located in a state solely because it physically maintains technology, such as a server or automated loan center, in that state, or because the bank's products or services are accessed through electronic means by customers located in the state. This is consistent with evolving case authority.[51]

2. Location of Internet-only bank under 12 U.S.C. 85 (§ 7.5009)

Twelve U.S.C. 85 authorizes a national bank to charge interest in accordance with the laws of the state in which it is located. In interpreting section 85, the Supreme Court has held that a national bank is ''located'' in the state where it has its main office (its home state).[52] Thus, a national bank may charge the interest rates permitted by its home state no matter where the borrower resides or what contacts with the bank occur in another state.

The OCC has chartered several Internet-only national banks that operate without physical branches and that make loans or extend credit primarily through the Internet. The proposal provides that, for purposes of 12 U.S.C. 85, the main office of a national bank that operates exclusively through the Internet is the office identified by the bank under 12 U.S.C. 22(Second) or as relocated pursuant to 12 U.S.C. 30 or other appropriate authority.

C. Safety and Soundness

Shared electronic space (§ 7.5010).

The advent of Internet technology has dramatically increased the ability of banks to enter into joint marketing relationships with third parties. For example, national banks are becoming increasingly involved in electronic marketing arrangements that involve providing bank customers with access to providers of retail or financial services through hyperlinks on the bank's web site or through other shared electronic ''space.'' Under current OCC rules, a national bank may lease space on bank premises to other businesses and share space jointly with other businesses subject to certain conditions.[53] These conditions, set forth in section 7.3001(c), are intended to minimize customer confusion about the nature of the products offered and promote the safe and sound operation of the bank.

The proposal would extend the same general principles set forth in section 7.3001 to situations where banks share co-branded web sites or other electronic space with subsidiaries or unaffiliated third parties. Under the proposal, the bank would be required to take reasonable steps to enable customers to distinguish between products and services offered by the bank and those offered by the bank's subsidiary or a third party. The bank also should disclose its limited role with respect to the third party product or service.

The proposal also recognizes that the way disclosures are displayed and the context in which they are displayed may vary significantly. Thus, the proposal requires disclosures to be conspicuous, simple, direct, readily understandable, and designed to call attention to the fact that the bank does not provide, endorse, or guarantee any of the products or services available through third party web pages.

Comment Solicitation

The OCC requests comment on all aspects of this proposal, including the specific issues that follow.

The OCC seeks comment on the impact of this proposal on community banks. The OCC recognizes that community banks operate with more limited resources than larger institutions and may present a different risk profile. Thus, the OCC specifically requests comment on the impact of the proposal on community banks' current resources and available personnel with the requisite expertise, and whether the goals of the proposal could be achieved, for community banks, through an alternative approach.

Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Pub. L. 106–102, sec. 722, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. We invite your comments on how to make this proposal easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the proposed regulation clearly stated? If not, how could the regulation be more clearly stated?
- Does the proposed regulation contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes to the format would make the regulation easier to understand?
- What else could we do to make the regulation easier to understand?

Regulatory Analysis

A. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the Comptroller of the Currency certifies that this proposal will not have a significant economic impact on a substantial number of small entities.

B. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the proposal will not result in expenditures by State, local, or tribal governments or by the private sector of $100 million or more. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

C. Executive Order 12866

The Comptroller of the Currency has determined that this rule does not constitute a ''significant regulatory action'' for the purposes of Executive Order 12866.

D. Paperwork Reduction Act of 1995

For purposes of compliance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*, the OCC invites comment on:

(1) Whether the proposed collection of information contained in this notice of proposed rulemaking is necessary for the proper performance of the OCC's functions, including whether the information has practical utility;

(2) The accuracy of the OCC's estimate of the burden of the proposed information collection;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of the information collection on the

[51] *See, e.g., Amberson Holdings LLC* v. *Westside Story Newspaper,* 110 F. Supp. 2d 332 (D.N.J. 2000).

[52] *Marquette National Bank* v. *First of Omaha Service Corp.,* 439 U.S. 299 (1978).

[53] 12 CFR 7.3001.

respondents, including the use of automated collection techniques or other forms of information technology; and

(5) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Respondents are not required to respond to this collection of information unless the final regulation displays a currently valid Office of Management and Budget (OMB) control number.

The collection of information requirements contained in this notice of proposed rulemaking have been submitted to the OMB for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Alexander Hunt, Desk Officer, Washington, DC 20503, with a copy to Jessie Dunaway, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Mailstop 8–4, Washington, DC 20219.

Section 7.5010 of the proposed rule requires a national bank that shares a co-branded website or other electronic space with a bank subsidiary or a third party to make certain disclosures designed to enable its customers to distinguish its products and services from those of the subsidiary or third party.

The likely respondents are national banks.

Estimated number of respondents: 1,609 respondents.

Estimated number of responses: 1,609 responses.

Estimated burden hours per response: 1 hour.

Estimated total annual burden hours: 1,609 hours.

List of Subjects in 12 CFR Part 7

Credit, Insurance, Investments, National banks, Reporting and recordkeeping requirements, Securities, Surety bonds.

Authority and Issuance

For reasons set forth in the preamble, part 7 of chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 7—BANK ACTIVITIES AND OPERATIONS

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

Authority: 12 U.S.C. 1 *et seq.* and 93a.

2. Revise § 7.1002 to read as follows:

§ 7.1002 National bank acting as finder.

(a) *General.* It is part of the business of banking under 12 U.S.C. 24(Seventh) for a national bank to act as a finder bringing together buyers and sellers.

(b) *Permissible finder activities.* A national bank that acts as a finder may identify potential parties, make inquiries as to interest, introduce or arrange contacts or meetings of interested parties, and otherwise bring parties together for a transaction that the parties themselves negotiate and consummate. For example, permissible finder activities include:

(1) Communicating information about providers of products and services, their products and services, and proposed offering prices and terms to potential markets for these products and services;

(2) Communicating to the seller an offer to purchase or a request for information, including forwarding completed applications, application fees, and requests for information to third-party service providers;

(3) Arranging for third-party providers to offer reduced rates to those customers referred by the bank;

(4) Providing administrative, clerical, and record keeping functions related to the bank's finder activity, including retaining copies of documents, instructing and assisting individuals in the completion of documents, scheduling sales calls on behalf of retailers, and conducting market research to identify potential new customers for retailers;

(5) Conveying between interested parties expressions of interest, bids, offers, orders, and confirmations relating to a transaction; and

(6) Conveying other types of information between potential buyers and sellers.

(c) *Limitation.* The authority to act as a finder does not enable a national bank to engage in brokerage activities that have not been found to be permissible for national banks.

(d) *Advertisement and fee.* Unless otherwise prohibited, a national bank may advertise the availability of, and accept a fee for, the services provided pursuant to this section.

§ 7.1019 [Removed]

3. Remove § 7.1019.

4. Add new subpart E to read as follows:

Subpart E—Electronic Banking

Sec.

§ 7.5000 Scope.

This subpart applies to a national bank's use of technology to deliver services and products consistent with safety and soundness.

§ 7.5001 Electronic activities that are part of, or incidental to, the business of banking.

(a) *Purpose and scope.* This section identifies the criteria that the OCC uses to determine whether an electronic activity is authorized as part of, or incidental to, the business of banking under 12 U.S.C. 24(Seventh). The OCC may restrict or condition activities that are permissible under the statutory standard in order to ensure that they are conducted safely and soundly, and in accordance with applicable statutes, regulations, or supervisory policies. State laws may be applicable to the provision of activities by a national bank through electronic means to the extent that they apply to the activity otherwise conducted by the national bank.

(b) *Activities that are part of the business of banking.* An activity is authorized for national banks as part of the business of banking if the activity is described in 12 U.S.C. 24(Seventh) or other statutory authority, or is otherwise part of the business of banking. In determining whether an electronic activity is part of the business of banking, the OCC considers the following factors:

(1) Whether the activity is the functional equivalent to, or a logical outgrowth of, a recognized banking activity;

(2) Whether the activity strengthens the bank by benefitting its customers or its business;

(3) Whether the activity involves risks similar in nature to those already assumed by banks; and

(4) Whether the activity is expressly authorized by law for state-chartered banks.

(c) *Activities that are incidental to the business of banking.* An electronic banking activity is authorized for a national bank as incidental to the business of banking if it is convenient or useful to an activity that is specifically authorized for national

banks or to an activity that is otherwise part of the business of banking. In determining whether an activity is convenient or useful to such activities, the OCC considers the following factors:

(1) Whether the activity facilitates the production or delivery of a bank's products or services, enhances the bank's ability to sell or market its products or services, or improves the effectiveness or efficiency of the bank's operations, in light of risks presented, innovations, strategies, techniques and new technologies for producing and delivering financial products and services; and

(2) Whether the activity enables the bank to profitably use capacity acquired for its banking operations or otherwise avoid economic loss or waste.

§ 7.5002 Furnishing of products and services by electronic means and facilities.

(a) *Use of electronic means and facilities.* A national bank may perform, provide, or deliver through electronic means and facilities any activity, function, product, or service that it is otherwise authorized to perform, provide, or deliver. For example, permissible activities under this authority include:

(1) Acting as an electronic finder by:

(i) Establishing, registering, and hosting commercially enabled web sites in the name of retailers;

(ii) Establishing hyperlinks between the bank's site and a third party site, including acting as a ''virtual mall'' by providing a collection of links to web sites of third party vendors, organized by product type and made available to bank customers;

(iii) Hosting an electronic marketplace on the bank's Internet web site by providing links to the web sites of third party buyers or sellers through the use of hypertext or other similar means;

(iv) Hosting on the bank's servers the Internet web site of:

(A) A buyer (or seller) that provides information concerning the buyer (or seller) and the products or services it seeks to buy (or sell) and allows sellers (or buyers) to submit expressions of interest, bids, offers, orders and confirmations relating to such products or services; or

(B) A governmental entity that provides information concerning the services or benefits made available by the governmental entity, assists persons in completing applications to receive such services or benefits from the governmental entity, and permits persons to transmit their applications for services or benefits to the governmental entity;

(v) Operating an Internet web site that permits numerous buyers and sellers to exchange information concerning the products and services that they are willing to purchase or sell, locate potential counter parties for transactions, aggregate orders for goods or services with those made by other parties, and enter into transactions between themselves; and

(vi) Operating a telephone call center that provides permissible finder services;

(2) Providing electronic bill presentment services;

(3) Offering electronic stored value systems; and

(4) Safekeeping for personal information or valuable confidential trade or business information, such as encryption keys.

(b) *State laws.* State laws are applicable to the activities of a national bank conducted through electronic means only to the extent that they would apply to the activities conducted otherwise by a national bank.

§ 7.5003 Composite authority to engage in electronic banking activities.

Unless otherwise prohibited by law, a national bank may engage in an electronic activity that is comprised of several component activities if each of the component activities is itself permissible as part of or incidental to the business of banking.

§ 7.5004 Excess electronic capacity.

A national bank may, in order to optimize the use of the bank's resources or avoid economic loss or waste, market and sell to third parties excess electronic capacities acquired or developed by the bank in good faith for its banking business. Examples of permissible excess electronic capacity that banks have acquired or developed in good faith for banking purposes include:

(a) Data processing services;

(b) Production and distribution of nonfinancial software;

(c) Providing periodic back-up call answering services;

(d) Providing full Internet access;

(e) Providing electronic security system support services;

(f) Providing long line communications services; and

(g) Electronic imaging and storage.

§ 7.5005 National bank acting as digital certification authority.

It is part of the business of banking under 12 U.S.C. 24(Seventh) for a national bank to act as a certificate authority and to issue digital certificates verifying the persons associated with a particular public/private key pair. As part of this service, the bank may also maintain a listing or repository of public keys.

§ 7.5006 Data processing.

It is part of the business of banking under 12 U.S.C. 24(Seventh) for a national bank to collect, transcribe, process, analyze, and store for itself and others, banking, financial, or economic data. A national bank also may collect, transcribe, process, and analyze other types of data if the derivative or resultant product is banking, financial, or economic data.

§ 7.5007 Correspondent banking.

It is part of the business of banking for a national bank to offer as a correspondent service to any of its affiliates or to other financial institutions any service it may perform for itself. Examples of electronic activities that banks may offer correspondents under this authority include the following:

(a) The provision of computer networking packages and related hardware;

(b) Data processing services;

(c) The sale of software that performs data processing functions;

(d) The development, operation, management, and marketing of products and processing services for transactions conducted at electronic terminal devices;

(e) Item processing services and related software;

(f) Document control and record keeping through the use of electronic imaging technology;

(g) The provision of Internet merchant hosting services for resale to merchant customers; and

(h) The provision of communication support services through electronic means.

§ 7.5008 Location of a national bank conducting electronic banking activities.

A national bank shall not be considered located in a state solely because it physically maintains technology, such as a server or automated loan center, in that state, or because the bank's products or services are accessed through electronic means by customers located in the state.

§ 7.5009 Location of Internet-only bank under 12 U.S.C. 85.

For purposes of 12 U.S.C. 85, the main office of a national bank that operates exclusively through the Internet is the office identified by the bank under 12 U.S.C. 22(Second) or as relocated under 12 U.S.C. 30 or other appropriate authority.

§ 7.5010 Shared electronic space.

A national bank that shares a co-branded web site or other electronic space with a bank subsidiary, affiliate, or a third party must take reasonable steps to enable customers to distinguish between products and services offered by the bank and those offered by the bank's subsidiary, affiliate, or the third party. The bank also should disclose its limited role with respect to the third party product or service. This disclosure should be conspicuous, simple, direct, readily understandable, and designed to call attention to the fact that the bank does not provide, endorse, or guarantee any of the products or services available through third party web pages.

Dated: June 19, 2001.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 01–16330 Filed 6–29–01; 8:45 am]

BILLING CODE 4810–33–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 41

RIN 3038–AB77

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–44475; File No. S7–11–01]

RIN 3235–AI13

Method for Determining Market Capitalization and Dollar Value of Average Daily Trading Volume; Application of the Definition of Narrow-Based Security Index

AGENCIES: Commodity Futures Trading Commission and Securities and Exchange Commission.

ACTION: Proposed rule; reopening and extension of comment period.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'') and Securities and Exchange Commission (''SEC'') (collectively the ''Commissions'') are extending the comment period for proposed Subparts A and B of Part 41 of the CFTC's regulations under the Commodity Exchange Act (''CEA'') and SEC Rules 3a55–1 through 3a55–3 under the Securities Exchange Act of 1934 (''Exchange Act''), contained in Release No. 34–44288 (May 10, 2001), 66 FR 27560 (May 17, 2001). The original comment period ended on June 18, 2001. The new deadline for submitting public comments is July 11, 2001.

DATES: Public comments are due on or before July 11, 2001.

ADDRESSES: Comments should be sent to both agencies at the addresses listed below.

CFTC: Comments should be sent to the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581, Attention: Office of the Secretariat. Comments may be sent by facsimile transmission to (202) 418–5521, or by e-mail to secretary@cftc.gov. Reference should be made to ''Narrow-Based Security Indexes.''

SEC: Please send three copies of your comment letter to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–0609. Comments can also be sent electronically to the following e-mail address: rule-comments@sec.gov. Your comment letter should refer to File No. S7–11–01. If e-mail is used, include this file number on the subject line. Anyone can inspect and copy the comment letters in the Commission's Public Reference Room at 450 5th Street, NW., Washington, DC 20549–0102. Electronically submitted comments will be posted on the Commission's Internet web site (*http://www.sec.gov*). The SEC does not edit personal identifying information, such as names or e-mail addresses, from electronic submissions. Submit only the information you wish to make publicly available.

FOR FURTHER INFORMATION CONTACT:

CFTC: Elizabeth L.R. Fox, Acting Deputy General Counsel; Richard A. Shilts, Acting Director; or Thomas M. Leahy, Jr., Financial Instruments Unit Chief, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC 20581. Telephone: (202) 418–5000. E-mail: (EFox@cftc.gov), (RShilts@cftc.gov), or (TLeahy @cftc.gov).

SEC: Nancy J. Sanow, Assistant Director, at (202) 942–0771; Ira L. Brandriss, Special Counsel, at (202) 942–0148, or Sapna C. Patel, Attorney, at (202) 942–0166, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: On May 17, 2001, the Commissions published for public comment proposed Subparts A and B of Part 41 of the CFTC's regulations under the CEA and SEC Rules 3a55–1 through 3a55–3 under the Exchange Act. These proposed rules would implement new statutory provisions of the Commodity Futures Modernization Act of 2000 (''CFMA'') concerning the definition of ''narrow-based security index.'' The CFMA directed the Commissions jointly to specify by rule or regulation the method to be used to determine ''dollar value of average daily trading volume'' and ''market capitalization'' for purposes of the new definition of ''narrow-based security index'' in the CEA and the Exchange Act.

The proposing release established a deadline of June 18, 2001 for submitting public comments. The Commissions have received requests to extend the deadline. Therefore, the Commissions are extending the comment period to July 11, 2001 so that commenters will have adequate time to address the issues raised by the proposing release.

Dated: June 26, 2001.

By the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary.

Dated: June 26, 2001.

By the Securities and Exchange Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–16501 Filed 6–29–01; 8:45 am]

BILLING CODE 6351–01–P; 8010–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN 131a; FRL–7005–9]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Oxides of Nitrogen Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On March 30, 2001, Indiana submitted and requested parallel processing on a draft plan to control emissions of oxides of nitrogen (NO_X) throughout the State. The plan consists of two proposed rules, a preliminary budget demonstration, and supporting documentation. The plan will contribute to attainment and maintenance of the 1-hour ozone standard in several 1-hour ozone nonattainment areas including the Chicago-Gary-Lake County and Louisville areas. Indiana's plan, which focuses on electric generating units, large industrial boilers, turbines and cement kilns, was developed to achieve the majority of reductions required by EPA's October 27, 1998, NO_X State

Implementation Plan (SIP) Call. As of May 1, 2004, Indiana's plan will also provide reductions at units currently required to make reductions under the EPA's Clean Air Act Section 126 rulemaking. Through parallel processing, EPA is proposing to approve the plan as a SIP revision fulfilling the NO_X SIP Call Phase I requirements, provided Indiana corrects identified deficiencies in a manner that is consistent with this notice.

EPA notes that, as discussed in this **Federal Register** action, the State adopted final rules June 6, 2001. These rules and the supporting documents have not yet been submitted to EPA and thus EPA has not concluded its review and analysis. However, it is EPA's understanding and expectation that the rules resolve the deficiencies identified in this **Federal Register** proposal and do not introduce any unapprovable changes.

DATES: Written comments must be received on or before August 1, 2001.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the State's submittals and materials relevant to this proposed rulemaking are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604 (18th floor). (Please telephone Ryan Bahr at (312) 353–4366 before visiting the Region 5 office.)

FOR FURTHER INFORMATION CONTACT: Ryan Bahr, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 353–4366, E-Mail Address: bahr.ryan@epa.gov.

SUPPLEMENTARY INFORMATION:

Table of Contents

Note: In the following questions and answers, whenever the term ''you'' is used it refers to the reader of this proposed rule and ''we,'' ''us,'' or ''our'' refers to the EPA.

I. Background

A. Why Are Reductions in NO_X Important?

The Clean Air Act (Act or CAA) requires the EPA to establish National Ambient Air Quality Standards (NAAQS) for certain air pollutants that cause or contribute to air pollution and are reasonably anticipated to endanger public health or welfare. (CAA Sections 108 and 109) In 1979, EPA determined ground level ozone, at certain concentrations, to be one of those pollutants and promulgated the 1-hour ground-level ozone standard of 0.12 parts per million (ppm) or 120 parts per billion (ppb) to protect public health. 44 FR 8202 (February 8, 1979).

Ground-level ozone has long been recognized, in both clinical and epidemiological research, to affect public health. There is a wide range of ozone-induced health effects, including decreased lung function (primarily in children active outdoors), increased respiratory symptoms (particularly in highly sensitive individuals), increased hospital admissions and emergency room visits for respiratory causes (among children and adults with pre-existing respiratory disease such as asthma), increased inflammation of the lung, and possible long-term damage to the lungs.

Ground-level ozone is generally not directly emitted by sources. Rather, volatile organic compounds (VOC) and NO_X, both emitted by a wide variety of sources, react in the presence of sunlight to form additional pollutants, including ozone. NO_X and VOC are referred to as precursors of ozone.

Historically, EPA, State and industry efforts have focused on controlling VOC in urban areas to achieve the ozone standards. However, notwithstanding significant efforts, the 1-hour ozone standards have not been met in many areas, especially major urban areas. A detailed process was begun in 1995 to evaluate what effect transported pollution was having on ozone levels in nonattainment areas. This study determined, among other things, that NO_X emissions have contributed to significant transport of ozone and that a program to regulate regional NO_X emissions can provide the essential background reductions needed for the majority of nonattainment areas to attain the 1-hour ozone standard.

B. What Mechanism Is Indiana Using To Ensure That Regional NO_X Reductions Occur?

On October 27, 1998, the EPA published a final rule in the **Federal Register** finding certain States' SIPs deficient, since they failed to prohibit the interstate transport of oxides of nitrogen (63 FR 57356). This action is known as the ''NO_X SIP Call,'' and applies to a number of States, primarily east of the Mississippi, including Indiana. The NO_X SIP Call adds and revises sections of 40 CFR parts 51 and 75 and adds part 96. The 40 CFR part 51 sections codify the requirements for

the State's submittal. These requirements are primarily to develop NO_X emission control regulations and the supporting documentation and programs necessary, for a SIP revision sufficient to provide for a prescribed NO_X emission budget in 2007. The 40 CFR part 75 revisions and additions revise the part 75 monitoring requirements so that they are appropriate for the NO_X SIP Call trading program. Finally, 40 CFR part 96 is the model NO_X budget trading program for SIPs. (You will also see 40 CFR part 97 discussed in this **Federal Register** action. 40 CFR part 97 was added to the CFR in a separate action in response to 126 petitions. It establishes a control program similar to 40 CFR part 96. However, unlike part 96, part 97 is not a model rule. It is actually a USEPA implemented program which regulates sources directly. 40 CFR part 97 and the section 126 Petitions are discussed in more detail in section I.E. of today's proposal.)

EPA promulgated the NO_X SIP Call under sections 110(a)(2)(D) and 110(k) of the CAA. Section 110(a)(2)(D) applies to all SIPs for each pollutant covered by a NAAQS and for all areas regardless of their attainment designation. It requires a SIP to contain adequate provisions that prohibit any source or type of source or other types of emissions within a State from emitting any air pollutants in amounts which will contribute significantly to nonattainment in, or interfere with maintenance of attainment of a standard by, any other State with respect to any NAAQS. Section 110(k)(5) authorizes the EPA to find that a SIP is substantially inadequate to meet any CAA requirement when appropriate and, based on such a finding, to then require the State to submit a SIP revision within a specified time to correct such inadequacies.

Indiana submitted its plan and requested a SIP revision with parallel processing on March 30, 2001. EPA is proposing, in this **Federal Register**, to approve this plan as a SIP revision meeting the requirements of Phase I of the NO_X SIP Call, provided that Indiana corrects the identified deficiencies. Indiana adopted final rules on June 6, 2001. EPA has not concluded its analysis of these final adopted rules and the associated plan. However, based on our preliminary review and conversations with the State, we expect that the rules will address the deficiencies identified in this proposal. These final adopted rules are available on Indiana's website at: *http://www.state.in.us/idem/oam/standard/Sip/index.html.*

C. What Analyses and EPA Rulemaking Actions Support the Need for the NO_X Emission Control Regulations?

The State of Indiana has the primary responsibility under the CAA for ensuring that it meets the ozone NAAQS. For that reason, the State is required to submit a SIP that specifies emission limitations, control measures, and other measures necessary for attainment, maintenance, and enforcement of the NAAQS within the State. The SIP for ozone must meet the CAA requirements discussed above, be adopted pursuant to notice and comment rulemaking, and be submitted to the EPA for approval. A number of analyses and EPA rulemaking actions have affected the SIP revisions needed for the Chicago-Gary-Lake County ozone nonattainment areas, as discussed below.

The Chicago-Gary-Lake County ozone nonattainment area has not attained and continues to violate the 1-hour ozone standard. The States of Illinois, Indiana, and Wisconsin have worked cooperatively to provide the EPA with an ozone attainment demonstration for the Lake Michigan area, which includes the Chicago-Gary-Lake County ozone nonattainment area. Analyses conducted to support this ozone attainment demonstration indicate that reductions in upwind NO_X emissions are needed to reduce the transport of ozone into these nonattainment areas.

Recognizing the complexity of ozone pollution, on March 2, 1995, Mary D. Nichols, Assistant Administrator for EPA's Air and Radiation Division, issued a memorandum titled ''Ozone Attainment Demonstrations.'' In this memorandum, the EPA recognized that the development of the necessary technical information, as well as the emission control measures necessary to achieve the attainment of the ozone NAAQS had been difficult for the States affected by significant ozone transport. EPA established a two-phased process for States with serious and severe ozone nonattainment areas, such as the Chicago/Northwest Indiana nonattainment area, to develop ozone attainment SIPs. Under Phase I, States were required to complete 1994 SIP requirements (with the exception of final ozone attainment demonstrations), submit regulations sufficient to meet rate of progress (ROP) requirements through 1999, and submit initial ozone modeling analyses, including preliminary ozone attainment demonstrations based on assumed reductions in upwind ozone precursor emissions. Phase II called for: a two-year consultative process to assess regional strategies to address ozone transport in the eastern United States and required submittal of all remaining ROP submittals to cover ROP through the attainment dates; final attainment demonstrations to address the emission reduction requirements resulting from the two-year consultative process; any additional rules and emission controls needed to attain the ozone standard; and, any regional controls needed for attainment by all areas in the eastern half of the United States.

In response to the problem of ozone transport, the Environmental Council of States (ECOS) recommended the formation of a national workgroup to develop a consensus approach to addressing the transport problem. As a result of ECOS' recommendation and in response to the March 2, 1995 EPA memorandum, the Ozone Transport Assessment Group (OTAG), a partnership among EPA, the 37 eastern States and the District of Columbia, and industrial, academic, and environmental groups, was formed to conduct regional ozone transport analyses and to develop a recommended ozone transport control strategy. OTAG was given the responsibility of conducting the two-years of analyses envisioned in the March 2, 1995 EPA memorandum.

OTAG conducted a number of regional ozone data analyses and regional ozone modeling analyses using photochemical grid modeling. In July 1997, OTAG completed its work and made recommendations to the EPA concerning the regional emissions reductions needed to reduce transported ozone as an obstacle to attainment in downwind areas. OTAG recommended a possible range of regional NO_X emission reductions to support the control of transported ozone. Based on OTAG's recommendations and other information, EPA issued the NO_X SIP Call rule on October 27, 1998. 63 FR 57356.

In the NO_X SIP Call, EPA determined that sources and emitting activities in 23 jurisdictions [1] emit NO_X in amounts that ''significantly contribute'' to ozone nonattainment or interfere with maintenance of the 1-hour ozone NAAQS in one or more downwind areas, in violation of CAA Section 110(a)(2)(D)(i)(I). EPA identified NO_X emission reductions by source sector that could be achieved using cost-effective measures and set state-wide NO_X emission budgets for each affected

[1] Alabama, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.

jurisdiction for 2007 based on the possible cost-effective NO_X emission reductions. The source sectors included nonroad mobile, highway mobile, area, cement kilns, internal combustion engines, electricity generating units (EGUs) and non-EGU stationary point sources. EPA established recommended NO_X emissions caps for large EGUs and for large non-EGUs, and recommended emission limits for large cement kilns and large internal combustion engines. Large EGUs included stationary boilers, turbines and combined cycle systems, serving a generator 25 megawatts or larger, who generate electricity for sale to the electrical grid. Large non-EGUs included process stationary boilers, turbines and combined cycle systems, who are not EGUs and whose maximum design heat input is 250 million British thermal units [Btu] per hour [mmBtu/hr] or more. EPA determined that significant NO_X reductions using cost-effective measures could be obtained as follows: application of a 0.15 pounds NO_X/mmBtu heat input emission rate limit for large EGUs; a 60 percent reduction of NO_X emissions from large non-EGUs; a 30 percent reduction of NO_X emissions from large cement kilns; and a 90 percent reduction of NO_X emissions from large stationary internal combustion engines. The 2007 state-wide NO_X emission budgets were based on NO_X emissions projections to 2007 coupled with these levels of NO_X emission controls.

Although the state-wide NO_X emission budgets were based on the levels of reduction achievable through cost-effective emission control measures, the NO_X SIP Call allows each State to determine what measures it will choose to meet the state-wide NO_X emission budgets. It does not require the States to adopt the specific NO_X emission rates assumed by the EPA in establishing the NO_X emission budgets. The NO_X SIP Call merely requires States to submit SIPs, which, when implemented, will require controls that meet the NO_X state-wide emission budget. The NO_X SIP Call encourages the States to adopt a NO_X cap-and-trade program for large EGUs and large non-EGUs as a cost-effective strategy and provides an interstate NO_X trading program that the EPA can administer for the States. If States choose to participate in the national trading program, they must submit SIPs that conform to the trading program requirements in the NO_X SIP Call.

In its March 2, 1995 memorandum, EPA did not include moderate ozone nonattainment areas, such as the Louisville area, in the two-phased approach. The EPA, however, recognizes that some moderate ozone nonattainment areas may also have been significantly impacted by ozone transport from upwind areas, making attainment of the 1-hour ozone NAAQS difficult through the imposition of only local emission control measures. On July 16, 1998, EPA established a policy that allowed for a deferral of the attainment date for areas significantly impacted by ozone transport where certain conditions are met. The EPA published this policy (Extension Policy) in the **Federal Register** on March 25, 1999. 64 FR 14441.

Under the Extension Policy, the EPA would defer final findings on the attainment status for moderate nonattainment areas and would instead allow these areas to submit attainment SIPs that include boundary reductions in ozone achieved by controls measures in upwind areas. The attainment date for these areas would be the date by which the relevant upwind areas will have reduced emission, reducing the transported ozone.

On April 30, 1998, the State of Indiana submitted a major revision of the ozone attainment demonstration for the Chicago-Gary-Lake County ozone nonattainment area. In that revision, the State demonstrated that significant reductions in transported ozone and NO_X would be necessary to achieve attainment of the 1-hour ozone standard in the nonattainment area. Indiana committed to complete the ozone attainment demonstration and to adopt sufficient local and regional controls as needed to demonstrate attainment of the ozone standard and to submit the final attainment demonstration and adopted regulations to the EPA by December 2000. The EPA proposed to conditionally approve the 1-hour attainment demonstration based, in part, on the State's commitment to adopt and submit a final attainment demonstration and a post-1999 ROP plan, including the necessary State emission control regulations, by December 31, 2000. (December 16, 1999. 64 FR 70514). The NO_X regulations reviewed in this proposed rule are, in part, intended to meet part of the State's commitment to complete the ozone attainment demonstration for the Chicago-Gary-Lake County nonattainment area.

D. What Court Rulings Have Impacted EPA's NO_X Emission Control Regulations?

When the EPA published the NO_X SIP Call on October 27, 1998, a number of States and industry groups filed petitions challenging the rulemaking before the United States Court of Appeals for the District of Columbia Circuit. The Court, on May 25, 1999, stayed the states' obligation to submit SIPs in response to the NO_X SIP Call rule. Subsequently, on March 3, 2000, the Court upheld most of the NO_X SIP Call rule. The Court, however, vacated the rule as it applied to Missouri and Georgia, and remanded for further consideration the inclusion of portions of Missouri and Georgia in the rule. The Court also vacated the rule as it applied to Wisconsin because EPA had not made a showing that sources in Wisconsin significantly contribute to nonattainment or interfere with maintenance of the ozone NAAQS in any other State. Finally, the Court remanded to EPA two issues concerning a limited portion of the NO_X emission budgets. See *Michigan et al.* v. *EPA,* 213 F.3d 663 (D.C. Cir. 2000). Based on the remanded issues, on April 11, 2000, EPA initiated a two phase approach to implement the NO_X SIP Call. Phase I of this approach addresses the portion of the NO_X SIP Call upheld by the Court. It will achieve the majority of the reductions in the NO_X SIP Call. Based on the June 22 Court decision, discussed below, the Phase I plan was due from Indiana on October 30, 2000. The second phase will address the few narrow issues that the Court remanded to EPA, including: Whether, and if so, how, a small subclass of facilities that generate electricity should be included in the rule; and what control levels should be assumed for large, stationary internal combustion engines. Phase II of the NO_X SIP Call will not require a submittal from the States until EPA has proposed and finalized rules in response to the Court's remand.

On June 22, 2000, the Court removed the stay of the states' obligation to submit SIPs in response to the NO_X SIP Call and denied petitioners' motions for rehearing and rehearing en banc. In removing the stay, the Court provided that EPA should allow 128 days for States to submit SIPs to the EPA, i.e., by October 30, 2000. Shortly after removing the stay, petitioners requested that the Court adjust the NO_X SIP Call compliance date. The Court determined that the compliance date for the SIP Call would be May 31, 2004.

E. What Are Section 126 Petitions, and How Are They Related to This Proposal?

Section 126 of the CAA authorizes a downwind State to petition EPA for a finding that any new (or modified) or existing major stationary source or group of stationary sources upwind of the State emits or would emit in violation of the prohibition of section 110(a)(2)(D)(i) because the source(s) emissions contribute significantly to

nonattainment, or interfere with maintenance, of a NAAQS in the State. Sections 110(a)(2)(D)(i), 126(b)–(c). If EPA makes the requested finding, the source(s) must shut down within 3 months from the finding, unless EPA directly regulates the source(s) by establishing emissions limitations and a compliance schedule, extending no later than 3 years from the date of the finding, to eliminate the prohibited interstate transport of pollutants as expeditiously as possible. See sections 110(a)(2)(D)(i) and 126(c). Eight northeastern States, including Connecticut and New York, petitioned EPA requesting that EPA make a finding that certain major stationary sources or groups of sources in upwind States, including Indiana, emit NO_X emissions in violation of the CAA's prohibition on amounts of emissions that contribute significantly to ozone nonattainment or maintenance problems in the petitioning State.

EPA made affirmative technical determinations for six of these petitions on May 25, 1999 (64 FR 28250). EPA's approach was to defer making Section 126 findings as long as States and EPA stayed on track to meet the requirements of the NO_X SIP Call by May 1, 2003. This timing was synchronized such that approval of a complete NO_X SIP Call could supplant the section 126 rulemaking by ensuring that section 126 sources were no longer contributing significantly to downwind nonattainment. However, when the Court granted a motion to stay the compliance deadline for the NO_X SIP Call to May 31, 2004, the result was that the NO_X SIP Call no longer assured in 2003 that affected sources would not emit in violation of the prohibition in section 126 of the CAA. Thus, with the required compliance deadline for the NO_X SIP Call of May 31, 2004, the dates are no longer aligned.

EPA subsequently took final action making 126 findings on January 18, 2000 (65 FR 2674). The January 18, 2000, action also finalized the federal NO_X Budget Trading Program at 40 CFR part 97 as a means of mitigating the interstate transport of ozone and NO_X. The sources listed in the section 126 rulemaking are required to comply with the part 97 trading program by May 1, 2003. Several parties filed a petition for review of EPA's final action. On May 15, 2001, the United States Court of Appeals for the District of Columbia Circuit rendered its decision, largely upholding EPA's action. *Appalachian Power Co. et al.* v. *EPA,* No. 99–1200.

In the NO_X SIP call, EPA determined that emissions from sources throughout the entire State of Indiana significantly contribute to downwind areas. However, because the petitions from Connecticut and New York named sources in only part of the State, EPA limited its section 126 findings to the geographic scope of those petitions. Maps showing the geographic coverage of these two petitions are shown in Figures F–2 and F–6 of appendix F to 40 CFR part 52. Based on the geographic limits given in the petitions, all sources in Indiana located east of 86.0 degrees longitude are covered by the section 126 1-hour finding. The existing sources located in Indiana that are subject to the 1-hour section 126 finding are also listed in appendix A to 40 CFR part 97.

II. Summary of the State Submittal

A. When Did Indiana Develop and Submit the NO_X Emission Control Plan to the EPA?

On March 30, 2001, IDEM submitted its proposed NO_X emission control plan to the EPA and requested parallel processing.

IDEM had originated its rulemaking process on regional NO_X reductions in 1999. EPA has reviewed and provided extensive comments on several previous drafts of the rules. The State has adequately addressed most of these comments. Some of the issues raised, however, were very complex and the State was not able to address them before proposing the rule. These issues are discussed in this **Federal Register** action.

Parallel processing allows a State to submit a plan for approval prior to actual adoption by the State. 47 FR 27073 (June 23, 1982). A submittal for parallel processing must include the following three items: a letter from the State requesting parallel processing; a schedule for final adoption or issuance of the plan; and a copy of the proposed regulation or document. Indiana submitted this information in its March 30, 2001, letter.

B. What Are the Basic Components of the State's Draft Plan?

Indiana's proposed plan included a budget demonstration, supporting materials and two NO_X rules: 326 IAC 10–3, pertaining to cement kilns, and 326 IAC 10–4, a trading program focusing on reductions from EGUs and large boilers and turbines. The budget demonstration is discussed in more detail in section C, ''How does Indiana address its statewide NO_X budget?''. The supporting materials include information such as the number of allowances that Indiana intends to allocate to each unit for 2004–2006 and detailed inventories. The rules included in the plan require compliance statewide by May 31, 2004. This plan constitutes Indiana's response to Phase I of the NO_X SIP Call. The tables below summarize the requirements of the two draft rules as submitted and how the rules differ from the SIP Call. These tables are not meant to be exhaustive of every requirement in Indiana's rules. Rather, they are intended to provide a general idea of how Indiana's rules are structured and some of the significant requirements. For a complete understanding of the proposed rules, please see the applicable rulemaking package which is available at the locations listed in the **ADDRESSES** section of this proposal. As described in this proposal action, it is EPA's understanding that the State made changes in response to comments by EPA and affected stakeholders. (These tables, however, reflect the proposed rules as submitted.)

TABLE 1.—326 INDIANA ADMINISTRATIVE CODE 10–3

Cite	Section title/subject
326 IAC 10–3–1	Applicability—Generally Portland Cement Kilns larger than specified size with specified exceptions.
326 IAC 10–3–2	Definitions
326 IAC 10–3–3	Emission limits • Technology Requirements (mid-kiln firing or low NO_X burners) or • Ozone Season Emission Averages 2.8—6 pounds of NO_X per ton of clinker depending on type of kiln or • Approved alternatives to achieve 30% reductions
326 IAC 10–3–4	Monitoring and Testing Requirements • Technology Requirements—preventative maintenance plan • Ozone Season Emission Averages or Approved alternatives to achieve 30% reductions—initial and subsequent annual testing or NO_X Continuous Emission Monitoring Systems (CEMS)

TABLE 1.—326 INDIANA ADMINISTRATIVE CODE 10–3—Continued

Cite	Section title/subject
326 IAC 10–3–5(a)	Record keeping and Reporting (a) Record keeping—Begin May 31, 2004, and keep records at the unit for 5 years. • Technology Requirements—record maintenance, startup, shutdown, and malfunction information • Ozone Season Emission Averages or Approved Alternatives to achieve 30% reductions—emissions in pounds per ton of clinker, results of performance testing, CEMS data if CEMS are used, startup, shutdown and malfunction information (b) Reporting • By May 31, 2004 submit initial information to IDEM • By October 31, 2004 and before October 31 each year after submit NO_X emission information.

In addition to the specific rule for cement kilns, 326 IAC 10–3, Indiana proposed a rule to implement the 40 CFR part 96 Nitrogen Oxides Budget Trading Program.

TABLE 2.—326 IAC 10–4 NITROGEN OXIDES BUDGET TRADING PROGRAM

Cite/section	Title/subject	Comparable federal regulation/note
326 IAC 10–4–1	Applicability	§ 96.4—Indiana's rule includes same core sources (EGUs and large non utility boilers and turbines) as NO_X SIP Call and opt in provisions. It contains 2 additional 25 ton exemptions.
326 IAC 10–4–2	Definitions	§ 96.2—Indiana adds definition for ''energy efficient or renewable energy projects.'' Indiana also adjusts some definitions to account for 2004 compliance date.
326 IAC 10–4–3	Retired Unit Exemption	§ 96.5
326 IAC 10–4–4	Standard Requirements	§ 96.6—Proposed rule does not include full liability requirements of SIP Call and will need to be revised.
326 IAC 10–4–5	Computation of time	§ 96.7—Indiana clarified that the ozone control period always begins and ends on the calendar dates specified in the definition.
326 IAC 10–4–6	NO_X Authorized Account Representative.	§ 96.10, § 96.11, § 96.12, § 96.13, § 96.14
326 IAC 10-4–7	Permit Requirements	§ 96.20, § 96.21, § 96.22, § 96.23, § 96.24, § 96.25—Indiana is implementing the permitting requirements with its existing permitting programs, 326 IAC 2–7.
326 IAC 10-4–8	Compliance Certification	§ 96.30, § 96.31.
326 IAC 10–4–9	Allowance Allocations	§ 96.40, § 96.41, § 96.42 State is establishing trading program budget of 43,654 tons of NO_X in 2004 and 2005 and 45,033 tons thereafter. The State requested changes to the SIP Call budget as discussed in the preliminary budget demonstration. The State also provides a mechanism to transition from the Section 126 petitions to the SIP Call. This issue is discussed in detail in this proposal. The State has developed an allocation methodology, utilizing the flexibility under the NO_X SIP Call.
326 IAC 10–4–10	NO_X allowance	§ 96.50, § 96.51, § 96.52, § 96.53, § 96.54, § 96.56, § 96.57.
326 IAC 10–4–11	NO_X allowance transfers	§ 96.60, § 96.61, § 96.62.
326 IAC 10–4–12	NO_X monitoring and reporting requirements.	§ 96.70, § 96.71, § 96.72, § 96.73, § 96.74, § 96.75, § 96.76—State's proposed rule would not require sources to begin monitoring May 1 of the year before the compliance year as required by the NO_X SIP Call as discussed in this proposal.
326 IAC 10—13	Individual opt-ins	§ 96.80, § 96.81, § 96.82, § 96.83,§ 96.84, § 96.85, § 96.86, § 96.87, § 96.88.
326 IAC 10–4–14	NO_X Banking	§ 96.55(a) and (b).
326 IAC 10–4–15	Compliance Supplement	§ 96.55(C)—The State has made several changes to this section to allow for an easier transition from the Section 126 rulemaking as discussed below.

TABLE 3

Sections of the 40 CFR Part 96 model rule not addressed by a specific section in Indiana's Rule	How Indiana has addressed or needs to address these sections.
40 CFR 96.1, 40 CFR 96.3	Indiana has addressed both of these sections by 1) submitting a rule, and 2) addressing specifics in various sections of its rule. For example, the requirement in 40 CFR 96.1 that, by adoption of the rule a state authorizes EPA to assist in operating the trading program, is addressed in the rule's definition of EPA in 326 IAC 10–4–2(65).

C. How Does Indiana Address Its Statewide NO_X budget?

1. What NO_X budget Did EPA Determine for the State?

In the October 27, 1998, NO_X SIP Call, Indiana's NO_X budget was set at 202,584 tons/season with a ''compliance supplement pool'' of 19,738 tons. The ''compliance supplement pool'' is a voluntary provision that provides flexibility to States in addressing concerns of full compliance by May 31, 2004. Each State will be able to use its pool to cover excess emissions from sources that are unable to meet the compliance deadline during the 2004 and 2005 timeframe. In the final NO_X SIP Call, EPA provided a 60-day public comment period on 2007 baseline sub-inventory revisions. The EPA received numerous requests to allow more time to accept revisions to source-specific inventory data used to establish each State's emissions baseline and budget in the NO_X SIP Call and also to allow revisions to vehicle miles traveled (VMT) projections. Therefore, by notice dated December 24, 1998, EPA published a ''Correction and Clarification to the Finding of Significant Contribution and Rulemaking for Purposes of Reducing Regional Transport of Ozone'' (63 FR 71220), which may be referred to as ''the correction notice.''

In the correction notice, EPA reopened and extended the comment period to February 22, 1999, on emissions inventory revisions for the 2007 baseline information used to establish each State's budget in the NO_X SIP Call. This included source-specific emission inventory data, data on VMT and nonroad mobile growth rates, VMT distribution by vehicle class, average speed by roadway type, inspection and maintenance program parameters, and other input parameters used in the calculation of highway vehicle emissions. In response to the comments received during this comment period, EPA published revised baseline inventories and budgets in the May 14, 1999 technical amendment (64 FR 26298).

Subsequently, on March 2, 2000 (65 FR 11222), the EPA proceeded to final action on a second technical amendment based on further comments received from the public in response to the NO_X SIP Call and the request for comments on inventory revisions as well as the May 14, 1999 technical amendment. The final NO_X SIP Call required that States submit the SIPs by September 30, 1999, and that the rules require the sources to implement the controls by May 1, 2003. The March 2, 2000, changes were also necessary to make the NO_X SIP Call inventory consistent with the inventory adopted when EPA granted section 126 petitions on December 17, 1999. The March 2, 2000, 2007 NO_X emission budget for the State of Indiana is 229,965 tons/season with a compliance supplement pool of 19,915 tons.

This revision did not address the issues remanded by the D.C. Circuit Court of Appeals on March 3, 2000. As discussed earlier, in this decision, the Court generally upheld the NO_X SIP Call. It did, however, vacate the standard for some states and portions of other states, and remanded two issues concerning a limited portion of the NO_X emission budgets. Based on this decision, EPA sent letters to the affected states' governors on April 11, 2000, to specify what portion of the budget needed to be met to achieve the reduction upheld by the Court. Consistent with the Court's opinion, these budgets, referred to as the ''Phase I NO_X budgets,'' reflect controls on electricity generating units subject to the acid rain program; large boilers and turbines; and cement kilns. For Indiana, the Phase I budget was 234,625 tons for each NO_X SIP Call ozone control period. The compliance supplement pool was not affected by the phased approach.

2. What Changes Did The State Request to the NO_X Budget and Are Those Changes Approvable?

The State submitted its draft rules and preliminary budget demonstration to the EPA for parallel processing on March 30, 2001. In the preliminary budget demonstration, the State took a slightly different approach than that laid out by EPA in the phased approach, and also requested several changes to the statewide budget. The resulting overall budget for the State, that EPA is proposing approval on in this action, is 233,633 tons. These changes also affected the portion of the budget that is being used to ensure that the appropriate reductions are being achieved from EGUs and large industrial boilers and turbines in the State, namely the trading budget. The State trading portion of the budget, in its submittal, is 57,059 tons.

In the budget demonstration, IDEM used the same inventories as the EPA for area, on-road mobile and non-road mobile categories. IDEM also used the inventories from the NO_X SIP Call as a starting point for its budget demonstration for EGUs and the non-EGU point sources.

IDEM then requested moving several units at the Indianapolis Power & Light Perry K facility identified by EPA in the EGU inventory to the non-EGU inventory based on those units meeting the definition in 326 IAC 10–4–2 for ''large affected units''. The 2007 projected uncontrolled emissions from these units were then multiplied by 40% (to account for 60% control as non-EGU large affected units) and added to the non-EGU portion of the budget.

In addition to the changes to the Perry K facility, IDEM determined that 19 units that EPA had characterized as large non-EGUs in fact have capacities of less than 250 mmBtu/hr. As a result, they do not meet either EPA's or IDEM's definition for units that need to be controlled. Therefore, IDEM requested and EPA is proposing for approval that these units be shifted from the large non-EGU portion of the inventory to the small non-EGU portion. More information on the inventory and these changes is available in the Docket.

IDEM also presented inventory information that units at Bethlehem Steel and Purdue University are larger than 250 mm/Btu. Since these units meet the definition for ''large affected units'', IDEM has requested that they be moved to that category and with controls assumed to be 60%. IDEM also noted two numerical errors in the SIP call inventory; one affecting a New Energy unit and the other affecting two units at SIGECO's Warrick Station. The State has submitted inventory information to support correcting these errors. We are proposing to approve these inventory corrections. More information on these changes is available in the Docket.

The following table shows how IDEM's proposed inventories differed from those used by EPA.

TABLE 4.—EPA AND IDEM INVENTORIES

Source category	EPA		IEDM	
	2007 Projected uncontrolled	2007 Budget	2007 Projected uncontrolled	2007 Budget
Point:				
EGUs	136,773	47,712	136,773	46,778
Non-EGUs	69,011	52,042	67,263	51,984
Area	29,070	29,070	29,070	29,070
On-road Mobile	79,307	79,307	79,307	79,307
Non-road Mobile	26,494	26,494	26,494	26,494
Total	340,655	234,625	338,907	233,633

EPA is proposing to approve the changes submitted by IDEM in its budget demonstration. Based on these changes, the State's budget would be 233,633 tons.

3. How Does Indiana Demonstrate That It Is Meeting the Budget?

To meet the overall budget, Indiana is relying on reductions from cement kilns of 30% (326 IAC 10–3) and reductions equivalent to 0.15 pounds of NO_X per million BTU heat input for EGUs and a 60% reduction from industrial boilers and turbines with maximum rated heat input greater than 250 mmBtu/hr. The reductions from EGUs and large industrial boilers and turbines will be achieved through the State's trading program (326 IAC 10–4). The State demonstrates that, based on these regulations and the changes that it requested to its 2007 NO_X budget, it is controlling facilities to the extent necessary to ensure the budget is being met. The following table shows that, through the implementation of controls on EGUs, large industrial boilers and turbines and cement kilns, the State projects, in its submitted materials, that it will meet its 2007 budget.

TABLE 5.—IDEM'S SUBMITTED PRELIMINARY BUDGET DEMONSTRATION

Source category	2007 Projected uncontrolled	2007 Budget	Reductions	Trading portion of budget
EGUs	136,773	46,778	89,995	45,952
Non-EGUs:				
Boilers > 250 mmBtu/hr	24,715	11,107	13,608	11,107
Controlled cement kilns	5,572	3,900	1,672	
Uncontrolled	36,976	36,977	0	
Area	29,070	29,070	0	
On-road Mobile	79,307	79,307	0	
Non-road Mobile	26,494	26,494	0	
Total	338,907	233,633	[a] 105,274	57,059

[a] Slight difference due to rounding.

One of the most significant numbers in this chart is the total trading budget since, through the trading program, this budget will ensure that the majority of emission reductions are being obtained. As shown below, Indiana included ''set-asides'' for new sources, equivalent to 5% of the EGU portion of the budget and 1% of the non-EGU portion until 2006, with 2% and 1% respectively, thereafter. The State also included an energy efficiency set aside of 1% from the non-EGU category. The concept of a set aside was discussed in NO_X SIP Call Rulemaking **Federal Register** actions. The State may establish set-asides where a portion of the trading budget is reserved for a special purpose. It is a tool to help States manage their budgets. The result is that the total trading budget is 57,059, including the set-asides, and 53,509 tons, when considering that excess emission reductions will be required from existing facilities to provide for the tonnage reduction to supply the set-asides with allowances. The following table illustrates the total Indiana budget, the trading portion and the set-asides.

TABLE 6.—SUMMARY OF INDIANA'S PHASE I NO_X BUDGET

[(tons/season) (as submitted in Draft)]

	EGU	Non-EGU	Area	On-road Mobile	Non-road Mobile	Total
2007 Projected Uncontrolled Inventory	136,773	67,263	29,070	79,307	26,494	338,907
2007 Budget	46,778	51,984	29,070	79,307	26,494	233,633
NO_X Trading Budget Portion	45,952	11,107				57,059
New Source Set-Aside	2,298	111				2,409
Energy Efficiency Set-Aside		1,141				1,141
Trading Budget minus Set-Asides	43,654	9,855				53,509

As explained in section I below, where we discuss changes that IDEM has made in response to comments, the emissions from ''blast furnace gas'' units have been removed from the trading program in the final adopted rule. Indiana did not intend to require reductions from these units, regardless of whether the units were included in the trading program or not. For a more thorough discussion, please see section I below. The resulting impact on the budget is as follows:

TABLE 7.—SUMMARY OF INDIANA'S PHASE I NO_X BUDGET

[(tons/season) (as revised in final adopted rule)]

	EGU	Non-EGU	Area	On-road Mobile	Non-road Mobile	Total
2007 Projected Uncontrolled Inventory	136,773	67,263	29,070	79,307	26,494	338,907
2007 Budget	46,778	51,984	29,070	79,307	26,494	233,633
NO_X Trading Budget Portion	45,952	8,008				53,960
New Source Set Aside	2,298	80				2,378
Energy Efficiency Set Aside		1,079				1,079
Trading Budget minus Set-Asides	43,654	6,849				50,503

Either of these approaches is acceptable to EPA and should ensure that the required reductions will occur in the State. EPA is proposing for approval the trading budget and set-asides as revised in the final adopted rule and reflected in Table 7 above.

D. How Is the State Addressing the Units Covered by Section 126 Petitions?

IDEM's proposed trading rule states that sources subject to 40 CFR part 97 will be subject to the Indiana trading rule as of May 1, 2004. Indiana's intention is that, as of that date, its rule will ensure that those sources are no longer significantly contributing to downwind nonattainment and thus the sources would no longer need to be subject to the section 126 requirements.

Under certain circumstances in which the section 126 sources in a State are no longer significantly contributing to downwind nonattainment, EPA believes it would be appropriate to propose to withdraw the section 126 findings of significant contribution and the accompanying requirements for such sources. Specifically, where a State's regulation is approved into the SIP and requires at least the same total quantity of reductions from the same group of sources as would have been controlled under the section 126 rule, we believe it would be appropriate to propose withdrawal of the section 126 requirements. EPA believes it would be reasonable to find that, as of the required date of compliance with the State regulations, such sources were no longer contributing significantly to downwind nonattainment for purposes of section 126.

Under Indiana's proposed regulations, all of the section 126 sources in the State would be covered by the State rule, and the rule requires those sources to reduce a quantity of emissions greater than the quantity of reductions required under the section 126 rule. Under these circumstances, and assuming that EPA's final analysis of Indiana's adopted rule confirms that Indiana has addressed the other identified deficiencies, EPA intends to propose to withdraw the section 126 findings and requirements for sources in the State as of May 1, 2004.

As Indiana noted in correspondence to EPA, an Indiana state rule cannot operate to withdraw the section 126 findings, which can only be modified through further rulemaking under the section 126 rule. However, the submitted draft of the Indiana regulations contains a provision (326 IAC 10–4–1(c)) that suggests otherwise. In light of EPA's intention to propose withdrawal of the section 126 findings and requirements for the State as of May 1, 2004, this provision in the draft submittal needs to be removed. EPA expressed its concerns with this issue to the State in a May 3, 2001, letter from John S. Seitz, Director of the Office of Air Quality Planning and Standards to Lori F. Kaplan, Commissioner, IDEM. Indiana has removed the language referenced above from the final adopted rule. Indiana's NO_X SIP rule could meet the requirements of the NO_X SIP Call without addressing the section 126 requirements. However, Indiana and EPA have worked together to help ensure that Indiana's SIP Call rule is written to allow for a smooth transition to phase out the section 126 requirements.

In order to make this transition, EPA identified several other issues that Indiana must address in its final submittal so that EPA can propose to amend the applicability of the section 126 rulemaking. We are highlighting those issues in today's proposal because Indiana has made changes to the submitted NO_X regulations in response to our comments.

First, if Indiana were to have sole responsibility for distributing the ''compliance supplement pool'' for the State, it must account for the section 126 sources in the State, as well as the sources covered only by the State program. The submitted draft of the Indiana rule would provide allowances from the compliance supplement pool for early reductions made in 2002 and 2003. EPA recommended that Indiana consider also providing allowances from the compliance supplement pool for early reductions made in 2001, to assure that the section 126 sources have a full two years to earn early reduction credits before their compliance deadline of 2003. Indiana's final adopted rule provides the opportunity for sources to request early reduction credits for reductions made in 2001.

Second, the sources covered by the section 126 rule should not be able to earn early reduction credits for any reductions made in 2003. The Indiana draft rule provides that reductions already required by federal law are not eligible for early reduction credits. EPA interprets this language as precluding sources covered by the section 126 rule from being granted compliance supplement pool allowances for reductions made in 2003. It is our understanding that Indiana agrees and the State is expected to confirm this in its final submittal.

The third change to Indiana's proposed NO_X rule addresses a concern that arises because the NO_X SIP Call covers the full State, but the section 126 rule covers only a portion of the State. The statewide compliance supplement pool is substantially larger than either the compliance supplement pool for Indiana under section 126 or, for that matter, the entire budget for the section 126 sources in Indiana. Thus, if the State were to distribute the full compliance supplement pool for

Indiana in a manner that allowed the section 126 sources to use all of those allowances in 2003, the section 126 sources might not need to make any emissions reductions in 2003. This would undercut the benefits of the section 126 requirements and make it difficult for EPA to justify a proposal to withdraw the section 126 program for Indiana.

Indiana's final adopted rule removes this concern by limiting when the compliance supplement pool allowances can be used. The rule limits the compliance supplement pool allowances that could be used in 2003 to no more than 2,454 allowances (i.e., the quantity equal to the compliance supplement pool under the section 126 rule). The remainder could be used beginning in 2004. This limitation on the number of compliance supplement pool allowances that can be used in 2003, equal to the quantity of compliance supplement pool allowances under the section 126 rule, is included in IDEM's final rule and is being proposed for approval in this action.

Fourth, the State may change the rule to enable it to distribute the compliance supplement pool allowances at any time after the early reductions have been verified, but no later than the date that the source claiming the early reduction credit becomes subject to the requirement to hold allowances. Thus, for section 126 sources making early reductions, the State could distribute compliance supplement pool allowances up to April 30, 2003. For all other sources making early reductions, the State can distribute compliance supplement pool allowances up to May 30, 2004. The State's final rule specifies that the issuance of allowances, under these provisions, shall be completed by March 31, 2003 for section 126 sources and March 31, 2004, for non-section 126 sources.

E. What Public Review Opportunities Did the State Provide?

Indiana has led a proactive outreach effort with affected stakeholders throughout this rulemaking process. IDEM began conducting discussion with stakeholders prior to the publication of the NO_X SIP Call. In April 1999, IDEM drafted language for a NO_X rulemaking, considering options to fulfill the NO_X SIP Call requirements and a NO_X emission limit of 0.25 lb/mmBtu for EGUs, and began to hold monthly public meetings to discuss issues and receive feedback on the approaches it was developing to respond to the NO_X SIP Call. Indiana began its formal rulemaking process for the regulations in response to the NO_X SIP Call on July 1, 2000, opening a comment period for 30 days. (In the State of Indiana, at least three written public comment periods are required for each rulemaking.) The State opened the second comment period on December 1, 2000. Indiana preliminarily adopted the draft rule on February 7, 2001.

The proposed rule was published in the Indiana **Federal Register** on April 1, 2001, providing a third written comment period. The comment period closed on April 23, 2001. Indiana received numerous comments from EPA and affected stakeholders. Since preliminary adoption, IDEM has held numerous formal and informal meetings to discuss those comments and their resolution with affected stakeholders and EPA. IDEM and EPA have discussed several changes to the rules, significant and otherwise, that will need to be made or are being made in response to comments. The significant issues that are expected to be addressed are discussed in this proposal. The State will also need to include responses to these comments in its final submittal to EPA.

Indiana adopted final rules on June 6, 2001. EPA has not concluded its analysis of these final adopted rules and the associated plan. However, based on our preliminary review and conversations with the State, we expect that the rules will address the deficiencies identified in this proposal. These final adopted rules are available on Indiana's website at: *http://www.state.in.us/idem/oam/standard/Sip/index.html.*

F. What Guidance Did EPA Use To Evaluate Indiana's NO_X Control Program?

In evaluating Indiana's draft NO_X rules, EPA considered a number of documents related to the NO_X SIP Call, section 110 of the Clean Air Act and 40 CFR part 51. These documents include:

(1) ''Federal Implementation Plans to Reduce the Regional Transport of Ozone; Proposed Rule,'' published October 21, 1998. (63 FR 56393)

(2) ''Findings of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone; Rule,'' published October 27, 1998. (63 FR 57356). This **Federal Register** is referred to as ''The NO_X SIP Call'' in today's action.

(3) ''Correction and Clarification to the Finding of Significant Contribution and Rulemaking for Purposes of Reducing Regional Transport of Ozone,'' published December 24, 1998 (63 FR 71220).

(4) EPA's '' NO_X SIP Call Checklist,'' (the checklist), issued on April 9, 1999. The checklist summarizes the requirements of the NO_X SIP Call set forth in 40 CFR 51.121 and 51.122.

(5) ''Development of Emission Budget Inventories for Regional Transport NO_X SIP Call'' issued by the EPA Office of Air Quality Planning and Standards May 1999 and technically-amended December 1999.

(6) Technical amendments to the NO_X SIP Call, published May 14, 1999 (64 FR 26298) and March 2, 2000 (65 FR 11222).

(7) The section 126 findings and requirements as contained in the January 18, 2000, **Federal Register** (63 FR 2674).

(8) The April 11, 2000 letter from EPA Administrator Carol Browner to Indiana Governor Frank O'Bannon, regarding the phased approach to implement the issues upheld by the Court, based on the March 3, 2000, decision from the United States Court of Appeals for the District of Columbia Circuit regarding the NO_X SIP Call.

(9) ''Summary of EPA's Approach to the NO_X SIP Call in Light of the March 3rd Court Decision'' fact sheet issued April 11, 2000.

(10) EC/R, Inc., '' NO_X Control Technologies for the Cement Industry.'' Chapel Hill, NC. September 19, 2000. This report updates information in the ''Alternative Control Techniques Document- NO_X Emissions from Cement Manufacturing'' (EPA–453/R–94–004), which was the primary reference used in preparing the cement kiln portion of the proposed Federal Implementation Plan (FIP) rulemaking. The report includes updated information on uncontrolled NO_X emissions from cement kilns and on the current use, effectiveness and cost of NO_X controls.

(11) A May 3, 2001, letter from John S. Seitz, Director of the Office of Air Quality Planning and Standards, to Lori F. Kaplan, Commissioner, IDEM.

As noted in the EPA's NO_X SIP Call checklist, the key elements of an approvable submittal are: a budget demonstration; enforceable control measures; legal authority to implement and enforce the control measures; adopted control measure compliance dates and schedules; monitoring, recordkeeping, and emissions reporting; and elements that apply to states that choose to adopt an emissions trading rule in response to the NO_X SIP Call. The documents related to the NO_X SIP Call are available to the public on EPA's website at: *http://www.epa.gov/ttn/otag/sip/related.html.*

G. Does Indiana's Proposed NO_X Emissions Control Plan Meet All of the Federal NO_X SIP Call Requirements?

Based on EPA's review, Indiana's proposed plan meets all of the federal requirements, including the Phase I NO_X SIP Call requirements, with the exception of the deficiencies identified in this document. In addition, the State's final submittal will need to include responses to comments on the preliminarily adopted rule. Furthermore, Indiana must have addressed the deficiencies identified in this proposal, including revisions to the preliminary budget demonstration to support those changes where appropriate. Finally, Indiana must not significantly change the submitted rules from those being proposed for approval today, other than to address EPA comments or changes that are discussed in this **Federal Register** action. In addition, if Indiana does not correct these deficiencies, EPA is proposing to disapprove these rules, in the alternative.

Indiana adopted final rules on June 6, 2001. EPA has not concluded its analysis of these final adopted rules and the associated plan. However, based on our preliminary review and conversations with the State, we expect that the rules will address the deficiencies identified in this proposal. These final adopted rules are available on Indiana's website at: *http://www.state.in.us/idem/oam/standard/Sip/index.html.*

H. What Deficiencies Are There in Indiana's Proposed NO_X Emissions Control Regulations, and Do Any of These Deficiencies Constitute an Approvability Issue?

EPA reviewed the State's proposed NO_X emissions control rules at 326 IAC 10–3 and 10–4 and offers the following comments on deficiencies found in the rules. Many of these comments are minor and should be readily correctable in the final rule adoption process. These deficiencies must be corrected before the EPA can give final approval on the Indiana NO_X rules. EPA is proposing disapproval, in the alternative, if the State does not correct these deficiencies.

1. The 25-Ton Exemptions

States may develop alternative 25-ton NO_X exemptions to the one included in the model rule (40 CFR part 96) provided they are based on permit restrictions that limit a unit's potential to emit during an ozone season to 25 tons or less. Indiana's proposed rule, 326 IAC 10–4, Nitrogen Oxides Budget Trading Program Section, includes in 10–4–1(b), the 25-ton exemption from the model rule and two additional exemptions. One of these alternatives relies on Continuous Emission Monitoring System (CEMS) data. In this exemption, units may use CEMS data to demonstrate that the unit is not emitting more than 25 tons during an ozone season. For this exemption to provide sufficient assurance that these units will not emit more than 25 tons per season, these units must still be required to monitor according to 40 CFR part 75, subpart H, even while they have the exemption. This requirement needs to be clarified in Indiana's rule.

The second alternative attempts to restrict the unit's usage of each fuel that it is authorized to burn (natural gas or fuel oil) such that the unit's potential NO_X mass emissions will not exceed 25 tons of NO_X during the ozone season. Indiana's intent in including this exemption appears to be to allow units which burn predominantly natural gas, and only a small amount of oil, to not have to use only the default emissions rate in 40 CFR 75.19, table 2, for oil when determining the 25-ton exemption. However, the provisions in Indiana's rule are unclear and would not result in limiting the unit's potential NO_X emissions to 25 tons or less. Indiana must either use the following language to correct this deficiency or use similar language which is as stringent and achieves similar and acceptable results. This language allows units the flexibility Indiana intended and also limits a unit's potential NO_X emissions to less than 25 tons:

326 IAC 10–4–1(b)(3)(B)(iii): Restrict the number of hours a unit may use each fuel that it is authorized to burn such that the unit's potential NO_X mass emissions will not exceed twenty-five (25) tons per ozone control period, calculated by dividing twenty-five (25) tons of potential NO_X mass emissions by the unit's maximum potential hourly NO_X mass emissions (DD), where the unit's maximum potential hourly NO_X mass emissions shall be calculated as follows:

(AA) Identify the percentage of hours in the ozone control period during which the unit intends to burn each type of fuel that is authorized under the fuel use restriction in clause (A).

(BB) For each fuel type identify the default NO_X emission rate in 40 CFR 75.19(c)(1)(ii), Table 2 for each type of fuel that the unit is allowed to burn under the fuel use restriction in clause (A).

(CC) For each fuel type multiply the default NO_X emission rate under subitem (BB) and the percentage of the unit's maximum rated hourly heat input for that fuel type identified under subitem (AA). The owner or operator of the unit may petition the department to use a lower value for the unit's maximum rated hourly heat input than the value as defined under section 2(24) of this rule. The department may approve the lower value if the owner or operator demonstrates that the maximum hourly heat input specified by the manufacturer or the highest observed hourly heat input, or both, are not representative, and that the lower value is representative, of the unit's current capabilities because modifications have been made to the unit, limiting its capacity permanently;

(DD) Sum the products determined in (CC) for each fuel type.

In addition, when a unit receives a 25-ton exemption, the unit's emissions must be removed from the trading program budget to avoid double counting. EPA has concerns about how Indiana's submitted rule accounts for the emissions of the exempt units. Specifically, the provision at 326 IAC 10–4–9(a), which states that ''the total number of NO_X allowances shall be adjusted, as needed, to account for units exempted under section (1)(b) of this rule'' is not explicit enough to account for the emissions of units receiving the 25-ton exemption. IDEM needs to specify the mechanism that will be used to ensure that the emissions from these sources are removed from the trading budget.

There are many ways Indiana can account for the exempted units' emissions. If Indiana does not plan on allocating allowances to units which are exempt from the program based on the 25-ton exemption, then it must subtract the unit's potential tons of emissions from the trading budget. Alternatively, if Indiana chooses to allocate allowances to these exempt units, then immediately after EPA allocates allowances, IDEM's rule needs to provide that EPA should deduct from accounts the maximum number of tons of NO_X emissions the units have the potential to emit. The Authorized Account Representatives (AAR) for the units are required to ensure that enough allowances are in the units' accounts. EPA notes that Indiana has posted its final adopted NO_X regulation to its website, and this rule appears to address the EPA's concerns regarding Indiana's 25-ton exemptions.

2. Definition of ''Maximum Design Heat Input''

Indiana's rule changes the definition of ''maximum design heat input'' to, ''the ability of a unit to combust a stated maximum amount of fuel per hour on a steady state basis, as determined by the physical characteristics of the unit *and the federally enforceable permit conditions limiting the heat input.''* This expansion of the term is unacceptable as it would exempt from the trading program units (both new and existing) that meet the definition of a large

electric generating unit or large non-electric generating unit under 40 CFR 51.121, which is based strictly on the physical characteristics of the unit.

Additionally, such a definition could result in load shifting from affected to non-affected units. If there is load shifting, the emissions from the affected units would decrease but there would be no net decrease in emissions because the emissions of the unaffected units that picked up the load would increase by a commensurate amount. This definition needs to be revised so that ''maximum design heat input'' is based solely on physical characteristics and not permitted limits. The State has made this change in its final adopted rule by removing the reference to permit limits.

3. Definition of ''NO_X Budget Trading Program''

Indiana's submitted draft rule allows trading between Section 126 and NO_X SIP call sources. Because under the NO_X SIP Call, States have the option of developing their own *intrastate* trading programs, the State must add language to the definition of ''NO_X budget trading program'' to indicate that trading may only occur between sources that are participating in an EPA administered trading program. IDEM has added this language to its final adopted rule.

4. Definition of ''Percent Monitoring Data Availability''

Indiana's submitted draft rule includes a definition of ''percent monitoring data availability''. The definition is not correct. (EPA notes that the definition of ''percent monitoring data availability'' in part 97 is also incorrect, and intends to take action to correct the definition.) Under Indiana's definition, a source would determine the percent availability based on the assumption that it is operating the entire ozone season. With this definition, a unit could fail to meet the 90% monitoring data availability requirement even if its monitors were available 90% of the time it operated. Thus, Indiana must revise the definition such that the unit's total operating hours constitute the denominator of the equation instead of the total potential operating hours in the season. IDEM has made this revision in the final adopted rule.

5. Monitoring Requirements

Indiana's 326 IAC 10–4–12(c) does not require units to comply with the rule's monitoring and reporting requirements until May 31, 2004 unless they are applying for early reduction credits. However, the model rule requires compliance with the monitoring and reporting requirements one year before the program begins (*i.e.,* May 31, 2003). The additional year of monitoring is for the benefit of the sources. It allows them to ensure that their monitoring and reporting systems are working and accurate before the program begins, thus avoiding unnecessary penalties once the trading program has begun. Additionally, Indiana may want to use the 2003 data for determining allocations under ''326 IAC 10–4–9 NO_X allowance allocations.'' The date for required monitoring must be May 31, 2003 at the latest. However, EPA has recommended to Indiana that monitoring begin May 1, 2003, so that when Indiana updates its allocations, it has a full year of data to use. Indiana has revised this date in its final rule to require monitoring to begin May 1, 2003.

6. Indiana's New Source and Energy Efficiency and Renewable Energy ''Set-Asides''

Indiana may include the new source, and energy efficiency and renewable energy ''set-asides'' outlined in 326 IAC 10–4–9(e). However, the allowances reserved for these set-asides must come from the trading program budget. While EPA believes this was Indiana's intent, Indiana should clarify that the allowances reserved for these set-asides are within the bounds of its trading program budget. EPA can only approve a rule where the set-asides come from the trading program budget. IDEM has clarified this issue in its final adopted rule.

7. Penalties

The following language in 40 CFR 96.54(d)(3)(i) must be added to the rule:

> For purposes of determining the number of days of violation, if a NO_X Budget unit has excess emissions for a control period, each day in the control period (153 days) constitutes a day in violation, unless the owners and operators demonstrate that a lesser number of days should be considered.

The language stipulates the maximum number of days in which a violation could be sought. However, EPA notes that if an agency were to seek penalties for a violation, it has the discretion to seek penalties for fewer days of violation. Removing this language would limit both the State and EPA's ability to seek violation for the maximum number of days which would be a violation of the Clean Air Act, as interpreted in case law. IDEM has added this language to its final adopted rules.

8. 326 IAC 10–3 Nitrogen Oxide Reduction Program for Specific Source Categories

326 IAC 10–3, as submitted by Indiana, requires emission reductions at cement kilns. Model rules for cement kilns were not a part of the NO_X SIP Call. For this reason, the State used the proposed October 28, 1998, NO_X Federal Implementation Plan (FIP) as a starting point in developing its rules. Since much of the analysis and background materials for the proposed FIP are germane to cement kilns, as noted below, these materials were also used to provide information to review the State's submittal.

326 IAC 10–3–1 Applicability. Indiana's submitted rules contain a provision, 326 IAC 326 10–3–1(b), that would exempt cement kilns covered by the rule from the Clark and Floyd NO_X Reasonably Available Control Technology (RACT) rules at 326 IAC 10–1. EPA commented to Indiana that 326 IAC 10–3 can only supercede the Clark and Floyd NO_X RACT rules at 326 IAC 10–1 if the State either demonstrates that 326 IAC 10–3 is as stringent as 326 IAC 10–1 or provides photochemical dispersion modeling that shows the area remains in attainment without the RACT controls.

In response to EPA's comment, in the final adopted rule, Indiana significantly narrowed the scope of the provision and argued that for the group of cement kilns affected, 326 IAC 10–3 is as stringent as 326 IAC 10–1. Indiana narrowed the scope of the provision such that only cement kiln units operating low-NO_X burners would be exempt. Furthermore, the final adopted rule states that those units are only exempt from the emission limit in 326 IAC 10–1 and only during the ozone control period.

Indiana's argument is that based on the expected emission limits achievable for low-NO_X burners installed on cement kilns, those kiln's emissions under 326 IAC 10–3 are expected to be less than the emission limits required for those kilns under 326 IAC 10–1. The following table summarizes the emission limits in 326 IAC 10–1 compared to the expected emissions from a cement kiln with low-NO_X burners installed.

TABLE 8.—LOW-NO_X BURNER CEMENT KILN STRINGENCY

Cement Kiln Type	326 IAC 10–1 Pounds per ton of clinker		326 IAC 10–3 Pounds per ton of clinker
	30 day limit	Daily limit	Expected emissions averaged over 30 days
preheater kiln	4.4	5.9	3.8
long dry kiln	6.0	10.8	5.1

As discussed in the proposed October 28, 1998, NO_X FIP, EPA expects that low-NO_X burners can achieve a NO_X emission rate of 3.8 pounds per ton for any preheater kiln, and 5.1 pounds per ton of clinker for any long dry kiln averaged over 30 days. The RACT rule requires 4.4 and 6.0 pounds per ton of clinker produced on a thirty-day average basis, respectively, and 5.9 and 10.8 pounds per ton of clinker produced on a daily basis, respectively.

On a thirty-day rolling average basis, low-NO_X burners are expected to have lower emissions than the current requirement in the RACT rule. The expected emission rate is also 64% of the daily RACT requirement for preheater kilns and 47% of the daily RACT requirement for long dry kilns. Low-NO_X burners are a type of technology that, once installed, can not be bypassed or taken off-line unless the entire kiln is shut down. 326 IAC 10–3 requires that the low-NO_X burners be installed, operated and maintained. Keeping these burners properly maintained should ensure that they provide a relatively constant effect on NO_X emissions. Hence, EPA believes that the significantly lower expected emissions from having the low-NO_X burners installed should ensure that for cement kilns in Clark and Floyd Counties with low-NO_X burners installed 326 IAC 10–3 is as stringent as the applicable emission limits in 326 IAC 10–1. The State is also expected to submit supporting documentation with its final plan submittal.

326 IAC 10–3–3 Emission Limits. IDEM included an emission limit option at subdivision(a)(2), in which a unit could meet emission limits that were determined to be the equivalent of 30% reduction from the industry-wide average in the FIP proposed October 21, 1998 (63 FR 56393). The proposed FIP and the supporting documents have been used as tools for evaluating cement kiln provisions in State rules. While EPA agrees that the emission limit option can be provided, it was not proposed as part of the FIP and certain elements need to be incorporated into the State's rule to make it viable. The preamble to the FIP listed these emission limits to be based on a 30 day average. The State has asserted that the NO_X SIP Call is for the purposes of addressing regional transport on a seasonal basis. EPA has reconsidered the averaging time for these limits and determined that a seasonal average can be appropriate as long as the State adds compliance language to indicate that if the limit is exceeded at any time in the season, it constitutes a separate violation for every day in the season unless the unit can demonstrate otherwise. IDEM's final rule includes this language.

Under 326 IAC 10–3–3 (a)(3), IDEM has an emission limit option which allows a reduction equivalent to 30% subject to IDEM and EPA approval. EPA agrees that again, this is a reasonable approach to achieving the emissions decreases intended by the NO_X SIP Call. The approach in the submitted draft rule is a variation of the industry-wide average emissions rate provision described in the proposed FIP. It uses actual, measured uncontrolled emissions to set the baseline rate and then requires a 30 percent reduction from that baseline.

While this approach provides flexibility to sources and may reduce costs, we are concerned that the site-specific emissions baseline needs to be carefully determined. Due to the large variability of emissions at cement kilns cited in comments we received on the FIP proposal, and confirmed in the September 19, 2000, EC/R Incorporated report referenced above, we believe that short-term emissions testing is not appropriate for establishing a baseline or a seasonal emission average for this compliance option. An unduly high emissions reading with a short-term test could lead to a minimal emissions reduction requirement. Conversely, an unduly low emissions reading could lead to an unrealistically high emissions reduction requirement. For this reason, Indiana must require sources to establish baseline emissions with a CEMS or require in the rule that the 30% reduction be measured from industry wide average—the resulting emission limits being those required in 326 IAC 10–3–3(a)(2). The State has followed the second approach in its final adopted rule.

326 IAC 10–3–4 Monitoring and Testing Requirements. As discussed above, EPA believes IDEM's additional compliance options at 326 IAC 10–3–3 (a)(2)and (a)(3) to be reasonable, provided reliable seasonal emission averages can be determined. If the cement kiln is complying through subdivision (a)(2) or (a)(3), it needs to determine the seasonal average using an agreed-upon reliable mechanism such as CEMS data. This is due to the variability in NO_X emissions from cement kilns, as referenced above. In discussions with the State, it has agreed that CEMS is the only viable option for compliance with these provisions and IDEM has included the requirement for CEMS, if the unit is complying with one of these emission limit options, as part of its final adopted rule.

326 IAC 10–3–5 Record Keeping and Reporting. Sources that are complying by meeting the emission limits on a pound of NO_X per ton of clinker basis would need to keep daily cement kiln production records to ensure that the emission limits are complied with on at least a 30-day rolling average. Alternatively, if IDEM adds language to clarify that exceeding the emission limit at any time during the ozone control period constitutes a violation for every day in the period, it does not need to make this change. IDEM has included language in the final adopted rule that clarifies the violation issue and requires sources to report the daily cement kiln production records.

9. General SIP Requirements

Indiana's draft submittal did not fully address some of the general requirements required under the NO_X SIP Call for a SIP revision. These requirements must be addressed before EPA can take a final rulemaking action. The requirements include: that resources are available to implement the

program, that the State address the data availability requirements of 40 CFR 51.116, how the SIP provides for compliance with the annual and trienniel reporting requirements set forth in 40 CFR 51.122, that the State has the legal authority to carry out the SIP revision, and information that the general testing, inspection, enforcement and complaint mechanisms required under 40 CFR 51.121(f)(1) and 40 CFR 51.212 are in place to support implementation of this rule.

I. What Additional Significant Changes Has IDEM Incorporated in Response to Comments?

IDEM received comments on several aspects of its preliminarily adopted rule. EPA understands that several changes have been made to the final adopted rule to respond to these comments, as discussed above. In addition, EPA also sees the following changes as being reasonable for the reasons discussed below. Indiana posted final adopted rules on its website on June 14, 2001. *See http://www.state.in.us/idem/oam/standard/Sip/index.html.*

1. Blast Furnace Gas Units

The final adopted rule would include the regulating of blast furnace gas units under 326 IAC 10–3, as opposed to 326 IAC 10–4, as originally proposed. Since these units have a relatively low emission rate on a lb/mmBtu basis, IDEM was not anticipating requiring them to make reductions under the trading program. EPA generally requires, under the NO_X SIP Call, that if any type of unit in a category is regulated by the NO_X SIP Call trading program, the entire category must be covered by the trading program. This prevents production from getting shifted out of the trading program while it appears that units within the trading program have reduced their seasonal NO_X emissions. However, since the entire blast furnace gas boiler category is not included in the trading program, there is no possibility of shifting production of steel within the State from a unit covered by the trading program to one outside the program. Indiana has also argued that, because the availability of blast furnace gas is limited based on steel production, the shifting of production out of the trading program is prohibitive.

Since IDEM did not envision these units contributing to the reductions required in the State, removing them from the trading program will have no net effect on the amount of total reductions achieved. The most significant effect is that the emissions are being removed from the trading portion of the overall budget and hence the trading portion of the budget has been revised in the final adopted rule.

In IDEM's final adopted rule, it removed the blast furnace gas boilers' uncontrolled 2007 emissions from the trading budget. IDEM then developed an emission factor for the sources based on those uncontrolled emissions and 2007 projected heat inputs from the units. Since these units are not contributing to the required reductions, this emission factor was established to effectively limit the blast furnace gas units emissions assuming the growth factors in the NO_X SIP Call. Since this modification does not impact the reductions being achieved under IDEM's proposed rule, EPA proposes to approve this rule modification.

2. Definition of ''Repowered Natural Gas-Fired Units''

IDEM's final adopted rule adds new language to define repowered natural gas-fired units''. This term is defined for the purpose of determining the allowance allocations for these units. Since the addition of this term only affects the way that allowances are allocated, this rule modification also appears acceptable.

3. Utilization Correction for New Units

IDEM's submitted draft rules would have required an additional deduction of allowances from new sources. The deduction would have been to account for actual utilization of the unit as opposed to the projected utilization. This interpretation was more stringent than necessary as it could potentially permanently remove NO_X allowances from the trading program for emissions that had not occurred. The NO_X SIP Call model rule requires a similar correction based on actual utilization but intends for the excess allowances to be returned to the set aside instead of completely removing them from the trading program. The State's final adopted rule takes a slightly different approach. It requires any allowances remaining in a new NO_X budget unit's account at the end of each season to be returned to the new source set aside. Although this approach is different than used in the model trading rule, it should ensure the integrity of the trading program and that the NO_X budget is being met.

4. Centralized Recordkeeping

IDEM's final adopted rules allow recordkeeping at a central location. EPA discussed these recordkeeping requirements at length with the State. EPA was only able to agree to the provisions, under certain circumstances, for sources not participating in the trading program. The State choose to retain the provisions throughout the rule (since it had determined that the centralized recordkeeping could be acceptable to the State). However, the State also added language to clarify that the central recordkeeping provisions do not override or alter any of the record retention requirements for a source under 40 CFR part 75. (Since the recordkeeping requirements in 40 CFR part 75 need to be required for federal SIP approval.)

These recordkeeping requirements are included in three parts of the final adopted rule and apply to: (1) Units burning only natural gas or fuel oil during the ozone control period with potential NO_X mass emissions for the ozone control period twenty-five (25) tons or less; (2) Retired units; and (3) NO_X Budget Units covered by the trading program. As mentioned above, to the extent these units are required to comply with 40 CFR part 75, these centralized recordkeeping provisions do not alter those requirements. For example, each unit under the trading program must, as required by part 75, maintain its records on-site. Furthermore, any unit with an exemption based on part 75 monitoring, demonstrating 25 tons or less of emissions, must maintain records on-site and in accordance with part 75. Since the State has been explicit in its rule that the 40 CFR part 75 requirements stay in place, the centralized recordkeeping requirements appear acceptable.

5. Allocation Methodology

The final adopted rule incorporates several changes to the State's NO_X allowance allocation methodology. The State has provided more concise definitions of the projects that qualify for allowances from the energy efficiency and renewable energy set aside, for example. The State has also replaced the allocation methodology for existing non-EGUs with a table specifying the allowances that will be allocated to each non-EGU. EPA has reviewed the revisions to the allocation methodologies and determined that they do not adversely affect the State's demonstration that it meets the NO_X SIP Call budget. The changes only affect how the allowances will be allocated and do not affect the number of allowances that will be allocated. For these reasons, these changes appear acceptable.

III. Proposed Action

A. What Action Is EPA Proposing Today?

EPA proposes to approve Indiana's submitted plan as a revision to the SIP to fulfill the Phase I NO_X SIP Call requirements, if Indiana corrects the deficiencies discussed in this document and does not make additional significant revisions not discussed in this document. The submitted plan includes a budget demonstration, supporting materials and the NO_X SIP rules for cement kilns (326 IAC 10–3) and the trading program for EGUs, large non-EGU boilers and turbines and opt-in sources (326 IAC 10–4). The rules achieve 30% reductions from cement kilns, the equivalent of a 0.15 lb/mmBtu limit on EGUs and 60% reductions from large non-EGU boilers and turbines. In the alternative, if Indiana does not address the identified deficiencies, EPA is proposing to disapprove this plan.

Indiana adopted final rules on June 6, 2001. EPA has not concluded its analysis of these final adopted rules and the associated plan. However, based on our preliminary review and conversations with the State, we expect that the rules will address the deficiencies identified in this proposal. These final adopted rules are available on Indiana's website at: *http://www.state.in.us/idem/oam/standard/Sip/index.html.*

B. What Happens if Indiana Does Not Address the Deficiencies Identified or Has Significantly Changed the Regulations During the Final Adoption Process?

Since the EPA is proposing to rulemake on the Indiana NO_X plan under parallel processing procedures, it notes the possibility exists that Indiana will submit a final version of the plan which differs significantly from the version of the plan reviewed in this proposed rulemaking.

If the State makes significant changes to the plan as a result of its public comment and adoption process and based on further deliberation and/or on comments other than based on the discussion and deficiencies noted above, the EPA will need to re-evaluate the rules through a new proposed rulemaking. If, on the other hand, the State only makes changes in the plan to correct the deficiencies identified in this proposed rule consistent with the analysis presented here, the EPA will proceed to final approval rulemaking after considering public comments received in writing during the public comment period on this proposed rule.

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 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 (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 State rules 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

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

Dated: June 25, 2001.

David A. Ullrich,

Acting Regional Administrator, Region 5.

[FR Doc. 01–16568 Filed 6–29–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI103–7333; FRL–7005–3]

Approval and Promulgation of Implementation Plans; Wisconsin; Ozone

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On December 22, 2000, the Wisconsin Department of Natural Resources submitted a revision to its State Implementation Plan for attainment of the one-hour ozone standard. The submittal includes, among other things, air quality modeling, rules to reduce emissions of ozone forming pollutants (i.e., nitrogen oxides (NO_X) and volatile organic compounds (VOC)), and a plan demonstrating how progress in emission reductions will be achieved through the area's attainment date of 2007 (i.e., Rate of Progress Plan (ROP)). In this action, EPA is proposing to approve the attainment demonstration, the NO_X

rules, the VOC rules, and the post-1999 ROP plan. We find the attainment year emissions budgets to be adequate for conformity. We are revising the NO_X waiver to reflect NO_X emission reductions in the Wisconsin nonattainment area that were included in the attainment modeling. We are proposing approval of a reasonably available control measure (RACM) analysis submitted by the state. We are also proposing to approve commitments by the state to complete a mid-course review of the attainment status of the one-hour ozone nonattainment area and to recalculate conformity budgets within one year of the release of MOBILE6.

DATES: EPA must receive written comments on or before August 1, 2001.

ADDRESSES: Written comments should be sent to: Carl Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of Wisconsin's submittal and EPA's Technical Support Document (TSD) for this proposed rule, and other relevant materials are available for public inspection during normal business hours at the following addresses: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604 (Please telephone Randy Robinson at (312) 353–6713 before visiting the Region 5 office.)

FOR FURTHER INFORMATION CONTACT: Randy Robinson, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 353–6713, E-Mail Address: robinson.randall@epamail.gov

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background

1. Basis for Wisconsin's Attainment Demonstration SIP

What Are the Relevant Clean Air Act Requirements?

The Clean Air Act (Act or CAA) requires EPA to establish National Ambient Air Quality Standards (NAAQS) for certain widespread pollutants that cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare. In 1979, EPA promulgated the one-hour ground-level ozone standard of 0.12 parts per million (ppm) (120 parts per billion [ppb]). 44 FR 8202 (February 8, 1979).

Ground-level ozone is not emitted directly by sources. Rather, volatile organic compounds (VOC) and oxides of nitrogen (NO_X), which are emitted by a wide variety of sources, react in the presence of sunlight to form ground-level ozone. NO_X and VOC are referred to as precursors of ozone.

An area exceeds the one-hour ozone standard each time an ambient air quality monitor records a one-hour average ozone concentration above 0.124 ppm in any given day (only the highest one-hour ozone concentration at the monitor during any 24-hour day is considered when determining the number of exceedance days.) An area violates the ozone standard if, during three consecutive years, more than three days of exceedances occur at any monitor in the area or in its immediate downwind environs.

The highest of the fourth-highest daily peak ozone concentrations over the three-year period at any monitoring site in the area is called the ozone design value for the area. Section 107(d)(4) of the Act, as amended in 1990, required EPA to designate as nonattainment any area that was violating the one-hour ozone standard, generally based on air quality monitoring data from 1987 through 1989. 56 FR 56694 (November 6, 1991). The Act further classified these areas, based on the area's ozone design values, as marginal, moderate, serious, severe, or extreme. Marginal areas were suffering the least significant ozone nonattainment problems, while the areas classified as severe and extreme had the most significant ozone nonattainment problems.

The control requirements and date by which attainment is to be achieved vary with an area's classification. Marginal areas are subject to the fewest mandated control requirements and had the earliest attainment date, November 15, 1993. Severe and extreme areas are subject to more stringent planning requirements but are provided more time to attain the standard. Serious areas were required to attain the one-hour standard by November 15, 1999, and severe areas are required to attain by November 15, 2005 or November 15, 2007, depending on the areas' ozone design values for 1987 through 1989. The Milwaukee-Racine nonattainment area is classified as severe and its attainment date is November 15, 2007. The Milwaukee-Racine nonattainment area includes the counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha. Door and Manitowoc Counties also remain in nonattainment status. Manitowoc County was classified as a moderate area in response to the 1990 CAA Amendments and had an original attainment date of 1996. Since Manitowoc County is downwind of Milwaukee and subject to ozone transport, EPA completed an overwhelming transport rulemaking in 1997 (62 FR 39446), which made Manitowoc's attainment date the same as Milwaukee's date of 2007. Door County remains a rural transport nonattainment area.

An attainment demonstration SIP includes a modeling analysis component showing how the area will achieve the standard by its attainment date and the control measures necessary to achieve those reductions. Section 172(c)(6) of the Act requires SIPs to include enforceable emission limitations, and such other control measures, means, or techniques as well as schedules and timetables for compliance, as may be necessary to provide for attainment by the applicable attainment date. Section 172(c)(1) requires the implementation of all reasonably available control measures (including Reasonably Available Control Technology [RACT]) and requires the SIP to provide for attainment of the NAAQS. Section 182(b)(1)(A) requires the SIP to provide for specific annual reductions in emissions of VOC and NO_X as necessary to attain the ozone NAAQS by the applicable attainment date. Finally, section 182(j)(1)(B) requires the use of photochemical grid modeling or other methods judged to be at least as effective to demonstrate attainment of the ozone NAAQS in multi-state ozone nonattainment areas. As part of today's proposal, EPA is proposing action on the attainment demonstration SIP revisions submitted by Wisconsin for the Milwaukee-Racine severe ozone nonattainment area and its associated ozone modeling domain.

The attainment demonstration SIPs must also include motor vehicle emission budgets for transportation conformity purposes. Transportation conformity is a process for ensuring that states consider the effects of emissions associated with federally-funded transportation activities on attainment of the standard. Attainment demonstrations must include the estimates of motor vehicle VOC and NO_X emissions that are consistent with attainment, which then act as a budget or ceiling for the purpose of determining whether transportation plans, programs, and projects conform to the attainment SIP.

What Is the History of the State Attainment Demonstration SIP?

Notwithstanding significant efforts by the states, in 1995 EPA recognized that many states in the eastern half of the United States could not meet the November 1994 time frame for submitting an attainment demonstration SIP because emissions of NO_X and VOC in upwind states (and the ozone formed by these emissions) affected these nonattainment areas and the full impact of this effect had not yet been determined. This phenomenon is called ozone transport.

On March 2, 1995, Mary D. Nichols, EPA's then Assistant Administrator for Air and Radiation, issued a memorandum to EPA's Regional Administrators acknowledging the efforts made by the states but noting the remaining difficulties in making attainment demonstration SIP submittals.[1] Recognizing the problems created by ozone transport, the March 2, 1995 memorandum called for a collaborative process among the states in the eastern half of the Country to evaluate and address transport of ozone and its precursors. This memorandum led to the formation of the Ozone Transport Assessment Group (OTAG)[2] and provided for the states to submit the attainment demonstration SIPs based on the expected time frames for OTAG to complete its evaluation of ozone transport.

In June 1997, OTAG concluded and provided EPA with recommendations regarding ozone transport. The OTAG generally concluded that transport of ozone and the precursor NO_X is significant and should be reduced regionally to enable states in the eastern half of the country to attain the ozone NAAQS. Building on the OTAG recommendations and technical analyses, in November 1997, EPA proposed action addressing the ozone transport problem. In its proposal, the EPA found that current SIPs in 22 states and the District of Columbia (23 jurisdictions) were insufficient to provide for attainment and maintenance of the one-hour standard because they did not regulate emissions that significantly contribute to ozone transport. 62 FR 60318 (November 7, 1997). The EPA finalized that rule in September 1998, calling on the 23 jurisdictions to revise their SIPs to require NO_X emission reductions within each state to a level consistent with a NO_X emissions budget identified in the final rule. 63 FR 57356 (October 27, 1998). This final rule is commonly referred to as the SIP Call. EPA is also requiring regional NO_X emission reductions under its authority in section 126 of the Act to assure that reductions occur in upwind areas that have been shown to impact attainment of the ozone standard in downwind areas. Wisconsin was originally one of the 23 areas subject to the NO_X emission reductions specified in the SIP Call. However, a March 3, 2000 Circuit Court ruling on the SIP Call, among other things, vacated and remanded EPA's decision to include Wisconsin. Thus, Wisconsin is not currently subject to the SIP Call requirements. However, Wisconsin benefits greatly from the upwind NO_X reductions and in fact is reliant upon them to reach attainment.

In recognition of the length of the OTAG process, in a December 29, 1997 memorandum, Richard Wilson, EPA's then Acting Administrator for Air and Radiation, provided until April 1998 for states to submit the following elements of their attainment demonstration SIPs for serious and higher classified nonattainment areas: (1) Evidence that the applicable control strategy measures in subchapter I, part D, subpart 2, of the Act, were adopted and implemented or that the state was on a course to adopt and implement the measures expeditiously; (2) a list of measures needed to meet the remaining ROP emissions reduction requirement and to reach attainment; (3) for severe areas only, a commitment to adopt and submit, by the end of 2000, target calculations for post-1999 ROP, the control measures necessary for attainment, and ROP plans through the attainment year; (4) a commitment to implement the SIP control programs in a timely manner and to meet ROP emissions reductions and attainment; and (5) evidence of a public hearing on the state submittal.

Wisconsin submitted the required elements on April 30, 1998. EPA published a rulemaking on December 16, 1999 (64 FR 70531), which proposed approval of the April 1998 submittal conditioned on the state conducting and submitting some additional material. The December 16, 1999 rulemaking conditioned final approval upon submittal of the following items.

1. A final modeled demonstration of attainment that considers the impacts of the regional NO_X emission reductions and local control measures and clearly identifies an attainment strategy.

2. Adoption and submission of all required CAA measures, including VOC RACT for plastic parts coating, industrial clean-up solvents, and ink manufacturing, and adoption and submission of measures relied on in the final modeled attainment demonstration.

3. Motor vehicle emission budgets for both VOC and NO_X.

4. Control measures necessary to meet the ROP requirement from 1999 to the attainment year of 2007, including target calculations

5. A commitment to perform a mid-course review and submit it by December 2003.

On July 28, 2000 (65 FR 46383), EPA published a supplemental notice of proposed rule titled ''Motor Vehicle Emissions Budgets in Attainment Demonstration for the One-Hour National Ambient Air Quality Standard for Ozone.'' The notice discusses the need to commit to recalculate emission budgets using MOBILE6 within one-year after the models formal release if the attainment demonstration for the area relies on the Tier 2 program. The updated attainment demonstration for Wisconsin relies on Tier 2 so the state is subject to the MOBILE6 commitment.

What Is the Time Frame for Taking Action on the Attainment Demonstration SIPs?

EPA's December 16, 1999, proposed conditional approval required a new submittal by December 2000, which would replace the April 1998 submittal with updated and additional elements. EPA views the December 2000 submittal as a replacement to the April 1998 submittal. EPA, therefore, is not finalizing the December 16, 1999 proposed conditional approval, but rather reproposes it in this notice based on the new information in the December 2000 submittal. EPA will respond to comments received on the December 16, 1999 proposed rulemaking in conjunction with comments received on today's proposed rulemaking.

As a result of a settlement agreement with the National Resource Defense Council[3], EPA must propose a full attainment demonstration Federal Implementation Plan (FIP) by October 15, 2001, for any severe one-hour ozone nonattainment area attainment demonstrations that have not been fully approved by that date. If the attainment demonstration has not been fully

[1] Memorandum, ''Ozone Attainment Demonstrations,'' issued March 2, 1995. A copy of the memorandum may be found on EPA's web site at: *http://www.epa.gov/ttn/oarpg/t1pgm.html.*

[2] Letter from Mary A. Gade, Director, State of Illinois Environmental Protection Agency to Environmental Council of States (ECOS) Members, dated April 13, 1995.

[3] The National Resource Defense Council filed a complaint on November 8, 1999 against EPA, alleging that EPA had an outstanding obligation to promulgate federal implementation plans demonstrating attainment for several serious and severe ozone nonattainment areas.

approved by June 14, 2002, EPA must finalize the FIP by that date. EPA anticipates proceeding with a final approval of the Wisconsin SIP revision by the October 15, 2001 deadline.

2. Framework for Proposing Action on the Attainment Demonstration SIP

What Modeling Guidance Was Available To Develop and Review the Attainment Demonstration Submittal?

The EPA provides guidance for analyzing attainment of the one-hour standard for ozone. The following documents contain EPA's guidelines affecting the content and review of ozone attainment demonstration submittals:

1. *Guideline for Regulatory Application of the Urban Airshed Model,* EPA–450/4–91–013, July 1991. Web site: *http://www.epa.gov/ttn/scram/* (file name: ''UAMREG'').
2. Memorandum, ''The Ozone Attainment Test in State Implementation Plan (SIP) Modeling Demonstrations,'' from Joseph A. Tikvart, Office of Air Quality Planning and Standards, December 16, 1992.
3. *Guidance on Urban Airshed Model (UAM) Reporting Requirements for Attainment Demonstrations,* EPA–454/R–93–056, March 1994. Web site: *http://www.epa.gov/ttn/scram/* (file name: ''UAMRPTRQ'').
4. Memorandum, ''Ozone Attainment Demonstrations,'' from Mary D. Nichols, Assistant Administrator for Air and Radiation, March 2, 1995. Web site: *http://www.epa.gov/ttn/oarpg/t1pgm.html.*
5. *Guidance on the Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS,* EPA–454/B–95–007, June 1996. Web site: *http://www.epa.gov/ttn/scram/* (file name: ''O3TEST'').
6. Memorandum, ''Guidance for Implementing the one-hour Ozone and Pre-Existing PM10 NAAQS,'' from Richard Wilson, Office of Air and Radiation, December 29, 1997. Web site: *http://www.epa.gov/ttn/oarpg/t1pgm.html.*

What Are the Modeling Requirements for the Attainment Demonstration?

For purposes of demonstrating attainment, the Act requires nonattainment areas designated as serious or above to use photochemical grid modeling or an analytical method judged by EPA to be as effective. The photochemical grid model is set up using meteorological conditions conducive to the formation of ozone in the nonattainment area and its modeling domain. Emissions for a base year are used to evaluate the model's ability to reproduce monitored air quality values. Following validation of the modeling system for a base year, emissions are projected to an attainment year to predict air quality changes in the attainment year due to the emission changes, which include growth up to and controls implemented by the attainment year. A modeling domain is chosen that encompasses the nonattainment area. Attainment is demonstrated when all predicted ozone concentrations inside the modeling domain are at or below the ozone standard or an acceptable upper limit above the standard permitted under certain conditions by EPA's guidance. When the predicted concentrations are above the standard or upper limit, EPA guidance allows an optional weight-of-evidence determination, which incorporates other analyses, such as air quality and emissions trends, to address uncertainty inherent in the application of photochemical grid models. States may use this latter approach under certain circumstances to support the demonstration of attainment.

The EPA guidance identifies the features of a modeling analysis that are essential to obtain credible results. First, the state must develop and implement a modeling protocol. The modeling protocol describes the methods and procedures for the modeling analyses and provides for policy oversight and technical review by individuals responsible for developing or assessing the attainment demonstration (state and local agencies, EPA, the regulated community, and public interest groups). Second, for purposes of developing the information to put into the model, the state must select air pollution days, (i.e., days in the past with high ozone concentrations exceeding the standard) that are representative of the ozone pollution problem for the nonattainment area. Third, the state must identify the appropriate dimensions of the area to be modeled, (i.e., the modeling domain size). The domain should be larger than the designated nonattainment area to reduce uncertainty in the boundary conditions and should include any large upwind sources just outside the nonattainment area. In general, the domain is the local area where control measures are most beneficial to bring the area into attainment. Alternatively, a much larger modeling domain may be established, addressing the impacts of both local and regional emission control measures on a number of ozone nonattainment areas. In both cases, the attainment determination is based on the review of ozone predictions within the local area where control measures are most beneficial to bring the area into attainment (referred to as the local modeling domain). Fourth, the state must determine the grid resolution. The horizontal and vertical resolutions in the model affect the dispersion and transport of emission plumes. Artificially large grid cells (too few vertical layers and horizontal grids) may dilute concentrations and may not properly consider impacts of complex terrain, complex meteorology, and land/water interfaces. Fifth, the state must generate meteorological and emissions data that describe atmospheric conditions and emissions inputs reflective of the selected high ozone days. Finally, the state must verify that the modeling system is properly simulating the chemistry and atmospheric conditions through diagnostic analyses and model performance tests (generally referred to as model validation). Once these steps are satisfactorily completed, the model is ready for use to generate air quality estimates to support an attainment demonstration.

The modeled attainment test compares model predicted one-hour daily maximum ozone concentrations in all grid cells for the attainment year to the level of the ozone standard. A predicted peak ozone concentration above 0.124 ppm (124 ppb) indicates that the area is expected to exceed the standard in the attainment year. This type of test is often referred to as an exceedance test. The EPA's June 1996 guidance recommends that states use either of two exceedance tests for the one-hour ozone standard: a deterministic test or a statistical test.

The deterministic test requires the state to compare predicted one-hour daily maximum ozone concentrations for each modeled day [4] to the attainment level of 0.124 ppm. If none of the predictions exceed 0.124 ppm, the test is passed.

The statistical test includes a modeled test in which three benchmarks should be passed. First, the number of days with predicted exceedances in defined locations should not be greater than a specified number. Second, for episode days in which modeled exceedances are allowed, predicted daily maxima should not exceed a certain value. This value depends on the severity (in terms of the ability of the meteorology to form high levels of ozone) of the selected episode as well as the shape of distributions of observed daily maxima at sites which currently just attain the NAAQS. Third,

[4] The initial, ''ramp-up'' days for each episode are excluded from this determination.

for each day with an allowed exceedance, improvement in the number of hourly occurrences with predicted ozone greater than 124 ppb should be at least 80%. Thus, if the state models a severe day (considering meteorological conditions that are very conducive to high ozone levels) the statistical test provides that a prediction above 0.124 ppm up to a certain upper limit may be consistent with attainment of the standard.

What Additional Analyses May Be Considered?

As with other predictive tools, there are inherent uncertainties associated with modeling and its results. For example, there are uncertainties in the modeling inputs, such as the meteorological and emissions data bases for individual days and in the methodology used to assess the severity of an exceedance at individual sites. In light of these limitations, additional analyses may be considered. In particular, EPA's guidance explicitly recognizes that when the modeling does not demonstrate that the area will attain the standard, the state may present additional analyses. The process by which this is done is called a weight-of-evidence determination.

Under a weight-of-evidence determination, the state may rely on, and EPA will consider, factors such as: model performance and results, episode selection, other modeled attainment tests, e.g., relative reduction factor analysis; other modeled outputs, e.g., changes in the predicted frequency and pervasiveness of exceedances and predicted changes in the design value; actual observed air quality trends; estimated emission trends; analyses of air quality monitored data; the responsiveness of the model predictions to further controls; and whether there are additional control measures that are or will be approved into the SIP but were not included in the modeling analysis. This list is not an exhaustive list of factors that may be considered, and these factors may vary from case to case.

The EPA's guidance does not state how close a modeled attainment test must be to passing to allow consideration of other evidence besides an attainment test to determine attainment. However, the further an area is from passing a modeled attainment test, the more compelling the weight-of-evidence must be.

Besides the Modeled Attainment Demonstration, What Other Issues Must Be Addressed in the Attainment Demonstration SIP?

In addition to the modeling analysis and weight-of-evidence determination demonstrating attainment, the EPA has identified the following key elements which must be present for EPA to approve the one-hour attainment demonstration SIP.

Clean Air Act measures and other measures relied on in the modeled attainment demonstration state implementation plan. The attainment demonstration must incorporate the emission impacts of, and the SIP submittal must address the rule development for, CAA measures and any additional emission control measures needed to achieve attainment. The rules for these emission controls must also have been adopted before the EPA can finally approve the attainment demonstration. The emission controls for these sources must be implemented prior to the beginning of the ozone season in the attainment year.

For purposes of fully approving the state's SIP, the state must adopt and submit all VOC and NO_X control regulations for affected sources within the state and within the local modeling domain as reflected in the adopted emission control strategy and in the attainment demonstration.

The table below presents a summary of the Act's requirements that must be met for each serious and severe nonattainment area for the one-hour ozone NAAQS. These requirements are specified in sections 172 and 182 of the Act.

Table 1—Clean Air Act Requirements for Severe Nonattainment Areas

- New Source Review (NSR) regulations for VOC and NO_X, including an offset ratio of 1.3:1 and a major VOC and NO_X source size cutoff of 25 tons per year (TPY).
- Reasonably Available Control Technology (RACT) for VOC and NO_X. [5]
- Enhanced Inspection and Maintenance (I/M) program.
- 15 percent Rate-Of-Progress (ROP) plan for VOC through 1996 and a Rate-of-Progress plan through 2007.
- 1990 baseline emissions inventory for VOC and NO_X
- Attainment demonstration.
- Clean Fuels program or substitute.
- Reformulated gasoline.
- RACM.
- Contingency Measures.
- Periodic emissions inventory and source emission statement regulations.
- Stage II vapor recovery.
- Enhanced monitoring Photochemical Assessment Monitoring Stations (PAMS).
- Requirement for fees for major sources for failure to attain.

Motorvehicle emissions bugget Additionally, the Act requires that the attainment demonstration SIP must estimate the motor vehicle emissions that will be produced in the attainment year and must demonstrate that this emissions level, when considered with emissions from all other sources, is consistent with attainment. For transportation conformity purposes, the estimate of motor vehicle emissions in a control strategy SIP such as an attainment demonstration (converted to a typical ozone season week day level) is defined as the motor vehicle emissions budget. The motor vehicle emissions budget must meet certain adequacy criteria, which are listed in the Transportation Conformity Rule (40 CFR part 93, subpart A, section 93.118), before the budget can be approved as part of the attainment demonstration SIP. When a motor vehicle emissions budget is found to be adequate, it is used to determine the conformity of the transportation plans and programs to the SIP, as required by section 176(c) of the Act. An appropriately identified motor vehicle emissions budget is a necessary part of an attainment SIP.

II. Technical Review of the Submittals

A. Summary of the State Submittals

1. General Information

When Were the Ozone Attainment Demonstration State Implementation Plan Revisions Submitted to the Environmental Protection Agency?

Wisconsin submitted its ozone attainment demonstration SIP revisions to EPA on December 22, 2000. Wisconsin held three public hearings on the ozone attainment demonstration SIP revision. A hearing was held in Kenosha on June 27, 2000; in Milwaukee on June 28, 2000; and in Appleton on June 29, 2000.

What Are the Components of the Wisconsin Attainment Demonstration Submittal?

The Wisconsin Attainment Demonstration submittal includes the following elements:

(1) A photochemical modeling analysis of a control strategy designed to

[5] Areas that are currently attaining the one-hour ozone standard or can demonstrate that NO_X controls will not contribute to or will interfere with attainment can request a NO_X waiver under section 182(f). Milwaukee-Racine is such an area and is currently covered by a NO_X waiver.

achieve attainment in the Wisconsin nonattainment counties and in the rest of the Lake Michigan area.

(2) A rate-of-progress (ROP) plan for reducing VOC and NO_X emissions by the required milestone years of 2002, 2005, and 2007.[6]

(3) VOC and NO_X budgets for transportation conformity based on the final attainment demonstration and ROP plan.

(4) An intrastate NO_X rule for electric generating sources in the nonattainment counties starting in 2002.

(5) A trading rule for NO_X compliance.

(6) A VOC RACT rule for industrial clean-up solvents, a draft rule for plastic parts coating, and an order for Flint Ink.

(7)An excess emissions fee rule for VOCs as required by the CAA.

(8) A request to revise the state's Inspection and Maintenance plan to include NO_X limits.

(9) A commitment to conduct a mid-course review of the attainment status of the Lake Michigan area.

(10) A commitment to recalculate conformity budgets using MOBILE6 within one-year of its formal release, and

(11) A request to revise the maintenance plans for Sheboygan and Kewaunee Counties.

Additionally, Wisconsin submitted information addressing Reasonably Available Control Measures (RACM) for transportation and stationary sources.

In this notice, EPA is not acting on the trading rule, the excess emissions fee rule, the revision to the state's Inspection and Maintenance (I/M) plan, or the request to revise the maintenance plans for Sheboygan and Kewaunee Counties. The state has asked that the trading and averaging provisions not be acted on at this time so that EPA and the WDNR can work together to resolve issues with the rules. EPA will process the I/M revision, the excess emission fee rule, and the maintenance plan revisions in separate rulemakings.

The state submittal package, in combination with previous submittals, addresses the five items upon which EPA conditioned the December 16, 1999, proposed approval (i.e., modeled attainment demonstration, VOC rules, motor vehicle emission budgets, ROP plan, mid-course review). Each of the submitted elements will be discussed in the following sections.

2. What Are the Basic Modeling Components of the Submittal?

Illinois, Indiana, and Wisconsin, as members of the Lake Michigan Air Directors Consortium (LADCO), used the same ozone modeling approach. The regional approach is documented in a September 27, 2000 technical support document (TSD) entitled ''Technical Support Document—Midwest Subregional Modeling—one-hour Attainment Demonstration for Lake Michigan Area.'' LADCO is a technical organization originally developed by Illinois, Indiana, Wisconsin, and Michigan to deal with ozone air quality problems in the Lake Michigan area. LADCO conducted the majority of the attainment analysis submitted by Wisconsin. The terms LADCO and state are used interchangeably in the following modeling section.

The heart of the modeling system is the Urban Airshed Model-Version V (UAM–V) developed originally for application in the Lake Michigan area. The state used this photochemical model to model ozone and ozone precursors in a multiple, nested grid system. In the horizontal dimension, the extended modeling domain, referred to as Grid M, extends from −92 west longitude/35 degrees north latitude in the southwest corner to −82.28 degrees west longitude/45.37 degrees north latitude in the northeast corner (borders extend from west-central Wisconsin south to northeast Arkansas east to the western tip of North Carolina and north to include most of the lower peninsula of Michigan.) The regulatory modeling was done with 12 kilometer grid resolution. To assess the sensitivity of the model to grid resolution, some modeling was done using four kilometer grids. The modeled results using four kilometer grid size were generally comparable to the 12 kilometer modeling, although model performance was less satisfactory using the four kilometer grids. Additionally, modeling using four kilometer grid resolution requires much more computer resources than using 12 kilometer grid resolution. The use of 12 kilometer grids provided reasonable results and allowed the state to model more days with a variety of control strategies. Since the four kilometer grid modeling did not add any new information to the analysis and showed results generally comparable to 12 kilometer grid modeling, the attainment demonstration was conducted using 12 kilometer grid spacing. In the vertical dimension, seven layers were used to represent the atmosphere over all of Grid M.

What Meteorological Data Was Used?

UAM–V requires three-dimensional hourly values of various meteorological parameters including winds, temperatures, pressure, water vapor, and vertical diffusivity. The State developed most inputs through prognostic meteorological modeling with RAMS3a Cloud and precipitation fields were developed based on observed National Weather Service data. Early evaluation findings showed that the meteorological model results provided adequate representation of the general airflow features, and good agreement between modeled and measured wind speeds, temperatures, and water vapor. In general, the state determined the results were reasonable and could be used to provide inputs in UAM–V.

What Episodes Were Modeled?

The state used four episodes in the photochemical modeling.

June 22–28, 1991
July 14–21, 1991
June 13–25, 1995
July 7–18, 1995

These episodes were selected because they are representative of typical high ozone episodes in the Lake Michigan area, they reflect a variety of meteorological conditions, there is an intensive data base available from a 1991 field study program, and two were previously modeled for the Ozone Transport Assessment Group (OTAG) studies. While all of the above days were modeled, only a subset of those were used in the attainment demonstration. Some of the days were used for ramp-up purposes. Additionally, only those days that met the model performance specifications were used in the attainment demonstration test.

How Did the States Evaluate Model Performance?

LADCO conducted basecase modeling to evaluate model performance by comparing observed ozone against model predicted ozone. The model performance evaluation included comparisons of the spatial distribution of ozone, the creation and destruction of ozone over time, and the magnitude of measured and predicted values. LADCO modeled four high ozone episodes for use in the attainment demonstration: June and July 1991 and June and July 1995. Basecase modeling involves estimating emissions from the episode time period, developing meteorological data representing the episode, and running the model. The model predicted values are then compared to monitored data from the same time period to evaluate how well the model simulated ozone development and transport. The emissions used in the attainment demonstration were the

[6] The ROP plan for 1996–1999 is being approved in a separate rulemaking document.

latest available, from 1996. For the 1995 episodes the 1996 emissions were used without any modifications. However, for the 1991 episodes, the 1996 emissions were backcasted to 1991 to allow for a more representative evaluation.

Model evaluation criteria are specified in the Environmental Protection Agency's ''Guideline for Regulatory Application of the Airshed Model, EPA–450/4–91–013, July 1991. This document provides statistical guidelines for unpaired peak accuracy (15–20%), normalized bias (5–15%), and normalized gross error (30–35%). The state and Region 5 placed more emphasis on the unpaired peak accuracy statistical guidelines because of its relevance to the regulatory attainment test methodology. The four LADCO episodes comprise 32 days. Model performance statistics were produced for all days. However, only those sets of days that generally fell within EPA's guidelines for model performance were used in the strategy runs and ultimately used for the attainment demonstration. Those days are shown in Table 2 below with negative values in the peak accuracy and normalized bias columns indicating days when the model underpredicted.

TABLE 2.—MODEL PERFORMANCE STATISTICS

Date	Peak Acc. 15–20%	Norm. Bias 5–15%	Norm. Gr. Err 30–35%	Date	Peak Acc. 15–20%	Norm. Bias 5–15%	Norm. Gr. Err 30–35%
6/25/91	18.3	19.3	22.9	6/21/95	9.8	−23.2	25.9
6/26/91	−22.3	0.5	22.2	6/22/95	10.1	2.3	16.1
6/27/91	17.8	4.3	17.7	6/23/95	4.1	−6.7	17.9
6/28/91	−10.1	−12.1	19.0	6/24/95	−18.1	−1.6	17.1
7/16/91	−0.8	−15.9	19.0	6/25/95	15.7	8.3	16.3
7/17/91	−13.1	−16.8	20.5	7/12/95	−19.2	−15.2	19.2
7/18/91	−19.4	−2.8	15.9	7/13/95	−17.4	−14.6	18.9
7/19/91	−19.4	−9.6	20.8	7/14/95	−6.7	−4.3	14.6
7/20/91	20.9	11.7	20.8	7/15/95	1.3	15.4	22.6

In addition to providing performance statistics, Wisconsin submitted information comparing the spatial and temporal representation of the surface ozone concentrations with measured ozone values. The model adequately represented the diurnal variation of ozone production and decay and also generally duplicated the locations where the highest ozone was observed. The model did demonstrate a tendency to underpredict the peak measured values on many, but not all, episode days. Overall, it is reasonable to conclude that model performance is acceptable for air quality planning and attainment demonstration purposes.

How Were the Base Year and Future Year Emissions Derived?

The process of demonstrating attainment in the Lake Michigan area involved investigating numerous control strategies ranging from CAA mandated controls only for VOCs and NO_X to full implementation of the SIP Call NO_X controls across the affected areas. A selection of the specific strategies are summarized below:

Base Emissions (1996). The state used the base year inventory to support the performance evaluation modeling as well as future year modeling. The base year emissions are representative of the modeling episode days and produce modeled concentrations that can be compared to monitored concentrations for performance purposes. The base year emissions were also used to project to the future year of interest and then reduced to reflect a specific control strategy. The base year inventory consisted of emissions for point, area, and mobile sources. Emission rates for point and area sources were provided by either EPA or the states. The emission rates for on-road mobile sources were calculated by EMS–95 based on activity level (i.e., vehicle miles traveled) and the MOBIL5b emission factor model. The latest base year inventory reflects higher speeds than in previous versions, a higher percentage of sport utility vehicles and small trucks, and the excess NO_X produced as a result of built-in defeat devices on heavy-duty diesel vehicles. Biogenic sources were calculated using EPA's Biogenic Emissions Inventory System (BEIS2) model. Isoprene emissions were reduced by 50% in the Ozarks region of Missouri based on analysis of field study data and discussions with EPA.

Future Year Emissions (2007). The state used the future year emissions inventories in the Lake Michigan area modeling that were derived from the base year inventory. Two adjustments were made to the base year inventory to generate future year values. The base year inventory was projected to the 2007 attainment year using growth factors. These adjusted values were then reduced to reflect the various control measures expected to occur by that time.

The growth factors used in the projection of emissions for each source sector are summarized below:

a. *Point sources*—for electric utilities—each state provided company specific data. For certain point sources, a growth factor of ''0'' was used to reflect shutdowns. All remaining point source emission categories growth factors were based on the EPA Economic Growth Analysis System (EGAS).

b. *Area Sources*—For base year emission estimates, growth was based on population. For gasoline marketing categories growth was based on projected gasoline sales. EGAS or state specific surrogates were used for other area source emissions.

c. *Mobile sources*—Vehicle miles traveled (VMT) projections were based on transportation modeling.

d. *Biogenic sources*—No growth was assumed.

How Were the 1996 and 2007 Emission Estimates Quality Assured?

To improve the reliability of the modeling source emission inventories, the state emission inventory personnel, the emission modelers, and the photochemical modelers performed several quality assurance (QA) activities. These activites included:

An Emissions Quality Assurance Plan. A LADCO draft emissions quality assurance plan documented a standardized set of data and file checks. This plan identifies the emissions quality assuance procedures to be followed by the state emission inventory personnel. Each state was responsible for quality assurance of its own emissions inventory data before providing these data to the LADCO emission modelers. The quality assurance of the state's data included the review of several EMS–95 emissions reports for consistency with other state-specific emissions data.

Emission Reports. EMS–95 itself performs a number of emission checks and generates reports flagging possible emission errors and summarizing data that can be checked against alternative emissions data sets/reports. LADCO generated these reports in the preparation of the Grid M emissions data and used them for QA efforts.

Review by Photochemical Modelers. The photochemical modelers quality assured the emissions inventories by generating and reviewing spatial plots of emissions by source sector/type. The review was designed to detect anomalies. The modelers also conducted emission total checks against EMS–95 summary reports.

Stack Parameter Checks. A contractor quality assured the point source emissions data. The contractor discovered errors in the stack parameters and other point source data, including potential errors in gas exit velocities, emission rates, and physical stack parameters, for many point sources in the previous versions of the modeling system emission inventories. This review was distributed to the LADCO states to correct their respective point source emissions data. Some stack data were shifted from the elevated point source data files to the ground-level data files based on adopted screening parameters.

What Control Strategies Were Modeled?

Strategy modeling was used to evaluate the air quality impact of various control scenarios. Over the past several years, the Lake Michigan states modeled 17 different strategies in the analysis. The primary difference between them is the level and spatial distribution of NO_X controls. The following section will discuss just one of those 17 scenarios, the future year attainment strategy. A description of the other strategies is included in the technical support document.

Future Year Attainment Strategy. This control strategy included the following assumptions: Tennessee Valley Authority utility sources at 0.15 pounds (lb) NO_X /million British thermal units (mmBtu), new VOC controls from the Illinois trading rule, Wisconsin modeled with their adopted state rule, Missouri modeled at SIP Call level of NO_X control, internal combustion engines at CAA level of control, increased vehicle miles traveled (VMT) growth for Southeast Wisconsin, consideration of the proposed diesel sulfur rule, reduced carbon monoxide emissions by 12.5% due to low sulfur and nonroad controls, Wisconsin with inspection and maintenance program NO_X cut-points, revised Chicago area transportation network data, updated/corrected MOBILE5 inputs for Illinois, Wisconsin, and Ohio, new boundary conditions considering reductions in Alabama, Tennessee, and Texas, reduced low-level NO_X emissions due to Tier II/low sulfur and nonroad controls.

Tables 3 and 4 below identify the anthropogenic emissions in tons per day associated with the 1996 baseyear strategy and the future year attainment strategy.

TABLE 3.—ANTHROPOGENIC VOC EMISSIONS SUMMARY (TONS PER DAY)

	Point	Area	Motor veh.	Total
Base	2367	6496	3633	12496
Attainment Strategy	1748	5577	2687	10072

TABLE 4.—ANTHROPOGENIC NO_X EMISSIONS SUMMARY (TONS PER DAY)

	Point	Area	Motor veh.	Total
1996 Base	7720	2740	5681	16141
SR Run 17	3833	2482	3230	9545

What Were the Ozone Modeling Results for the Base Period and for the Future Attainment Period?

Table 5 shows the peak value observed for each episode day, the model predicted ozone concentration for that episode day (used for the model performance evaluation), the model predicted ozone concentration for the 1996 basecase scenario, the ozone concentration from the 2007 attainment strategy, and the value allowed by the 1996 attainment test guidance. The model concentrations represent the peak value predicted in the Lake Michigan region of the modeling domain. Concentrations above the level of the one-hour ozone limit are in bold.

TABLE 5.—PEAK OBSERVED AND MODELED CONCENTRATIONS

Episode day	Episode observed value	Model perf. value	Modeled 1996 baseyear value	Attainment strategy 2007 value	Guidance allowed value
6/25/91	104	123	123	110	124
6/26/91	175	136	138	117	124
6/27/91	118	139	127	111	124
6/28/91	138	124	102	95	124
7/16/91	130	129	108	103	124
7/17/91	137	119	89	89	124
7/18/91	170	137	108	109	144
7/19/91	170	137	112	111	130
7/20/91	139	168	150	128	130
6/21/95	112	123	122	118	124
6/22/95	119	131	131	119	130
6/23/95	123	128	128	113	124
6/24/95	166	136	136	126	139

TABLE 5.—PEAK OBSERVED AND MODELED CONCENTRATIONS—Continued

Episode day	Episode observed value	Model perf. value	Modeled 1996 baseyear value	Attainment strategy 2007 value	Guidance allowed value
6/25/95	108	125	124	120	124
7/12/95	146	118	118	104	130
7/13/95	178	147	146	124	137
7/14/95	150	140	140	127	146
7/15/95	154	156	156	128	135

Do the Modeling Results Demonstrate Attainment of the Ozone Standard?

To assess attainment of the one-hour ozone standard, LADCO applied two approaches to review the results of emission control strategy modeling. These two approaches are defined in the Guidance on the Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS (June 1996). The first approach is the deterministic approach and requires that the daily peak one-hour ozone concentrations modeled for every grid cell (in the surface level) be at or below the ozone standard for all days modeled. If there are modeled ozone standard exceedances in only a few grid cells on a limited number of days, this approach can still be used through the use of weight-of-evidence information. As can be seen in Table 5, every strategy run has at least four days that exceed the ozone standard of 124 ppb. Consequently, the Lake Michigan area attainment demonstration does not pass the deterministic attainment test as outlined in the guidance.

The second approach allowed is the statistical approach. This approach permits occasional modeled ozone exceedances and reflects an approach comparable to the monitoring form of the one-hour ozone standard. Under the statistical approach, there are three benchmarks related to the frequency and magnitude of allowed exceedances and the minimum level of air quality improvement after application of emission controls. All three benchmarks must be passed in the statistical approach or, if one or more of the benchmarks are failed, a weight-of-evidence analysis must support the attainment demonstration. However, for the Lake Michigan area demonstration, all parties agreed that although the model performance generally fell within EPA's criteria, the model tended to underpredict on a significant number of days. Benchmark 3 provides a safeguard against cases where photchemical grid model predictions meet EPA performance criteria but tend to underpredict observed concentrations. All three benchmarks and LADCO's results are discussed below.

Benchmark 1. Limits on the number of modeled exceedance days. This benchmark is passed when the number of modeled exceedance days in each subregion is less than or equal to three or N–1 (N is the number of severe days), whichever is less. A subregion is an area roughly equaling 15 square kilometers. A day is considered severe if its ''meteorological ozone forming potential'' is expected to be exceeded less than twice per year. The technique ranked days based on their ozone forming potential using data from 1951 to 1995.[7] Any day with a ranking of 87 or less is considered to be severe. The Lake Michigan Area has 10 modeled days that are considered severe. Consequently, the limit on the number of modeled exceedance days for the Lake Michigan area is three. The attainment strategy had no more than one exceedance in any subregion and the exceedances occurred on days identified as severe. The attainment strategy passed benchmark 1.

Benchmark 2. Limits on the values of allowed exceedances. This benchmark sets acceptable upper limits for daily maximum ozone concentrations based on a ranking of severe days. For most severe days, the maximum modeled ozone concentration shall not exceed 130 ppb. For days that are extremely severe (a ranking of 22 or less in the Lake Michigan analysis), the maximum ozone allowed exceedances are higher. As can be seen from Table 5, the attainment strategy produced concentrations that are below the allowed values and thus passed Benchmark 2.

Benchmark 3. Required minimum level of improvement. Under this benchmark, the number of grid cells with modeled peak ozone concentrations greater than 124 ppb must be reduced by at least 80 percent on each day with allowed modeled ozone standard exceedances. This benchmark is included to provide protection in cases where the model underpredicts observed ozone concentrations; it is not required on days when the model does not underpredict peak values by more than 5%. This benchmark was met for the attainment strategy.

The results of the state modeling indicate that the attainment strategy selected by the state passed all three of the statistical test benchmarks.

What Additional Attainment Information Did the State Provide?

Although the WDNR modeling demonstrates attainment, the state submitted additional analyses. Although not explicitly called for in the guidance, in light of the inherent uncertainties of the modeling analyses, EPA is considering these analyses as components of the weight-of-evidence test.

EPA has developed a draft relative attainment test for use with the eight-hour ozone standard. This guidance is available in a draft document called ''Draft Guidance on the Use of Models and Other Analyses in Attainment Demonstrations for the 8-hour Ozone NAAQS, May 1999.'' LADCO applied this relative test to the Lake Michigan area modeling. The relative test used observation-based design values along with modeled data. The observed design value was multiplied by a relative reduction factor representing the change in modeled ozone between the base year run and the future control strategy run. To demonstrate attainment, the projected future design value must be at or below the NAAQS. The results of the relative attainment test conducted by LADCO are consistent with those of the statistical attainment test. Attainment is demonstrated at all monitoring sites with the controls assumed in the attainment strategy. Table 6 shows the values for the monitoring sites with design values above the one-hour NAAQS and the adjusted value for the

[7] Cox, W.M. and S. Chu (1993), ''Meteorologically Adjusted Ozone Trends in Urban Areas: A Probabilistic Approach'', Atmospheric Environment, 27B, (4) pp. 425–434.

Cox, W.M. and S. Chu, (1996) ''Assessment of Interannual Ozone Variation in Urban Areas from a Climatological Perspective'', Atmospheric Environment 30, pp. 2615–2625.

attainment strategy. Modeled concentrations above the one-hour ozone limit are in bold.

TABLE 6.—RELATIVE REDUCTION ATTAINMENT APPROACH

Monitoring site	Observed design value (ppb)	Attainment strategy (ppb)
Pleasant Praire	131	113
Milwaukee—Bayside	128	113
Harrington—Beach	127	109
Sheboygan	125	108
Manitowoc	127	108
Michigan City	140	119
Holland	133	117
Muskegon	132	117
Mid-lake	140	122

WDNR also supplemented the photochemical modeling with additional air quality analyses. These additional analyses included air quality trends and methods that evaluate the effectiveness of VOC and NO_X controls.

The WDNR attainment demonstration TSD shows the number of exceedance days (monitors recording an hourly value over 124 ppb) and the number of ''hot'' days (i.e., over 90 degrees Fahrenheit) for the period 1981 through 1999. The number of ozone exceedances in the 1990s (89) is significantly lower than the number of exceedances in the 1980s (207). The trends show a clear decrease in the number of exceedance days through the 1980s with a flattening out in the 1990s. Additionally, the 1980s had 194 hot days compared to the 1990s hot days numbering 162. This provides evidence that the air quality improvement seen throughout the two decades is not the sole result of favorable meteorological conditions but rather that VOC and NO_X emission reduction programs implemented over the time period are reducing the amount of ozone being monitored in the Lake Michigan area.

Wisconsin also examined ozone trends information with techniques that filter out the influences of varying meteorology on the ozone concentrations. The state used three methods and the results indicated that daily peak one-hour ozone concentrations at most sites in the Lake Michigan area decreased until the mid-1990s and then leveled off, or slightly increased. A supplementary result found statistically significant downward trends at two sites in southeast Wisconsin, a statistically significant upward trend at a far downwind site, and statistically insignificant trends elsewhere.

The state also examined ozone precursor trends, although data on precursors is extremely limited. Only one site in Milwaukee has as much as 10 years of data. This data shows a decline in VOC concentrations since the mid-1980s. The NO_X data shows a flat to slight decline over the same 10 year period. This information indicates that reductions in VOC emissions have been very effective at reducing ozone levels and that a future control strategy with regional NO_X reductions combined with local VOC reductions should be beneficial. The Lake Michigan area Photochemical Assessment Monitoring Stations (PAMS) began operation in the mid-1990s and will in the future provide useful information on ozone precursor trends.

Lastly, the state used three observation-based analyses to evaluate the relative effectiveness of VOC and NO_X control strategies. The MAPPER program used monitoring data to estimate the extent of photochemical reactivity conditions in the Lake Michigan area. Receptor modeling was used to develop control curves for VOC-ozone and NO_X-ozone. And lastly, ''indicator'' species or ratios of species were used to distinquish between areas where VOC emission reductions versus NO_X emission reductions were most effective. These three analyses indicate that a control strategy featuring regional NO_X emission reductions combined with local VOC controls will be most effective at reducing ozone concentrations in the Lake Michigan area.

In summary, the trends analyses show that there has been considerable progress toward attainment of the one-hour ozone standard in the Lake Michigan area due to the implementation of emission control measures. Monitored levels of ozone have declined significantly over the past 20 years, especially during the 1980s. The reduction in ozone to this point can be attributed largely to the VOC control programs. Future improvements in ozone will rely more on regional NO_X controls. The air quality analysis information is consistent with the overall modeled attainment strategy submitted by WDNR which consists of local VOC controls and regional NO_X controls.

3. State Nitrogen Oxide (NO_X) Rule

What Are the Details of Wisconsin's State NO_X Reduction Rule?

Wisconsin submitted its NO_X regulations to EPA for inclusion in its SIP in response to two requirements: (1) the attainment demonstration requirement that the southeast Wisconsin area will attain the one-hour ozone standard as expeditiously as practicable but no later than 2007, and (2) the rate-of-progress (ROP) provision of the Act that Wisconsin achieve a nine-percent reduction in emissions in each of successive three-year periods until the attainment date of 2007. The reduction of NO_X is not specifically required as part of this area's attainment demonstration or ROP plan, because Wisconsin is not one of the 19 states and the District of Columbia required to reduce NO_x as a result of the EPA's NO_X SIP Call. However, Wisconsin has chosen to reduce NO_X emissions to claim credit toward both the attainment and ROP requirements. Under these circumstances, there is no specific guidance that directly addresses the review or approvability of the submitted NO_X rules. EPA has reviewed the rules, however, to determine consistency with general SIP requirements and, in particular, whether the emission limits are enforceable, are SIP approvable, and will achieve the reductions attributed to them. In general, the Wisconsin NO_X reduction rule contains two basic elements; (1) Combustion optimization and NO_X emission performance standards for existing sources in the nonattainment counties of Kenosha, Milwaukee, Manitowoc, Ozaukee, Racine, Washington, and Waukesha as well as in Sheboygan, and (2) NO_X emission performance standards for new sources in the six severe nonattainment counties (same as above except for Manitowoc and Sheboygan counties). The rules impact electric utility boilers as well as other stationary combustion sources. Details of the rule are discussed in the technical support document.

Is the NO_X Rule Approvable?

The emission limits and combustion optimization on the affected units have appropriate monitoring, recordkeeping, and reporting requirements to make them enforceable. Some sections of the rule contain ''Director's Discretion'' language that would allow the state to approve alternatives to monitoring methods without EPA concurrence. The WDNR has supplemented its package with a letter, dated May 28, 2001, clarifying the ''Directors Discretion'' language. In the letter, WDNR notes that the approval process is outlined in section NR 439.06 of the Wisconsin Admininstrative Code. That section, which EPA has approved as part of Wisconsin's SIP, requires the state to submit alternative or equivalent compliance methods to EPA as source specific SIP revisions. The alternative methods do not become effective until

approved by EPA. This clarification adequately addresses the EPA concerns.

The WDNR also submitted trading/averaging rules for those sources affected by the NO_X reduction rule. Because of concerns that EPA had raised regarding the approvability of this part of the rule, WDNR has requested that EPA not rulemake on the trading/averaging rules at this time. The NO_X rules have independent monitoring, reporting, and recordkeeping requirements and can be approved without the trading and averaging provisions. However, the trading/averaging rules did provide important compliance flexibility to a limited number of sources affected by the NO_X rule. EPA will continue to work with WDNR to develop an approach that provides appropriate flexibility.

4. Volatile Organic Compounds Reasonably Available Control Technology Rules

What Is Required?

Under section 182(b)(2) of the Act, ozone nonattainment areas that are classified as moderate or above must implement RACT to control VOC emissions from stationary sources. Sections 182(b)(2)(A) and (B) require these areas to implement RACT for those source categories for which EPA develops control technology guidelines (CTG). Section 182(b)(2)(C) requires that states develop and implement RACT for major sources of VOCs for which EPA has not issued a CTG document. The EPA was required to develop a CTG for industrial solvent cleaning by November 15, 1993. However, because EPA has not issued a final CTG for industrial solvent cleaning, the requirement of section 182(b)(2)(C) is applicable.

Industrial Solvent Cleaning Operations. As part of the December 2000 SIP package, Wisconsin submitted rules to control VOC emissions from industrial solvent cleaning operations. Sources in the six county severe area with maximum theoretical emissions of 25 tons per year or more, and sources in Kewaunee, Manitowoc, and Sheboygan counties with emissions of 100 tons per year or more are covered by this rule.

Although EPA failed to develop a CTG for industrial solvent cleaning, EPA did develop an Alternative Control Techniques Document (ACT) for industrial cleaning solvents. In the ACT, EPA recommends a two-phased approach. First, facilities would adopt a solvent accounting system to track the use and cost of cleaning solvents used in the plant. Then, plant managers and/or state agencies would take action to reduce emissions, using the information obtained from the accounting system.

Is the VOC RACT Rule for Industrial Clean Ups Approvable?

The VOC RACT rule adopted by Wisconsin is consistent with EPA's guidance. The state appropriately established the rule to cover industrial solvent cleaning operations at major sources in its nonattainment areas. Rather than merely setting up an accounting system and leaving it to the individual plants to determine what action to take, the state prescribed specific VOC content limits, work practice standards, recordkeeping requirements, and add-on control options. The limits and work practice standards all appear to be appropriate for the operations that they are designed to control and are based largely on rules developed by California's South Coast Air Quality Management District. The provision that allows sources to use solvents that have a composite partial vapor pressure of less than or equal to 10 mm of mercury at 20 degrees celsius, rather than meeting the specific VOC content limits, is consistent with the recommendations EPA made for cleaning solvents in the Lithographic Printing Act.

Plastic Parts Coating Operations. Wisconsin submitted a draft non-CTG RACT rule for plastic parts coating operations. The rule will regulate plastic parts coating in three broad industry segments: automotive/transportation, business machines, and miscellaneous. The miscellaneous category includes items such as signs, weather stripping, and shutters.

In the Alternative Control Techniques Document (ACT) mentioned above, EPA presented two suggested control levels based on reformulation for the automotive/transportation and business machine sectors: level 1, a less stringent option and level 2, a more stringent option. In addition, EPA presented an alternative control option, level 4, for automotive/transportation exteriors. This level of control was based on newer, more accurate data. Wisconsin adopted the more stringent level of control, level 2, with the following exceptions: (1) For automotive/transportation interior air-dried nonclear coatings, Wisconsin set a limit between control levels 1 and 2; (2) for automotive/transportation exteriors the state adopted control level 4; (3) for business machine prime coats, the state set level 1 controls; and (4) for business machine nonclear coatings, the state set a limit between control levels 1 and 2. In addition, Wisconsin adopted VOC limits for miscellaneous plastic parts coating, which went beyond what was suggested in the ACT. The state applied these limits to the appropriate sources based on the areas' nonattainment classification and included appropriate recordkeeping requirements. EPA believes the state regulations meet the requirements of the Act as interpreted in EPA's RACT policy.

Are the Plastic Parts Coating Regulations Approvable?

Although the rules submitted in December 2000 are draft, the state has committed to submit a final plastic parts coating RACT rule in time for consideration in our final rulemaking. EPA is recommending approval of the rules if the final rules submitted by the state are substantially the same as the draft rules. If the state significantly modifies the draft rules, EPA would need to provide an additional opportunity for comment before it could take a final approval action.

Flint Ink Facility Order

On October 30, 2000, Wisconsin submitted a revision to its SIP for ozone to establish RACT for the Flint Ink facility located in Milwaukee. The SIP revision requires the use of lids, which is a common VOC control technology. The SIP revision includes an exemption for paste ink, which uses an oily disperser rather than solvents. The Flint Ink facility currently has fully enclosed screens for its existing horizontal mills. The SIP revision requires Flint Ink to comply with leak monitoring and repair provisions. Solvents used for cleaning ink manufacturing equipment must contain no more than 7.5 pounds of VOC per gallon of solvent and be kept in closed containers except while used for cleaning.

Is the Flint Ink SIP Revision Approvable?

The requirements set forth in the Flint Ink SIP revision are appropriate RACT measures and are approvable.

5. Nitrogen Oxide Waiver Revision

Why Is the Waiver Being Revised?

On January 26, 1996, EPA promulgated a NO_X waiver under section 182(f) of the Act for the Lake Michigan ozone nonattainment areas (61 FR 2428). The basis for granting the waiver at the time was that modeling indicated that NO_X reductions in the area would not contribute to or might interere with attainment of the ozone standard in the nonattainment area. In that rulemaking, EPA granted exemptions from the Reasonably Available Control Technology (RACT) and New Source Review (NSR)

requirements for major stationary sources of NO_X and from certain vehicle inspection and maintenance (I/M) and general and transportation conformity requirements for ozone nonattainment areas within the Lake Michigan area modeling domain, including southeast Wisconsin. The rulemaking also stated that EPA would reexamine the effectiveness of NO_X control when acting on the final attainment demonstration for areas within the region. The final demonstration, submitted in December 2000, includes a regional NO_X reduction strategy as the principle means for achieving attainment in the area.

The attainment strategy modeling runs include the Wisconsin NO_X control regulations described earlier. This modeling demonstrates attainment with NO_X reductions from the following counties: Kenosha, Manitowoc, Milwaukee, Ozaukee, Racine, Sheboygan, Washington, and Waukesha. The NO_X controls in the counties include emission limits at large coal fired power plants, emission limits or technology requirements for large industrial sources, implementation of pass/fail cutpoints for motor vehicle inspection and maintenance, and enhanced new source performance standards for major new sources in the six-county severe nonattainment area. The modeling demonstrates that the one-hour ozone standard will be attained due to implementation of the controls stemming from Wisconsin's NO_X and I/M cutpoint rules alone. Consequently, any additional NO_X requirements beyond those described above would be ''excess reductions'' since they would be in excess of the reductions shown to be needed to attain the ozone standard, as defined in section 182(f)(2) of the Act. In this notice, EPA is proposing to revise the waiver to indicate that the basis for the waiver has changed from being that NO_X reductions in the area ''would not contribute to (or might interfere with) attainment'' to additional NO_X reductions beyond those submitted by the state are ''excess reductions'' and are not required for attainment of the ozone standard. While the basis for the NO_X waiver is changed, the effect of the waiver on RACT for major NO_X sources, Lowest Achievable Emission Rate Technology for major new sources in the above mentioned counties, and offsets for major new sources locating in these counties does not change. The waiver is only being modified to no longer apply to the I/M program.

6. Post-1999 Rate-Of-Progress Plan

This section is divided into the following discussions.

A. The Wisconsin Post-1999 ROP Plan

(1) What is a post-1999 ROP plan?
(2) What Wisconsin counties are in the Milwaukee-Racine ozone nonattainment area?
(3) Who is affected by the Wisconsin post-1999 ROP plan?
(4) What criteria must a post-1999 ROP plan meet for approval?
(5) What are the special requirements for claiming NO_X reductions within and outside the nonattainment area boundary and VOC reductions outside the nonattainment area boundary?
(6) How did Wisconsin calculate the needed post-1999 ROP emission reduction requirement?
(A) The apportionment of VOC and NO_X emission reductions for each milestone year.
(B) Baseline emissions.
(C) Milestone year emission target levels.
(D) Projected emission growth levels.
(E) Emission reductions needed to achieve post-1999 ROP, net-of-growth.
(7) What are the criteria for acceptable post-1999 ROP control strategies?
(8) What are the emission control measures in Wisconsin's post-1999 ROP plan?
(A) VOC Control Strategies
(B) NO_X Control Strategies
(9) Are the emission control measures and calculated emission reductions acceptable, and is the post-1999 ROP plan approvable?

B. Contingency Plan

(1) What are the requirements for contingency measures?
(2) How do Wisconsin's attainment demonstration and post-1999 ROP plan SIPs address the contingency measure requirements?
(3) Do the Wisconsin attainment demonstration and post-1999 ROP plan meet the contingency measure requirements?

A. The Wisconsin Post-1999 ROP Plan

(1) *What Is a Post-1999 ROP Plan?* An ROP plan is a strategy to achieve timely periodic reductions of emissions that produce ground-level ozone in areas that are not attaining the ozone National Ambient Air Quality Standards (NAAQS). A post-1999 ROP plan demonstrates how ozone-forming VOC emissions affecting an area will be reduced by three percent per year averaged over three year intervals from 1999 to the area's attainment date.

ROP plans are a requirement of section 182 of Act. Section 182(c)(2)(B) requires states with ozone nonattainment areas classified as serious and above to adopt and implement plans to achieve periodic reductions in VOC emissions after 1996. The requirement is intended to ensure that an area makes steady progress toward attainment of the ozone NAAQS and doesn't delay reductions until the attainment year. The first three-year plan, called the ''post-1996 ROP plan'' should have achieved emission reductions by November 15, 1999. Many states found it difficult to meet the November 15, 1994, submittal date for an attainment demonstration and post-1996 ROP plan, due primarily to an inability to address or control ozone transport. We recognized the efforts made by the states and the challenges in developing technical information and control measures with respect to these submittals in a memorandum entitled ''Ozone Attainment Demonstrations,'' dated March 2, 1995, from Mary D. Nichols, Assistant Administrator for Air and Radiation. The memorandum, in effect, provided new time frames for these SIP submittals and divided the required SIP submittals into two phases. Phase I included post-1996 ROP plans, providing for 9% emission reductions that were to be achieved by the end of 1999. Phase II included the post-1999 ROP plans, providing the remaining ROP SIP measures to be achieved from 1999 through the area's attainment date. Because the Milwaukee-Racine ozone nonattainment area is classified as a severe area, the latest attainment date for the area is November 15, 2007. The state has used this as its attainment date and thus, must show ROP through 2007.

The post-1999 ROP plan will contribute to continued progress toward and ultimate attainment of the ozone standard by the November 15, 2007, attainment date for the Milwaukee-Racine ozone nonattainment area.

Wisconsin submitted a post-1996 plan in 1997. We are taking rulemaking action on the post-1996 ROP plan in a separate **Federal Register** notice. The remainder of the ROP requirement, the post-1999 ROP emission reductions, must also be achieved at a rate of three percent per year relative to the 1990 baseline emissions, net of growth of emissions, averaged over three-year periods.

In lieu of achieving part or all of the post-1999 reductions only from VOC emissions, under section 182(c)(2)(C) of the Act, the post-1999 ROP plan may provide for reductions of NO_X emissions. The substitution of NO_X emission reductions is discussed below in more detail.

In general, the post-1999 ROP plan should contain: (1) Documentation showing how the state calculated the emission reduction(s) needed on a daily basis to achieve the ROP VOC and NO_X emission reductions; (2) a description of the control measures used to achieve the emission reductions; and (3) a description of how the state determined the emission reductions achievable from

each control measure. As discussed in more detail below, Wisconsin's post-1999 ROP plan adequately addresses all of these elements.

EPA's TSD for this proposed action contains the details of Wisconsin's post-1999 ROP plan. You may obtain the TSD for this proposed rulemaking from the Region 5 office at the address indicated above.

(2) *What Wisconsin Counties Are in the Milwaukee-Racine Ozone Nonattainment Area?* The Milwaukee-Racine ozone nonattainment area includes the counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha.

(3) *Who is Affected by the Wisconsin Post-1999 ROP Plan?* The VOC and NO_X control measures in Wisconsin's plan affect a variety of industries, businesses, and motor vehicle owners. To meet the post-1999 ROP emission reduction requirements, Wisconsin established NO_X emission rates for stationary source Electric Generating Units (EGU) and non-EGUs through adoption of a state rule (NR 428). Additional NO_X emission reduction credits are claimed for implementation and enforcement of NO_X cutpoints established through the state's motor vehicle inspection and maintenance program. On-board diagnostic testing of automobiles must be incorporated into the state's overall I/M testing program. The state submitted the NO_X regulations identified in the post-1999 ROP plan for stationary and mobile sources as separate SIP revisions, which must be federally approved prior to or at the same time as the full and final approval of the post-1999 ROP plan. Wisconsin's NO_X stationary source rule (NR428) was submitted in December 2000 as part of the one-hour ozone attainment demonstration and is being approved in another section of this rulemaking. The state also submitted the revision to the motor vehicle inspection and maintenance program for NO_X cutpoints, and we will take action on that revision through a separate **Federal Register** notice and comment rulemaking process.

Wisconsin also claimed VOC emission reductions as a result of continued implementation of the following federally promulgated programs: Phase II of the reformulated gasoline program, on-board diagnostic testing of automobiles, National Low Emission Vehicle (NLEV), Tier 2 and low sulfur fuel.

In aggregate, these VOC and NO_X emission reductions are expected to achieve the post-1999 ROP plan emission reduction requirement.

(4) *What Criteria Must a Post-1999 ROP Plan Meet for Approval?* Section 182(c)(2)(B) establishes the elements that a post-1999 ROP plan must contain for approval. These elements are: (1) an emission baseline; (2) an emission target level; (3) an emission reduction estimate to compensate for emission growth projections and to reach the ROP emission reduction goal; and (4) emission reduction estimates for the plan's control measures. Through these elements, the plan must illustrate that the nonattainment area will achieve a three percent per year average of VOC and/or NO_X emission reductions over each three year interval from 1999 through 2007.

We have issued several guidance documents for states to use in developing approvable post-1996 ROP plans that also apply to post-1999 plans. These documents address such topics as: (1) the relationship of ROP plans to other SIP elements required by the Act; (2) calculation of baseline emissions and emission target levels; (3) procedures for projecting emission growth; and (4) methodology for determining emission reduction estimates for various control measures, including federal measures.

Our January 1994, policy document, *Guidance on the Post-1996 Rate-Of-Progress Plan and the Attainment Demonstration* (post-1996 policy), provides states with an appropriate method to calculate the emission reductions needed to meet the ROP emission reduction requirement. A complete list of ROP guidance documents is in the TSD for this rulemaking.

(5) *What Are the Special Requirements for Claiming NO_X Reductions Within and Outside the Nonattainment Area Boundary and VOC Reductions Outside the Nonattainment Area Boundary?* If a post-1999 ROP plan relies, in part, on NO_X reductions, it is subject to certain additional requirements. As noted above, under section 182(c)(2)(C) of the Act, a plan can substitute NO_X reductions for VOC if the resulting reduction in ozone concentrations is at least equivalent to the ozone reductions that would occur under a plan that relies only on VOC reductions. As required by section 182(c)(2)(C), we issued policy concerning the conditions for demonstrating equivalency (see ''NO_X Substitution Guidance,'' December 1993). Our NO_X substitution policy provides that a ROP plan based in part on a NO_X substitution strategy must show that the sum of the creditable VOC and NO_X reduction percentages (relative to 1990 baseline emissions) equals or exceeds a total of nine percent (that is the total percentage for a three year interval). Moreover, the state must provide technical justification that the NO_X reductions will reduce ozone concentrations within the nonattainment area.

On December 29, 1997, we issued a policy memorandum entitled, ''Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM10 NAAQS'' (December 1997 policy). This policy provides additional guidance on the types of emission reductions that are creditable towards ROP. This guidance provides for flexibility by recognizing emission reductions to meet the post-1996 ROP requirement from areas outside the nonattainment area that contribute to air quality in the nonattainment area. The geographic expansion for emission reductions occurring outside the nonattainment area is limited to an area within 100 kilometers from the nonattainment area boundary for VOC reductions and within 200 kilometers for substitution of NO_X reductions in the absence of additional justification and support from the state. These reductions are subject to the same restrictions as if they were obtained within the nonattainment area. NO_X emissions from sources outside the nonattainment area that are being substituted must be included in the baseline ROP emissions and target ROP reduction calculation.

This policy also applies to measures mandated by the Act and implemented by states that achieve reductions in ozone either from outside or within the nonattainment area including the regional NO_X SIP, Maximum Achievable Control Technology (MACT), Title IV NO_X.

Consequently, NO_X reductions from outside the Milwaukee-Racine ozone nonattainment area, but within 200 kilometers of the nonattainment area boundary, are creditable in the post-1999 ROP plan, as are VOC emission reductions from outside but within 100 kilometers of the nonattainment area boundary. Since Manitowoc and Sheboygan counties are within 100 kilometers of the nonattainment area boundary, both VOC and NO_X emission reductions from those counties are creditable toward post-1999 ROP. The emission reductions from these two counties were accounted for in the 1-hour attainment demonstration modeling which projects attainment of the 1-hour ozone standard in the Milwaukee-Racine nonattainment area by 2007. We believe that the 1-hour ozone modeled attainment demonstration supports the creditability of these outside nonattainment area

VOC and NO_X reduction for post-1999 ROP purposes.

The December 1997 policy also states that there are specific requirements for a nonattainment area which has been granted a NO_X waiver that want to claim NO_X reductions from outside the nonattainment area, but within the state's boundaries. This can be done the State provides an adequate technical justification that the substitution would result in a reduction in ozone concentrations in the nonattainment area with the NO_X waiver. Furthermore, states can claim ROP credits for NO_X reductions from within the nonattainment area for which a NO_X waiver was approved, provided the claim for ROP credits is accompanied by a showing that such NO_X reductions will lead to lower ozone concentrations in the nonattainment area and an amended NO_X waiver request with modeling data supporting the revised NO_X waiver. We granted a NO_X waiver for the Milwaukee-Racine ozone nonattainment area on January 26, 1996 (61 FR 2428). Wisconsin submitted urban-air shed modeling conducted by LADCO in cooperation with the Lake Michigan States of Wisconsin, Indiana, Illinois and Michigan as the basis of the one-hour ozone attainment demonstration modeling. The attainment demonstration modeling, which we are proposing to approve elsewhere in this **Federal Register** document, takes into account an attainment strategy for Wisconsin that incorporates the NO_X emission reductions achieved from the implementation of the I/M NO_X cutpoints in the State's I/M program and the state's stationary source NO_X rule, in conjunction with VOC emission reductions, from both within and outside the Milwaukee-Racine nonattainment area. This modeling shows that the post-1999 ROP VOC and NO_X emission reductions will decrease ozone concentrations to a level that demonstrates projected attainment of the one-hour ozone standard in the Milwaukee-Racine ozone nonattainment area by 2007. Wisconsin, therefore, satisfies the requirement that NO_X reductions inside a NO_X waiver area must reduce ozone concentrations within the nonattainment area to be creditable as ROP reductions.

Moreover, both Sheboygan and Manitowoc counties were granted a NO_X waiver with the January 26, 1996 approval. Consequently, Wisconsin submitted an amended NO_X waiver for these two counties, as well as the six-county Milwaukee-Racine nonattainment area, which we are proposing to approve elsewhere in this **Federal Register** notice. In conclusion, Wisconsin has satisfied the requirements for claiming NO_X ROP credits inside the NO_X waiver area, as well as in areas outside the nonattainment area.

(6) *How Did Wisconsin Calculate the Needed ROP Reduction Requirement?*

(a) The apportionment of VOC and NO_X emission reductions for each milestone year. The post-1999 ROP plan is based on a combination of VOC and NO_X emission reductions both inside and outside of the Milwaukee-Racine ozone nonattainment area but within 200 kilometers of the boundary. To achieve the 9 percent emission reduction for each three-year milestone year, Wisconsin chose the VOC/ NO_X emission reduction combinations presented in Tables 1 and 2.

Tables 7 and 8 summarize the state's post-1999 ROP calculations for determining the target levels and needed ROP emission reductions for each milestone year.

TABLE 7.—REQUIRED VOC REDUCTION BY 2002, 2005, AND 2007

[Rate of progress summary for the Milwaukee-Racine Post-1999 ROP plan area]

Calculation of VOC reduction needs for each milestone year	VOC emissions (tons/day)		
	2002	2005	2007
1990 VOC Emissions	536.4	536.4	536.4
1990 Rate-of-Progress Base Year Emission Inventory (Anthropogenic Only)	406.97	406.97	406.97
Total Non-creditable Emission Reductions from FMVCP and RVP expected by milestone year	81.26	83.06	83.26
1990 Adjusted Base Year Inventory (minus RVP and FMVCP)	325.71	323.91	323.71
Percent VOC Reduction for ROP	3.5	2	1
VOC ROP Reduction (Percent VOC Reduction for ROP * Adjusted Base Year Emissions)	11.40	6.48	3.24
FMVCP Fleet Turnover Correction Factor (FTC) (difference between previous milestone year and applicable milestone year FMVCP implementation)	3.3	1.8	0.2
Previous Milestone Year Target Level of Emissions	248.74	234.04	225.76
Milestone Year Target Level of Emissions (Previous Milestone Year Target level—percent VOC ROP—FTC)	234.04	225.76	222.32
Projected Milestone Year Anthropogenic Emissions	240.57	241.65	242.46
Required Reductions by Milestone Year to Meet the Rate-of-Progress Requirements (Projected—Target Level)	6.53	15.89	20.14

TABLE 8.—REQUIRED NO_X REDUCTION BY 2002, 2005, AND 2007

[Rate of progress summary for the Milwaukee-Racine Post-1999 ROP plan area]

Calculation of NO_X reduction needs for each milestone year	NO_X emissions (tons/day)		
	2002	2005	2007
1990 NO_X Emissions	396.32	396.32	396.32
1990 Rate-of-Progress Base Year Emission Inventory (Anthropogenic Only)	396.32	396.32	396.32
Total Non-creditable Emission Reductions from FMVCP and RVP expected by milestone year	33.2	35.5	36.2
1990 Adjusted Base Year Inventory (minus RVP and FMVCP)	363.12	360.82	360.12
Percent NO_X Reduction for ROP	5.5	7	5
NO_X ROP Reduction (Percent NO_X Reduction for ROP * Adjusted Base Year Emissions)	19.97	25.26	18.01
FMVCP Fleet Turnover Correction Factor (FTC) (difference between previous milestone year and applicable milestone year FMVCP implementation)	4.7	2.3	0.7
Previous Milestone Year Target Level of Emissions	367.82	343.15	315.59

TABLE 8.—REQUIRED NO_X REDUCTION BY 2002, 2005, AND 2007—Continued

[Rate of progress summary for the Milwaukee-Racine Post-1999 ROP plan area]

Calculation of NO_X reduction needs for each milestone year	NO_X emissions (tons/day)		
	2002	2005	2007
Milestone Year Target Level of Emissions (Previous Milestone Year Target level—percent NO_X ROP—FTC)	343.15	315.59	296.88
Projected Milestone Year Anthropogenic Emission	389.3	367.9	353.86
Required Reductions by Milestone Year to Meet the Rate-of-Progress Requirements (Projected—Target Level)	46.15	52.31	56.98

Under our post-1996 policy, the following steps may be used to calculate the needed emissions reduction:

(1) Establish the emission baselines for VOC and NO_X;

(2) Calculate the emission target level to meet the overall 9 percent reduction by the end of each three-year interval or milestone years 2002, 2005 and 2007;

(3) Estimate the projected emission growth that would occur if no ROP emission reduction takes place;

(4) Subtract the projected emission level from the emission target to determine the VOC and NO_X emission reduction needed, net of growth.

Application of these methods to Wisconsin's post-1999 ROP calculations is discussed below.

(b) Baseline emissions. The Act requires that the baseline emissions represent 1990 anthropogenic emissions on a peak ozone season weekday basis. Peak ozone season weekday emissions represent the average VOC and NO_X daily emissions that occur on weekdays during the peak three-month ozone period of June through August. The base year inventory for post-1999 ROP purposes must include 1990 base year emissions for the six county nonattainment area as well as for certain sources in Manitowoc and Sheboygan counties. Base year emissions from Manitowoc and Sheboygan counties must be included because Wisconsin is taking credit for emission reductions that occur in theses counties.

We approved Wisconsin's 1990 base year emission inventory for the Milwaukee-Racine area and Sheboygan and Manitowoc counties on June 15, 1994, 59 FR 30702. Therefore, the area has a comprehensive and accurate inventory of emissions from all relevant sources of VOC and NO_X in the nonattainment area.

Wisconsin identified the 1990 VOC and NO_X base year emission inventories as the basis for the post-1999 ROP calculations with several updates to reflect annual daily vehicle miles travelled (VMT), vehicle type mix, speed distribution for the 6-county area, average speed by HPMS class for Sheboygan and Manitowoc counties, and conversion factors to estimate summer weekday VMT. The total 1990 VOC and NO_X emissions are 536.4 tpd and 396.32 tpd, respectively. The Act requires adjusting the ROP baseline for VOC and NO_X to exclude emissions reductions achieved by the federal Motor Vehicle Control Program (FMVCP), and federal Reid Vapor Pressure (RVP) regulations promulgated before November 15, 1990, state regulations required to correct deficiencies in existing VOC RACT regulations, and state regulations required to correct deficiencies in existing I/M programs. Because these regulations were promulgated or required before the 1990 amendments to the Act, the Act prohibits states from claiming ROP reductions from these regulations. To achieve an accurate ROP target, the state must adjust the baseline to reflect these noncreditable reductions. The resulting inventory is called the ''adjusted base year inventory.''

Wisconsin determined the emission reductions associated with the noncreditable FMVCP and RVP programs by using the MOBILE5a model.

Wisconsin determined that the VOC RACT rule corrections in the state were technical in nature and, therefore, did not require any adjustments to the 1990 emission inventory. Wisconsin was not required to implement an I/M program before the 1990 amendments, and thus did not make adjustments to the 1990 emission inventory for I/M corrections.

Wisconsin provided the 1990 ROP adjusted base year emission inventories for VOC and NO_X for each milestone year.

(c) *Milestone year emission target levels.* After the adjusted base year emission inventory is established, the next step is to calculate the VOC and NO_X emission target level for each milestone year. For the post-1999 plan the milestone years are 2002, 2005, and 2007. The target level of emissions represents the maximum emissions that an area can emit for each of those milestone years while complying with the ROP requirement. Our post-1996 policy provides the method for calculating VOC and NO_X target levels. In general, the milestone year target levels of emissions for VOC and NO_X are determined by adjusting the baseline to account for (1) the percent reduction required to meet the ROP requirement, and (2) the fleet turnover correction (FTC) factor for each milestone year from the previous milestone year target level. In this case, the previous milestone targets for milestone years 2002, 2005 and 2007 are 1999, 2002 and 2005, respectively.

The FTC factor represents the emission reduction that has occurred under the pre-1990 Act FMVCP and RVP regulations between consecutive milestone years, for the post-1999 plan, from 1999 to 2002, 2002 to 2005 and 2005 to 2007. Since the previous milestone year target level and the ROP reduction do not factor in these reductions, the FTC factor is necessary to accurately calculate the emission level that must be achieved by each milestone year.

For the Milwaukee-Racine area's post-1999 ROP plan, it would not be appropriate to use the 1999 VOC target level from the post-1996 ROP plan to calculate the 2002 target level because that plan covered a different geographic area than the post-1999 ROP plan. Thus, Wisconsin recalculated the 1999 VOC target level consistent with the Act.

With respect to the NO_X target level calculations, since the area did not claim NO_X credits in the post-1996 plan, a 1999 NO_X target level of emissions does not exist. The 1999 NO_X target level is then replaced with the 1990 ROP NO_X base year inventory.

Wisconsin provides the methodology and documentation used to determine the VOC and NO_X target levels. The target levels are presented in Tables 1 and 2, above, for VOC and NO_X.

(d) *Projected emission growth levels.* To account for source emission growth between 1990 and each milestone year 2002, 2005 and 2007, the state must develop projected emission inventories

for VOC and NO_X. The projected emission inventories represent the emissions expected in each milestone year if no post-1999 ROP control measures are implemented. The TSD for the post-1999 ROP plan discusses Wisconsin's emission projections for each source category and pollutant.

In general, for NO_X, 1990 actual emissions were used as the basis for projected NO_X emissions, with the exception of point sources, where 1995, 1996 or 1997 emissions, normalized to 1990 were used. We believe that the use of actual normalized 1995, 1996 or 1997 emissions as the basis for 2002, 2005 and 2007 projections is likely to produce a more accurate projection than 1990 emissions, because the projection period is shorter, 7–12 years versus 12–17 years. For VOC, Wisconsin used 1990 emissions as the base year for projections.

Growth factors were either based on Economic Growth Analysis System (EGAS) or were state derived, and were consistent with those projections used in LADCO's attainment demonstration modeling. State specific factors were used when EGAS factors were determined to be inappropriate.

On-road projections were based on the MOBILE5a model with adjustments for Phase 2 RFG (NO_X only), Tier 2 standards/low sulfur gasoline, and excess emissions effect of heavy-duty diesel defeat devices. The state submittal provides mobile input and output files.

Wisconsin based growth projections on VMT coordinated with the Wisconsin Department of Transportation and the Metropolitan Planning Organizations. In addition, Wisconsin added a 7.5 percent growth buffer was added to VMT forecasts to minimize the probability of a transportation conformity failure. Transportation conformity means that the level of emissions from the transportation sector (cars, trucks and buses) must be consistent with the requirements in the SIP to attain and maintain the air quality standards. Section 176(c) of the Act requires conformity of transportation plans, programs and projects to an implementation plan's purpose of attaining and maintaining the air quality standards.

Wisconsin projects on-road mobile source emissions for VOC and NO_X with a number of programs and assumptions incorporated into the emissions modeling. The programs/assumptions are: (a) An increase in NO_X emissions in eight counties due to residual emissions increases after 90% retrofit of defeat devises from the heavy-duty diesel consent decree; (b) inclusion of NLEV vehicles based on local data and forecasts (MOBILE5a default distributions were not used); (c) low sulfur gasoline in eight counties in 2005 and 2007; (d) Tier 2 vehicles in 2005 and 2007; (e) On-board diagnostics (OBD) for model year 1996 and new vehicles; and (f) Phase 2 reformulated gasoline (RFG). Inclusion of these assumptions/programs into the modeling, in general, decreases the projected emissions. Wisconsin's May 25, 2001 supplement identifies several of these programs as VOC control programs for ROP purposes, and as a result, Wisconsin removed these VOC emission reductions from the projected emissions to avoid double counting of the emission reductions. None of these on-road mobile programs has been identified as a ROP measure for NO_X and thus continues to be incorporated into the emission projections. The total projected VOC and NO_X emissions for 2002, 2005 and 2007 for the entire eight county plan area and as identified by Wisconsin are in Tables 1 and 2, above.

(e) Emission reductions needed to achieve post-1999 ROP, net-of-growth. Based on the emission inventories and calculations, the NO_X emission reductions needed for the Milwaukee-Racine ozone area to meet the post-1999 ROP requirement for 2002, 2005, and 2007 are 46.15 tpd, 52.31 tpd, and 56.98 tpd, respectively. The required VOC emissions reductions to meet the post-1999 ROP requirement for 2002, 2005, and 2007 are 6.53 tpd, 15.89 tpd and 20.14 tpd, respectively. For both VOC and NO_X, this is the difference between the projected emissions with growth and with no post-1999 ROP controls and the target level of emissions calculated for each milestone year. Refer to Tables 1 and 2, above.

(7) *What Are the Criteria for Acceptable Post-1999 ROP Control Strategies?* Under section 182(b)(1)(C) of the Act, emission reductions claimed for ROP must be creditable to the extent that the reductions have actually occurred before the applicable ROP milestone date, that is by November 15 of each milestone year, 2002, 2005 and 2007. Furthermore, to be creditable, emission reductions must be real, permanent, and enforceable.

The post-1999 plan must also adequately document the methods used to calculate the emission reduction for each control measure. Our policy as described in the ''General Preamble for the Implementation of Title I of the CAA amendments of 1990'' (General Preamble) (57 FR 13498), provides that, at a minimum, the methods should meet the following four principles: (1) Emission reductions from control measures must be quantifiable; (2) control measures must be enforceable; (3) interpretation of the control measures must be replicable; and, (4) control measures must be accountable.

Section 182(b)(1)(D) of the Act prescribes limits on what control measures states can include in ROP plans. All permanent and enforceable control measures occurring after 1990 are creditable with the following exceptions: (1) FMVCP requirements promulgated by January 1, 1990; (2) RVP regulations promulgated by November 15, 1990; (3) Reasonably Available Control Technology (RACT) ''Fix-Up'' regulations required under section 182(a)(2)(A) of the Act; and (4) Inspection and Maintenance (I/M) program ''Fix-Ups'' as required under section 182(a)(2)(B) of the Act.

(8) What Are the Emission Control Measures in Wisconsin's Post-1999 ROP Plan?

(a) *VOC control strategies.* The VOC control measures identified in Wisconsin's post-1999 ROP plan are Phase 2 reformulated gasoline, on-board diagnostic testing of automobiles, NLEV, Tier 2 and low sulfur gasoline programs. The VOC emission reductions from each of these federal control programs is in Table 9, below. Phase 2 RFG is required in certain areas including the Milwaukee-Racine area and was introduced in 2001. Under section 182(c)(3) of the Act, Wisconsin must incorporate OBD testing into its overall I/M program. This test uses the emissions diagnostic system that manufacturers must include on all 1996 and newer automobiles. Wisconsin is phasing this required test into its program starting in May 2001 and is expected to submit a revision to the I/M SIP this summer. EPA must finally approve the OBD testing revision to the I/M SIP prior to full and final approval of the post-1999 ROP plan. Federal regulations for NLEV, Tier 2 motor vehicle emission standards and low sulfur gasoline motor vehicle emissions were promulgated by EPA (See 40 CFR parts 9, 80, 85 and 86) and will continue to reduce motor vehicle emissions. The VOC emission reductions from all these control measures were determined with the MOBILE5a model.

(b) *NO_X Control Strategies.* Wisconsin adopted a rule, NR 428, to reduce NO_X emissions from stationary sources, which it submitted to us as a SIP revision. NR 428 establishes system NO_X emissions for electric generating units starting at the end of 2002. NO_X emission limits for most of the utility boilers during the ozone season

established by the rule are 0.33 lbs/mmBTU effective on December 31, 2002, 0.29 lbs/mmBTU effective on December 31, 2005, and 0.28 lbs/mmBTU effective on December 31, 2007. The limits are applicable to sources in the eight county area. Emission reductions are estimated by applying the specific emission limits to each known source for each milestone year.

NR 428 also establishes NO_X emission rates and combustion optimization requirements for Non-EGUs, or existing large sources other than utilities based on the unit's capacity and utilization, starting at the end of 2002. Emission reduction estimates are based on historical data. Wisconsin applied the performance standards on a projection of potentially affected sources based on an analysis of 1995 data.

NR 428 also establishes annual NO_X emission limits for new stationary sources based on unit capacity. This part of the rule is intended to capture sources that are not covered under the new source review or prevention of significant deterioration permitting provisions. The effective date for new sources is February 1, 2001. The emission reductions estimates were based on permitting trends of the past few years.

The emission reductions estimated from these controls are in Table 9.

The state submitted NR 428 to us as a SIP revision. We are proposing to approve NR 428 elsewhere in this **Federal Register**. NR 428 must be fully and finally approved no later than the time we fully approve the post-1999 ROP plan.

The compliance schedule in NR 428 for EGU emission rates and performance standards is December 31 of 2002, 2005, and 2007 and December 31, 2002 for non-EGU. A strict reading of the Act would require that the 2002, 2005 and 2007 ROP milestones be met by November 15 of that year, i.e. 9% by November 15, 2002, and 2005, and 6% by November 15, 2007. Although, some sources will comply in time to achieve emission reductions prior to the compliance date and in time to reduce emissions prior to the post-1999 ROP milestone date, some may not. It is difficult to determine what emission reductions will be achieved by November 15, 2002, 2005 and 2007. However, we believe that it is reasonable and appropriate to allow ROP credit for these emission reductions during the milestone periods, 00–02, 03–05, and 06–07, for the reasons discussed below.

- It would be severe to penalize Wisconsin for missing the November 15 milestone date by 6 weeks. Wisconsin believes that sources will be upgrading in advance to meet the December 31 compliance date established by its rule to avoid disruption in power supply.
- Wisconsin's ozone season starts on April 15. Consequently, a rule with a November 15 compliance date would have the same net effect as a rule with a December 31 compliance date. The net effect being ozone precursor reductions prior to the next ozone season, April 15 of 2003, 2006 and 2008. Because both November 15 and December 31 occur before the start of the next ozone season, the ambient air quality benefit that would be gained by advancing the compliance date by six weeks would be de minimus and would not justify the implementation of additional measures in the Milwaukee-Racine area for purposes of the post-1999 plan. See ''Approval and Promulgation of Implementation Plans; Phoenix, Arizona Ozone Nonattainment Area, 15 Percent Rate of Progress Plan and 1990 Base Year Emission Inventory,'' proposed rule on January 26, 1998 (63 FR 3687) and final rule of May 27, 1998 (63 FR 28898).

Wisconsin's control strategy also includes emission reduction credits from the Enhanced Motor Vehicle Inspection and Maintenance Program NO_X Cutpoints. The Enhanced I/M program has operated in the six county Milwaukee-Racine severe area as well as Sheboygan county since December 1995. NO_X limits for this program were suspended but became effective on May 1, 2001. Wisconsin's rule AM–27–00 established enforceable limits on NO_X emissions for the I/M program. The emission reductions expected from the I/M NO_X cutpoints are in Table 9, below. Reduction estimates were determined through the MOBILE5a model. EPA published a conditional approval of Wisconsin's I/M SIP revision on January 12, 1995 (60 FR 2881). Wisconsin submitted a revision on December 30, 1998 and another revision is expected this summer. EPA must finally approve these revisions to the I/M SIP prior to full and final approval of the post-1999 ROP plan.

We have issued several policy documents, listed in the TSD for this proposed rulemaking, which provide guidance for states to use in quantifying emission reductions. We have also developed the MOBILE5a model for the states to calculate emission reductions from mobile sources.

Wisconsin appropriately used our policy documents and MOBILE5a model for calculating emission reductions for VOC and NO_X. Wisconsin obtained the necessary data for quantifying the source baselines and emission reductions from a variety of sources as previously discussed. Where Wisconsin had to develop its own assumptions regarding emission reductions, it justified the assumptions adequately based on existing data.

Table 9 summarizes the state's VOC and NO_X emission reduction claims for the post-1999 ROP control measures, and the amount of reductions we find approvable. Overall, Wisconsin's ROP plan provides for 11.8 tpd, 19.6 tpd and 24.5 tpd of VOC emission reductions and 56.47 tpd, 69.24 tpd, and 71.88 tpd of NO_X emission reductions by 2002, 2005 and 2007, respectively.

TABLE 9.—SUMMARY OF CONTROL MEASURES AND EMISSION REDUCTIONS

[Control measures summary for the Milwaukee-Racine area]

Control measures within the 6 County Milwaukee-Racine severe ozone nonattainment area and Manitowoc and Sheboygan Counties (within 100 kilometer boundary area) to meet ROP requirement	VOC emission reductions (tpd)			NO_X emission reductions (tpd)		
	2002	2005	2007	2002	2005	2007
Utility—System Emission Rate, 0.33	.....	.....	.....	38.07	.....	.....
Utility—System Emission Rate, 0.29	.....	.....	.....	.....	53.34	.....
Utility—System Emission Rate, 0.28	.....	.....	.....	.....	.....	58.68
Performance Standards for Existing Facilities	.....	.....	.....	4.6	4.6	4.6
Performance Standards for New Sources	.....	.....	.....	0.2	1.2	1.8
Motor Vehicle Inspection and Maintenance (I/M) NO_X Cutpoints	.....	.....	.....	13.6	10.1	6.8
Phase 2 RFG	5.80	5.80	5.80	.....	.....	.....
OBD Testing	1.40	3.40	4.40	.....	.....	.....
Fleet Effect of NLEV, Tier 2, and Low Sulfur Fuel	4.60	10.40	14.30	.....	.....	.....

TABLE 9.—SUMMARY OF CONTROL MEASURES AND EMISSION REDUCTIONS—Continued

[Control measures summary for the Milwaukee-Racine area]

Control measures within the 6 County Milwaukee-Racine severe ozone nonattainment area and Manitowoc and Sheboygan Counties (within 100 kilometer boundary area) to meet ROP requirement	VOC emission reductions (tpd)			NO_X emission reductions (tpd)		
	2002	2005	2007	2002	2005	2007
Total Emission Reductions From Control Measures	11.80	19.60	24.50	56.47	69.24	71.88

Tables 10 and 11 summarize and demonstrate that Wisconsin's post-1999 ROP plan will achieve sufficient VOC and NO_X emission reductions to satisfy the ROP requirement and target levels.

TABLE 10.—COMPARISON OF REQUIRED EMISSION REDUCTIONS TO CONTROL MEASURE EMISSION REDUCTIONS AND TARGET LEVELS TO PROJECTED CONTROLLED EMISSIONS FOR VOC

Year	Required emission reductions	Control measures emission reductions	Target levels	Projected controlled emissions
2002	6.53	11.8	234.04	228.77
2005	15.89	19.6	225.76	218.72
2007	20.14	24.5	222.32	212.33

TABLE 11.—COMPARISON OF REQUIRED EMISSION REDUCTIONS TO CONTROL MEASURE EMISSION REDUCTIONS AND TARGET LEVELS TO PROJECTED EMISSIONS FOR NO_X

Year	Required emission reductions	Control measures emission reductions	Target levels	Projected controlled emissions
2002	46.15	56.47	343.15	332.83
2005	52.31	69.24	315.59	298.66
2007	56.98	71.88	296.88	281.99

(9) *Are the emission control measures and calculated emission reductions acceptable, and is the post-1999 ROP plan approvable?* The emission control measures and associated emission reductions are creditable for purposes of the post-1999 ROP plan, and the plan is approvable provided that NR 428, the state's stationary NO_X rule, the OBD testing of automobiles and the I/M NO_X cutpoints SIP revisions to the I/M program are fully and finally approved into the SIP prior to or at the same time as the post-1999 ROP plan. Table 12 provides the status of the VOC and NO_X control measures with respect to state adoption, SIP approval or federal promulgation.

TABLE 12.—FEDERAL APPROVAL OR PROMULGATION OF CONTROL MEASURES IN THE MILWAUKEE-RACINE AREA POST-1999 RATE-OF-PROGRESS PLAN

Control measure	Status of rules
Phase 2 RFG	Federal Regulation, 40 CFR 80, Subpart D, February 16, 1994 (59 FR 7716).
NLEV	Federal Regulation, 40 CFR Parts 9, 85 and 86, January 6, 1998 (63 FR 925).
Tier 2; Low Sulfur Fuel	Federal Regulation, 40 CFR Parts 80, 85 and 86, February 10, 2000 (65 FR 6698).
Stationary Source NO_X Rule	State rule (NR 428) adopted and submitted to EPA on 12/22/00 as SIP revisions. Region 5 is reviewing and processing the submittal. The rule must be fully and finally approved prior to approval of the post-1999 ROP plan.
Motor Vehicle Inspection and Maintenance—NO_X Cutpoints and OBD Testing.	Conditional Approval on January 12, 1995 (60 FR 2881). Revision submitted on December 30, 1998. Additional supplement is expected from the State by summer 2001. NO_X Cutpoints and OBD testing must be fully and finally approved prior to approval of the post-1999 ROP plan.

B. Contingency Plan

(1) *What are the requirements for contingency measures?* Section 172(c)(9) of the Act required states with ozone nonattainment areas classified as moderate and above to adopt contingency measures by November 15, 1993. Such measures were to provide for the implementation of specific emission control measures if an ozone nonattainment area failed to achieve ROP or failed to attain the NAAQS within the time-frame specified under the Act. Section 182(c)(9) of the Act requires that, in addition to the contingency measures required under section 172(c)(9), the contingency measure SIP revisions for serious and above ozone nonattainment areas must also provide for the implementation of specific measures if the area fails to meet any applicable milestone in the Act. The contingency measures must take effect without further action by the state or by the EPA Administrator upon failure by the state to: meet ROP emission reduction milestones; achieve attainment of the one-hour ozone NAAQS by the Act's required deadline;

or achieve other applicable milestones of the Act.

Our policy, as provided in the April 16, 1992 ''General Preamble,'' states that the contingency measures, in total, must generally be able to provide for a 3 percent reduction of 1990 VOC baseline emissions beyond the ROP reduction required for each particular milestone year.

While all contingency measures must be fully adopted rules or measures, states can use the measures in two different ways. A state can choose to implement contingency measures before the milestone deadline. Alternatively, a state may decide not to implement contingency measures until an area has actually failed to achieve a ROP or attainment milestone. In the latter situation, the state must implement the contingency measure within one year following identification of a milestone failure.

Finally, EPA believes that it is illogical to penalize states for early implementation of contingency measures by requiring additional adopted contingency measures to backfill the early implemented measures. But, if an area fails to attain, demonstrate RFP or misses a milestone, then additional contingency measures are needed and must be adopted. (See August 13, 1993, memorandum from G. T. Helms, ''Early Implementation of Contingency Measures for Ozone and Carbon Monoxide (CO) Nonattainment Areas'').

The additional 3 percent reduction would ensure that progress toward attainment occurs at a rate similar to that specified under the Reasonable Further Progress (RFP)(also called the Rate of Progress or ROP) requirements for severe areas (3 percent per year) and that the state will achieve these reductions while conducting additional control measure development and implementation as necessary to correct the shortfall in emissions reductions or to adopt newly required measures necessary to reach attainment.

2. *How do Wisconsin's attainment demonstration and post-1999 ROP plan SIPs address the contingency measure requirements?* EPA approved a contingency plan for Wisconsin with the approval of the 15% ROP plan on March 22, 1996 (61 FR 11735). The contingency plan contained four contingency measures: Class C reformulated gasoline (RFG) in moderate counties, Class B RFG in severe counties, federal non-road engine standards and federal consumer and commercial products. All of these measures have been implemented and are thus no longer valid as contingency measures, with the exception of Class C RFG in moderate counties. Therefore, Wisconsin must provide a new contingency plan.

Wisconsin's December 22, 2000 one-hour attainment demonstration submittal suggests that, since contingency measures do not have to be implemented until a year after a milestone failure, *i.e.* 2003, 2006 and 2008, and our policy allows early implementation of contingency measures, the state's stationary source NO_X rule, in particular emission reductions that will be achieved from electric generating units and VOC emissions from OBD testing, will achieve the necessary emission reductions to meet the 3% contingency plan requirement. The submittal provides calculations illustrating what the contingency plan emission reduction requirement is (in tpd) and demonstrates that the contingency measure requirement will be met with the reductions achieved by OBD testing and the state's stationary source NO_X rule.

The state also commits to work with EPA to address any additional shortfalls that may occur due to unforseen circumstances.

The contingency requirement for each milestone year is in Table 13 with the VOC/ NO_X apportionment of the 3% identified by Wisconsin:

TABLE 13.—CONTINGENCY REQUIREMENTS

Pollutant	2002	2005	2007
1990 Adjusted VOC ROP Base Year Emission Inventory for Milestone Year	325.71	323.91	323.71
Percent of Contingency from VOC	0.12	0.3	0.6
Required VOC Contingency	0.39	0.97	1.94
1990 Adjusted NO_X ROP Base Year Emission Inventory for Milestone Year	363.12	360.82	360.12
Percent of Continency from NO_X	2.88	2.7	2.4
Required NO_X Contingency	10.46	9.74	8.64

Thus, consistent with the apportionment of VOC and NO_X in Wisconsin's post-1999 ROP plan, the contingency plan must provide for 0.39 tpd, 0.97 tpd and 1.94 tpd of VOC reductions and 10.46 tpd, 9.74 tpd and 8.64 tpd of NO_X reductions, by 2003, 2006 and 2008, respectively, in addition to the required post-1999 ROP reductions, to satisfy the contingency measure requirements of the Act.

(3) Do the Wisconsin Attainment Demonstration and Post-1999 ROP Plan Meet the Contingency Measure Requirements? The following tables present a comparison of the needed emission reductions for post-1999 ROP and contingency measures and the emission reductions provided by the control measures in the post-1999 ROP plan. Again, Wisconsin identified the state's stationary source NO_X rule and OBD testing as the measures that would achieve the required contingency emission reductions.

TABLE 14.—COMPARISON OF NEEDED AND CREDITABLE EMISSION REDUCTIONS FOR 2002

VOC Reduction Needed for 3.5 percent ROP (tpd)	6.53
VOC Reduction Needed for 0.12 percent Contingency (tpd)	0.39
Total VOC Reductions Needed for ROP and Contingency (tpd)	6.92
Total Creditable VOC Reduction (tpd)	11.8
NO_X Reduction Needed for 5.5 percent ROP (tpd)	46.15
NO_X Reduction Needed for 2.88 percent Contingency (tpd)	10.46
Total NO_X Reductions Needed for ROP and Contingency (tpd)	[8] 56.61

TABLE 14.—COMPARISON OF NEEDED AND CREDITABLE EMISSION REDUCTIONS FOR 2002—Continued

Total Creditable NO_X Reduction (tpd)	[6] 56.47

[8] Although the total creditable NO_X emissions are about 0.1 tpd less than the total required NO_X emission reductions necessary for ROP and contingency in 2002, there are enough excess VOC emission reductions (about 1.6%) that are anticipated to cover the contingency and ROP requirement. Thus, the contingencies are acceptable.

TABLE 15.—COMPARISON OF NEEDED AND CREDITABLE EMISSION REDUCTIONS FOR 2005

VOC Reduction Needed for 2.0 percent ROP (tpd)	15.89
VOC Reduction Needed for 0.3 percent Contingency (tpd)	0.97
Total VOC Reductions Needed for ROP and Contingency (tpd)	16.86
Total Creditable VOC Reduction (tpd)	19.6
NO_X Reduction Needed for 7.0 percent ROP (tpd)	52.31
NO_X Reduction Needed for 2.7 percent Contingency (tpd)	9.74
Total NO_X Reductions Needed for ROP and Contingency (tpd)	62.05
Total Creditable NO_X Reduction (tpd)	69.24

TABLE 16.—COMPARISON OF NEEDED AND CREDITABLE EMISSION REDUCTIONS FOR 2007

VOC Reduction Needed for 1 percent ROP (tpd)	20.14
VOC Reduction Needed for 0.6 percent Contingency (tpd)	1.94
Total VOC Reductions Needed for ROP and Contingency (tpd)	22.08
Total Creditable VOC Reduction (tpd)	24.5
NO_X Reduction Needed for 5 percent ROP (tpd)	56.98
NO_X Reduction Needed for 2.4 percent Contingency (tpd)	8.64
Total NO_X Reductions Needed for ROP and Contingency (tpd)	65.62
Total Creditable NO_X Reduction (tpd)	71.88

Since the contingency measures will be implemented early, *i.e.* in advance of an identified milestone or attainment failure, Wisconsin states that it will work with EPA to address any failure or shortfall should one occur despite the early implementation of the contingency measures.

In summary, Wisconsin adequately demonstrates that the post-1999 ROP and attainment demonstration control strategy will achieve VOC and NO_X emission reductions sufficient to achieve the required post-1999 ROP toward attaining the 1-hour ozone NAAQS as well as satisfy the contingency provisions for the Milwaukee-Racine ozone nonattainment area. We are, therefore, proposing to approve Wisconsin's post-1999 ROP plan in this action.

7. Transportation Conformity

Did the State Address Transportation Conformity in the Submittal and Did the State Adopt Motor Vehicle Emission Budgets?

Section 176(c) of the Act requires a showing that regional transportation plans, and transportation improvement programs, conform to the emissions budgets for the mobile sector in the applicable implementation plan, in this case for the milestone years of 2002, 2005, and 2007. Conformity motor vehicle emissions budgets (MVEB) must address both VOC and NO_X emissions for nonattainment areas. The MVEBs must be developed using consistent air quality and transportation planning assumptions, and include the impact of emission control programs incorporated in ROP plans and attainment demonstrations.

The WDNR attainment demonstration submittal included ROP MVEBs for VOC and NO_X for 2002 and 2005 for the six-county Milwaukee nonattainment area, the Manitowoc nonattainment area, and the Sheboygan maintenance area. The submittal also included a ROP/attainment MVEB for 2007 for the above areas. EPA's conformity regulation (40 CFR 93.118(e)(4)) identifies the minimum criteria to judge the adequacy of motor vehicle emission budgets for conformity purposes. The six adequacy criteria and a description of how the submittal addresses them are listed below.

a. The submitted control strategy implementation plan revision or maintenance plan was endorsed by the Governor (or his designee) and was subject to a state public hearing. The WDNR submitted the rate-of-progress/attainment demonstration package on December 22, 2000, by letter signed by Tommy Thompson, Governor. The state held a public hearing from June 27–29, 2000.

b. Before the control strategy SIP revision or maintenance plan was submitted to EPA, consultation among federal, state, and local agencies occurred; full implementation plan documentation was provided to EPA; and EPA's stated concerns were addressed. The WDNR developed the motor vehicle emission budgets for both the attainment demonstration and the ROP plan through a consultative process. Transportation stakeholders from the Metropolitan Planning Organizations (MPO), state Department of Transportation, Federal Highway Administration, and EPA participated in this process. Documentation of this process was included in the submittal.

c. The motor vehicle emissions budget(s) is clearly identified and precisely quantified. The MVEB's for 2002, 2005, and 2007 are clearly identified and precisely quantified in Table 17 below.

TABLE 17.—MOTOR VEHICLE EMISSION BUDGETS

Area	2002 ROP		2005 ROP		2007 ROP/Attainment	
	VOC (tpd)	NO_X (tpd)	VOC (tpd)	NO_X (tpd)	VOC (tpd)	NO_X (tpd)
Milwaukee	43.5	103.5	36.7	84.1	32.2	71.4
Manitowoc	5.4	10.0	5.2	8.8	5.2	8.3
Sheboygan	4.5	9.4	3.7	7.4	3.3	6.4

d. The motor vehicle emissions budget(s), when considered together with all other emissions sources, is consistent with applicable requirements for reasonable further progress, attainment, or maintenance (whichever is relevant to the given implementation plan submission). The ROP MVEB's for 2002 and 2005, and the MVEB for the 2007 ROP/attainment year are consistent with the requirements for ROP reductions and attainment, as delineated in EPA guidance. The UAM–V modeling, submitted to support the demonstration of attainment, shows that Wisconsin can reach attainment of the standard with the control strategies described in the submittal.

e. The motor vehicle emissions budget(s) is consistent with and clearly related to the emissions inventory and the control measures in the submitted control strategy implementation plan revision or maintenance plan. The budgets for 2002 and 2005 ROP, and 2007 ROP/attainment are calculated appropriately using the control strategies identified in the ROP plan and the attainment demonstration. The emissions inventory estimates and the VMT estimates used in the ROP and attainment plan were used to calculate the budgets.

f. Revision to previously submitted control strategy implementation plans or maintenance plans explain and document any changes to previously submitted budgets and control measures, impacts on point and area source emissions; any changes to established safety margins and reason for the changes (including the basis for any changes related to emission factors or estimates of vehicle miles traveled). The 2002 and 2005 ROP budgets are new budgets and do not replace any previously established budgets. The 2007 ROP/attainment demonstration budgets, when found adequate, will replace the 2007 VOC and NO_X budgets that were established by the April 30, 1998 attainment demonstration submittal. The 2007 budgets in the December 22, 2000 submittal are well documented and impacts on all sources including point, area and mobile sources are considered. This information is based on the most up to date planning assumptions available.

g. EPA review of the state's compilation of public comments and response to comments. EPA has reviewed the public comments submitted to the state during the state public comment period. The state received four comments on the development and assumptions used in the motor vehicle emissions budgets. There were no adverse public comments on the proposed budgets for Milwaukee, Sheboygan, and Manitowoc counties.

Additionally, the state submitted conformity budgets in conjunction with its April 1998 one-hour ozone submittal. EPA found those budgets adequate on an interim basis in May 2000, but required the state to resubmit budgets consistent with its December 2000 attainment demonstration. EPA also required the state to commit to revise the 2007 attainment year budget from the December 2000 attainment demonstration within one-year from the formal release of MOBILE6 to more accurately represent the emission estimates associated with the Tier 2/Low Sulfur gasoline program. In its December 2000 submittal, Wisconsin committed to recalculate the 2002 and 2005 ROP budgets and the 2007 ROP/attainment budgets in the attainment demonstration ''in a timely fashion.'' In a letter dated May 28, 2001, the state clarified this commitment to mean within one year from the formal release of MOBILE6.

Today's proposed action to approve the 2002 and 2005 ROP budgets and the 2007 attainment budgets contained in the December 2000 submittal would be effective for conformity purposes only until the revised motor vehicle emissions budgets are submitted and EPA has found them adequate. We are proposing to limit the duration of our approval in this manner because we would only approve the attainment demonstration and its budget contingent on the State's commitment to revise the budget within one year of the formal release of MOBILE6. Therefore, once the state has revised its budgets and EPA has established an effective date for the adequacy of the revised budgets, the revised budget (recalculated with MOBILE6) would apply for conformity purposes. If the revised budgets raise issues about the sufficiency of the attainment demonstration, EPA will work with the state to address those issues. If the revised budgets show that motor vehicle emissions budgets are lower than the budgets we are proposing to approve today, a reassessment of the attainment demonstration's analysis will be necessary before reallocating the emission reductions or assigning them as a safety margin. In other words, the area must assess how its attainment demonstration is impacted by using MOBILE6 vs. MOBILE5 before it reallocates any apparent emission reductions resulting from the use of MOBILE6.

8. Commitment To Conduct a Mid-Course Review

In response to EPA's December 16, 1999, notice of proposed conditional approval, the state submitted a commitment to perform a mid-course review (MCR) of its attainment demonstration. The 1996 attainment test guidance discusses the need for periodic reviews of the monitoring, modeling, and inventory data to assess whether original attainment strategies need to be refined. A MCR is a reassessment of modeling analyses and more recent monitored air quality data to determine if a prescribed control strategy is resulting in emission reductions and air quality improvements needed to attain the ambient air quality standard for ozone as expeditiously as practicable but no later than the statutory date. The state submitted its commitment in a letter dated February 22, 2000, from Lloyd Eagan, Director, Bureau of Air Management to Mr. Francis X. Lyons, Region 5 Administrator. The letter commits to perform a reassessment of the attainment status of the one-hour ozone nonattainment areas in the Lake Michigan region by December 31, 2003.[9]

[9] Because the regional NO_X controls resulting from the SIP Call measures in upwind states will not be implemented until 2004, the WDNR may change the date of the MCR from 2003 to 2004 to coincide with the SIP Call NO_X reductions. EPA would consider that change acceptable.

9. Reasonably Available Control Measures (RACM)

What Are the Requirements for RACM Technology? Section 172(c)(1) of the Act requires SIPs to contain RACM as necessary to provide for attainment as expeditiously as practicable. EPA has previously provided guidance interpreting the RACM requirements of section 172(c)(1). See 57 FR 13498, 13560. In that guidance, EPA stated that potentially available measures that would not advance the attainment date for an area would not be considered RACM. EPA also indicated in the guidance that states should consider all potentially available measures to determine whether they were reasonably available for implementation in the area, and whether they would advance the attainment date. Further, states should indicate in the SIP submittals whether the measures considered are reasonably available or not, and if the measures are reasonably available, they must be adopted as RACM. Finally, EPA indicated that states could reject potential RACM either because they would not advance the attainment date or would cause substantial widespread and long-term adverse impacts. States could also consider local conditions, such as economics or implementation concerns, in rejecting potential RACM. The EPA also issued a recent memorandum on this topic, ''Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas.'' John S. Seitz, Director, Office of Air Quality Planning and Standards. November 30, 1999.

How Does the State Analysis Address the RACM Requirement? The Wisconsin RACM analysis discusses the reasonableness and effectiveness of both additional transportation control measures and additional stationary source control measures. The state concludes that there are no control measures, above and beyond what the state is already implementing, that would advance the Act's specified attainment date of 2007. Furthermore, the reductions from any potential additional RACM measures are very small compared to the ROP reductions that will be reached by 2007.

Consideration and Implementation of Transportation Control Measures (TCMs). This section describes the analysis the state submitted to evaluate and implement available transportation control measures (TCMs) in the Milwaukee-Racine area. The WDNR and the Wisconsin Department of Transportation used the 1996 Regional Travel Demand Strategy (TDS) as a blueprint for actions considered for implementation in southeastern Wisconsin in place of the Employee Commute Options program. The state-selected actions included in the Regional TDS strategy were selected on the basis of their implementation feasibility. The emissions reduction potential of the TDM actions are very small. The total VOC and NO_X emission reduction potential of the strategy for 2007 is estimated to be 0.26 tons per hot summer weekday and 0.46 tons per hot summer weekday, respectively.

A technical committee was developed to evaluate TCM's as part of a working dialogue between WDNR and transportation stakeholders. The committee consists of representatives from the DNR, the Department of Transportation, the Southeastern Wisconsin Regional Planning Commission, and Citizens for a Better Environment. The committee evaluated a full list of potential TCMs on VMT reduction, NO_X and/or VOC emission reductions, cost per ton, implementation timeline, and feasibility (e.g., administrative costs, funding, political/public acceptance). Although the state may consider this list of measures for future SIP actions and planning, the measures would not be effective at advancing the attainment date earlier than 2007.

Stationary Source and Area Sources RACM Analysis. The state has pursued all reasonable VOC RACT, implemented enhanced I/M requirements and reformulated gasoline, and must show no growth in emissions based on growth in VMT for a 10-year period after the attainment demonstration. The nonattainment area has a waiver from EPA regarding NO_X control requirements, specifically NO_X RACT, New Source Review, and certain NO_X vehicle inspection/maintenance requirements. As part of the attainment demonstration and the 2002–2007 rate-of-progress analysis, the WDNR evaluated which NO_X control measures might prove beneficial to timely ozone attainment in the region. It found that NO_X reductions from the use of NO_X cutpoints for vehicles in the I/M program, selective NO_X limitations on some of the major point sources, and tightened emission limits for many new NO_X sources would be beneficial. The NO_X reduction from these programs from 2000–2007 is roughly 96 tons per day. More rapid attainment depends on the speed of the vehicle and off-road equipment fleet transition to newer technology and on the speed of the regional NO_X controls associated with the NO_X SIP Call. Given the status of the NO_X waiver in the nonattainment area, the implementation of select NO_X control programs in Wisconsin, and the regional NO_X reductions expected from the SIP Call, the state concludes that no further stationary source control measures, beyond those considered in the attainment demonstration, can impact the state's attainment status for the years 2002–2006.

Additionally, the photochemical modeling accompanying the state submittal shows that ozone concentrations in the Lake Michigan region stem from local and regional emissions. NO_X and VOC emissions in the Wisconsin portion of the modeling domain represent a small portion of regional emissions and since the state has already implemented emission control programs as required by the Act for severe areas (considering the NO_X waiver), there are no reasonable control measures available to the state that will accelerate attainment of the standard. This conclusion is indicated in the modeling documentation submitted by the state in support of the SIP revision. The documentation contains a sensitivity run evaluating the incremental impact of one of the more substantial emission reduction measures, Tier II/low-sulfur gasoline. This measure is expected to reduce VOC emissions by about 200 tons per day and NO_X emission by about 700 tons per day across the larger regional modeling domain known as grid M. This level of reduction resulted in a decrease in ozone peak values in the modeling domain of roughly 1–2 ppb. Reductions of VOC and NO_X across Wisconsin due to the implementation of the Tier II/low-sulfur gasoline program are about 15 tons per day and 70 tons per day, respectively. Reductions within the nonattainment area would be even less. Any of the control measures that Wisconsin did not select for implementation as part of its ROP or attainment program are significantly smaller in terms of reduction potential than the Tier II/low-sulfur program. Thus, their contribution to improving ozone air quality would be much less than 1 ppb and would not advance attainment of the ozone standard earlier than 2007.

Modeling conducted by LADCO and EPA has shown that regional reductions of NO_X are required for the Lake Michigan area to attain the ozone standard. Sensitivity tests showed that without regional reductions in NO_X and boundary ozone levels, VOC must be reduced as much as 90% in the Lake

Michigan area to achieve attainment.[10] This level of VOC reduction is obviously not possible without extremely harsh and expensive measures. The Ozone Transport Assessment Group (OTAG) process and resultant NO_X SIP Call reduction requirements apply in areas upwind of the Milwaukee-Racine nonattainment area and provide for boundary level ozone reduction. These reductions, in combination with local controls, are instrumental in the area achieving attainment.

Does the Milwaukee-Racine Attainment Demonstration Submittal Meet the RACM Requirement? The EPA has reviewed the submitted attainment demonstration documentation, the process used by the control agencies to review and select TCMs, other possible reduction measures for point and area sources, and the emissions inventory for the Milwaukee-Racine area. Although EPA encourages areas to implement available RACM measures as potentially cost effective methods to achieve emissions reductions in the short term, EPA does not believe that section 172(c)(1) requires implementation of potential RACM measures that either require costly implementation efforts or produce relatively small emissions reductions that will not be sufficient to allow the area to achieve attainment in advance of full implementation of all other required measures.

The attainment demonstration for the Milwaukee-Racine severe nonattainment areas indicates that the ozone benefit expected from regional NO_X reductions is substantial. In addition, many of the measures designed to achieve emissions reductions from within the nonattainment area will not be fully implemented prior to the 2007 nonattainment date. Therefore, EPA concludes, based on the available documentation, that since the reductions from potential RACM measures do not nearly equate to the reductions needed to demonstrate attainment, none of the measures could advance the attainment date prior to full implementation of the SIP call and full implementation of the ROP measures, and thus there are no additional potential local measures that can be considered RACM for this area.

III. Proposed Actions

EPA is proposing action on several different components of the Milwaukee-Racine one-hour ozone attainment demonstration package submitted by WDNR on December 22, 2000. Most of the components are approvable as submitted. One requires action by the WDNR to be found fully approvable. Consequently, EPA is proposing approval of most components and parallel processing one component.

EPA is proposing approval of: The modeled attainment demonstration, the NO_X rule, the revision to the NO_X waiver, the rule to control VOCs from industrial solvent cleaning operations, the SIP order requiring VOC control for Flint Ink, the conformity budgets for the 2007 attainment year, until such time that a revised budget is submitted and found adequate for conformity purposes as called for by the state in its commitment to recalculate and apply a revised budget for conformity within one year of the formal release of MOBILE6, the RACM analysis, the commitment to conduct a mid-course review of the attainment status of the Lake Michigan area, and the post-1999 ROP plan. EPA is also proposing to approve, with a disapproval in the alternative, the draft rule requiring VOC controls from plastic parts coating operations. The plastic parts coating operations rule will proceed with a final approval if the final rule is not significantly different from the draft and is submitted before September 1, 2001. If the final rule is not submitted in a timely fashion, EPA will proceed with a disapproval without reproposing.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13045

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

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

C. Executive Order 13084

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

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

D. Executive Order 13132

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

[10] Lake Michigan Ozone Study—Lake Michigan Ozone Control Program Project Report, Volume II—Overview, December 1995.

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

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

E. Regulatory Flexibility

The Regulatory Flexibility Act 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 proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D, of the Act do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

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

F. Unfunded Mandates

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

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

Dated: June 21, 2001.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 01–16567 Filed 6–29–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FL–T5–2001–01a; FRL–7006–4]

Clean Air Act Proposed Full Approval of Operating Permit Program; State of Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed full approval.

SUMMARY: EPA proposes to fully approve the operating permit program of the Florida Department of Environmental Protection (FDEP). Florida's operating permit program was submitted in response to the directive in title V of the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted interim approval to Florida's Title V operating permit program on September 25, 1995. The State revised its program to satisfy the conditions of the interim approval and this action proposes approval of those revisions. Also, other program changes made by the State since the interim approval are being proposed for approval as part of this action.

DATES: Comments on the program revisions discussed in this proposed action must be received in writing by August 31, 2001.

ADDRESSES: Written comments on this action should be addressed to Gracy R. Danois, Air Permits Section, Air & Radiation Technology Branch, EPA Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8909. Copies of Florida's submittals and other supporting documentation relevant to this proposed action are available for inspection during normal business hours at EPA Region 4, Air & Radiation Technology Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8909.

FOR FURTHER INFORMATION CONTACT: Gracy R. Danois, Air Permits Section, EPA Region 4, at (404) 562–9119 or danois.gracy@epa.gov.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the operating permit program?

What is being addressed in this document?

What are the program changes that EPA is approving?

What is involved in this final action?

What Is the Operating Permit Program?

Title V of the CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the title V operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the title V operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable

requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include: ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include those that have the potential to emit 100 tons per year (tpy) or more of volatile organic compounds (VOCs), carbon monoxide (CO), lead, sulfur dioxide (SO_2), nitrogen oxides (NO_X), or particulate matter (PM_{10}); those that emit 10 tpy of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tpy or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, CO, or PM_{10}, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' major sources include those with the potential of emitting 50 tpy or more of VOCs or NO_X.

What Is Being Addressed in This Document?

Where a title V operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the State revising its program to correct the deficiencies. Because Florida 's operating permit program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to the program in a rulemaking published on September 25, 1995 (60 FR 49343). The interim approval notice stipulated four conditions that had to be met in order for the State's program to receive full approval. Florida submitted seven revisions to its interimly approved operating permit program; these revisions were dated April 29, 1996, February 11, 1998, June 11, 1998, April 9, 1999 (two submittals), July 1, 1999, and October 1, 1999. This **Federal Register** notice describes changes that have been made to Florida's operating permit program since interim approval was granted.

What Are the Program Changes That EPA Proposes To Approve?

As stipulated in EPA's September 25, 1995 rulemaking, full approval of Florida's Title V operating permit program was made contingent upon the following rule changes:

I. Insignificant Activities Provisions

A. Provide EPA with an acceptable justification for establishing a source's aggregate emissions threshold of 50 tpy for triggering the State's CO reporting requirements in the permit application. Otherwise, the State must establish CO emissions thresholds that are consistent with its emissions thresholds for PM_{10}, SO_2, NO_X, and VOCs. In response to this deficiency, the State revised Rule 62–213.420(3)(c)3.a., Florida Administrative Code (F.A.C.) to include a reduced reporting threshold of 5 tpy for CO. The state-effective rule revision was submitted to EPA on April 29, 1996.

B. Revise Rules 62–4.040(1)(b), 62–210.300(3), and 62–213.400, F.A.C. to provide that:

(1) Permit applications do not omit information needed to determine or impose applicable requirements (as defined in Rule 62–213.200(6), F.A.C.);

(2) Insignificant activities or emission units will be included in the determination of whether a source is major; and

(3) Emissions thresholds for insignificant activities or emission units will not exceed 5 tpy for regulated air pollutants and 1000 pounds per year for individual HAPs, or different thresholds that the State demonstrates are insignificant.

In response to these deficiencies, the State revised Rule 62–210.300(3), F.A.C. to establish that the list of activities ''exempted from permitting requirements'' contained in Rule 62–210.300(3), F.A.C. and the general exemption contained in Rule 62–4.040, F.A.C. can only be used for title V purposes if the activities proposed for consideration as ''insignificant'' also comply with the criteria contained in Rule 62–213.430(6)(b), F.A.C. Rule 62–213.430(6)(b), F.A.C., in turn, establishes the emission thresholds for individual activities or units, which are no more than 500 pounds per year of lead and lead compounds expressed as lead, 1,000 pounds per year of any individual HAPs, 2,500 pounds per year of total HAPs, and 5 tpy of regulated air pollutants. Rule 62–210.300(3), F.A.C. also establishes that ''the emissions from the exempt units or activities shall be considered in determining whether a facility containing such emissions units or activities would be subject to any applicable requirement'', which adequately addresses the deficiency noted in B.(2) above. Further, Rule 62–213.400, F.A.C. was revised to delete all references to Rules 62–210.300(3) and 62–4.040, F.A.C. The state-effective rule revision was submitted to EPA on April 29, 1996.

With regard to the deficiency noted in item B.(1) above, Rule 62–213.420(3)(n), F.A.C. was revised to require the applicant to submit any information needed to demonstrate that the units or activities are considered insignificant under the provisions of Rule 62–213.430(6), F.A.C. This rule revision was also submitted to EPA on April 29, 1996. Of note is that the citation for the definition of applicable requirement given in item B.(1) is no longer correct; the correct citation is now Rule 62–210.200(31), F.A.C.

In addition, in the discussion regarding insignificant activities contained in the **Federal Register** notice granting final interim approval to Tennessee's operating permit program (61 FR 39335, July 29, 1996), EPA responded to the June 17, 1996, Ninth Circuit Court of Appeals decision in *Western States Petroleum Association (WSPA)* v. *EPA*, No. 95–700034 (June 17, 1996) [87 F.3d 280 (9th Cir. 1996)] by stating that the language contained in Florida's Rule 62–210.300(3) ''can be read as creating an exemption from permit content.'' In a February 14, 1997, letter to Florida (R. Douglas Neeley, Chief, Air & Radiation Technology Branch, EPA Region 4, to Howard L. Rhodes, Director, Division of Air Resources Management, FDEP), EPA identified additional problematic language in Rules 62–4.040(1) and 62–213.430(6)(a), F.A.C. In response to EPA's concerns, Florida deleted the language ''exempted from permitting'' and replaced it with ''considered insignificant'' in Rules 62–213.300 and 62–213.430, F.A.C. And though Rules 62–4.040(1) and 62–210.300(3), F.A.C. still provide for exemptions from permitting, Rules 62–213.300(3)(a) and 62.213.430(6)(b), F.A.C. take precedence and dictate how the other rules are to be applied for title V purposes. The State voluntarily took this action in order to avoid any further misinterpretations of their intent to consider certain emission units or activities ''insignificant'' for title V purposes. The state-effective rule revisions rules were submitted to EPA on February 11, 1998.

C. Remove or revise the following specific exemptions:

(1) Rule 62–210.300(3)(a), F.A.C. exempting ''(s)team and hot water

generating units located within a single facility and having a total heat input, individually or collectively, equaling 50 million BTU/hr or less, and fired exclusively by natural gas except for periods of natural gas curtailment during which fuel oil containing no more than one percent sulfur is fired * * *.''

(2) Rule 62–210.300(3)(r), F.A.C. exempting ''[p]erchloroethylene dry cleaning facilities with a solvent consumption of less than 1,475 gallons per year.''

(3) Rule 62–210.300(3)(u), F.A.C. exempting ''[e]mergency electrical generators, heating units, and general purpose diesel engines operating no more than 400 hours per year * * *.''

(4) Rule 62–210.300(3)(x), F.A.C. exempting ''[p]hosphogypsum disposal areas and cooling ponds.''

In response to these deficiencies, Florida made the following revisions to Rule 62–210.300(3), F.A.C. and submitted the state-effective rule revisions to EPA on April 29, 1996:

(a) Rule 62–210.300(3)(a), F.A.C. was changed to limit the units to operate no more than 3000 hours per year while firing natural gas and no more than 400 hours per year while firing fuel oil containing no more than 1.0% sulfur. In a subsequent rulemaking, this exemption was redefined to address steam and hot water generating units located within a single facility and having a total heat input, individually or collectively, equaling 100 million BTU/hr or less. All references to units with a total heat input of 50 million BTU/hr or less were deleted from the rule language. The new exemption restricts the annual use of fuel oil containing no more than 1.0% sulfur to 145,000 gallons, fuel oil containing no more than 0.5% sulfur to 290,000 gallons, fuel oil containing no more than 0.05% sulfur to one million gallons, natural gas to no more than 150 million standard cubic feet, or propane to no more than one million gallons;

(b) Rule 62–210.300(3)(a)20, F.A.C. (previously 62–210.300(3)(r), F.A.C.) was changed to limit the fuel consumption of emergency generators to 32,000 gallons per year diesel fuel, 4,000 gallons per year of gasoline, 4.4 million standard cubic feet per year of natural gas or propane, or an equivalent prorated amount if multiple fuels are used; and,

(c) Rule 62–210.300(a)25, F.A.C. (previously Rule 62–210.300(3)(x), F.A.C.) was modified to provide an exemption only for phosphogypsum cooling ponds and inactive phosphogypsum stacks that have demonstrated compliance with the requirements of 40 CFR 61, Subpart R.

To address item C.(2) above, Florida deleted the temporary exemption for small dry cleaners contained in Rule 62–210.300.(3)(b)2., F.A.C. (previously contained in Rule 62–210.300(3)(r), F.A.C.), because these facilities were going to be permitted under a title V general permit. In addition to redefining the exemptions described above to ensure that potential major sources are not inadvertently exempted from state permitting requirements, the State included language in Rule 62–210.300(3)(a), F.A.C., to clarify that in order for the exemptions to be considered insignificant for title V purposes, they must also meet the criteria contained in Rules 62–213.300(3)(a) and 62.213.430(6)(b), F.A.C. The State submitted the state-effective rule revisions to EPA on February 11, 1998.

II. Permit Reopening Provisions

The State was required to make the regulatory provisions for permit reopenings for cause consistent with 40 CFR 70.7(f)(1) (i), (iii), and (iv). In response, Florida revised Rules 62–213.430(4) and 62–213.430(5), F.A.C. to reference the provisions contained in 40 CFR 70.7(f). The State submitted the revised rules to EPA on April 29, 1996.

III. Other Program Revisions

In addition to the changes described above, the State of Florida made the following substantive changes to its program after it received interim approval:

A. Rule Repeals/Conforming Amendments

In response to an Executive Order from the Florida Governor, all of the State's agencies were required to significantly reduce their number of administrative rules. To address that order, the Florida Department of Environmental Protection repealed rules in Chapters 62–213 and 62–214, F.A.C., and made conforming amendments within Chapters 62–210, 62–213, and 62–214, F.A.C. In most cases, the language in the various rules was moved without changes. The title V-related rule changes primarily involved corrections to internal rule citations that were made necessary by the rule reorganization. The following substantive changes were submitted for EPA's approval on April 29, 1996:

(1) All of the definitions in Rules 62–210, 62–213, 62–214, 62–296, and 62–297, F.A.C. were consolidated in Rule 62–210.200, F.A.C.;

(2) The definition of ''applicable requirement'' in Rule 62–210.200(29), F.A.C. was modified to include permit conditions contained in a federally enforceable state operating permit (FESOP);

(3) The definition of ''major source of air pollution or title V source'' in Rule 62–210.200(172), F.A.C. was revised to exclude the Standard Industrial Classification (SIC) code when determining whether a facility is a major source of HAPs; and,

(4) The definition of ''modification'' in Rule 62–210.200(182), F.A.C. was revised to include the terms from the definition of ''modification'' in former Rule 62–213.200, F.A.C.

B. Incorporation of White Paper Guidance

Florida revised Rules 62–210.900(1), 62–210.900(2), and 62–213.420(3), F.A.C. to incorporate the flexibility described in the EPA's July 10, 1995, guidance memorandum entitled ''White Paper for Streamlined Development of Part 70 Permit Applications.'' The following revisions were submitted to EPA for approval on April 29, 1996:

(1) The title V permit application now requires identification only, at the facility level, of all pollutants with potential to emit (PTE) equal to or greater than a major source thresholds, all synthetically minor pollutants, and all pollutants subject to a numerical emissions limitation or work practice standard at one or more emissions unit at the facility;

(2) As a result of the change described in item (1), the requirement to perform facility-wide reporting was eliminated from the permit application requirements, except for those sources subject to a facility-wide emissions cap;

(3) The permit application requirements were modified to clarify that for regulated emissions units (i.e., those which emit at least one emission-limited pollutant or are subject to a unit-specific work practice standard for the control of a pollutant or family of pollutants or to a unit-specific visible emissions standard), all parts of the application must be completed. However, only quantitative emissions information needs to be provided for the emissions-limited pollutants;

(4) For unregulated emissions units (i.e., those with no emission-limited pollutants and no applicable work practice standards), the permit application requirements were modified to require descriptions, not quantification, of the pollutants emitted. The required information also includes the pertinent SIC code, the maximum emission rate, and descriptions of the

emission units and any air pollution control equipment; and,

(5) For all emission units, the permit application requirements were modified to require identification of all pollutants emitted at a source as follows:

(a) Each emission-limited pollutant (for regulated emissions units only); and,

(b) Each pollutant emitted in a significant amount. Specifically, CO, NO_X, SO_2, PM_{10}, and VOC must be identified if the emissions unit has a PTE equal to or greater than 5 tpy. Lead must be identified if the emissions unit has a PTE equal to or greater than 500 pounds per year. Each HAP must be identified if the emissions unit has a PTE equal to or greater than 1000 pounds per year and the facility is major for such HAP. Total HAPs must be identified if the emissions unit has a PTE equal to or greater than 2,500 pounds per year and the facility is major for total HAPs.

C. Title V General Permits

Florida's definition of a title V source includes any source subject to standards or regulations under section 112 of the CAA, except that a source is not subject to the State's operating permit program solely because it is regulated under section 112(r) of the CAA or solely because it is subject to a reporting requirement under section 112. The effect of this provision is to bring all sources subject to the National Emissions Standards for Hazardous Air Pollutants (NESHAPs) program into the State's Title V program even though EPA has allowed ''area sources'' to be deferred from permitting. An ''area source'' is defined as any stationary source of HAPs that does not emit more than 10 tpy of any single HAP or 25 tpy of any combination of HAPs.

To reduce the burden of permitting area sources, Florida developed five general permits covering the following NESHAP requirements: asbestos manufacturing and fabrication facilities (40 CFR 61, Subpart M), perchloroethylene dry cleaning facilities (40 CFR 63, Subpart M), chromium electroplating and anodizing facilities (40 CFR 63, Subpart N), ethylene oxide sterilization facilities (40 CFR 63, Subpart O), and halogenated solvent degreasing facilities (40 CFR 63, Subpart T). Florida's general permits are permits-by-rule and are contained in Rule 62–213.300, F.A.C. Approximately 1,280 facilities in Florida are operating under these general permits, and most of them are perchloroethylene dry cleaning facilities.

The State submitted a request for approval of its general permit provisions to EPA on February 11, 1998. A revised request for approval of Rule 62–213.300, F.A.C. was submitted on April 9, 1999. In the revised request, the State asked for EPA's approval of an adjustment to the requirement for perchloroethylene dry cleaning facilities to submit semiannual startup, shutdown, and malfunction reports. The State requested that, in lieu of submitting semiannual reports, these facilities be allowed to retain the records onsite and submit reports of such deviations during facility inspections and with the annual compliance certifications required by 40 CFR 70.7(c)(5). The State's revised request was also submitted pursuant to section 112(l) of the CAA and EPA granted approval of the section 112(l) request on December 28, 1999 (64 FR 72568). However, as stated in the notice, this change does not exempt or delay any title V recordkeeping and compliance reporting requirements required of all title V sources in Florida.

Florida's implementation of its general permits program has brought about 85% of the covered area sources into compliance; sources that would otherwise be deferred from permitting requirements. Success of the State's program has been attributed to periodic inspection of the sources to ensure that the requirements of the general permits are being properly implemented. In addition, Florida has documented that perchloroethylene use has decreased throughout the state, thus contributing to a significant reduction in emissions from perchloroethylene dry cleaning facilities.

D. Fee Reassessment

On June 11, 1998, Florida sent a letter to EPA redefining the costs eligible for funding with title V fee revenues. Title V-related ambient air monitoring and State Implementation Plan development activities were deleted from Florida's list of eligible costs because the activities were being funded with other monies. As a result of this action, Florida expects to avoid a fee increase until the year 2003.

Additionally, Florida submitted an update regarding its title V fee program on October 1, 1999. The information provided in this update showed that no significant changes have been made to the State's fee program and it also demonstrated that Florida's Title V program is adequately funded by the fees collected. Because Florida has demonstrated that its operating permit program is adequately funded, EPA finds that the program satisfies the fee requirements of 40 CFR 70.9.

E. Minor Source Air Construction Permits (New Source Review) Partially Merged Program

On January 22, 1999, the State of Florida adopted amendments to Rule 62–210.300(1)(b)1., F.A.C. allowing conditions in minor source air construction permits to be changed when a title V permit or a FESOP containing these conditions is issued. These actions are, however, limited to changes that do not constitute modifications under Title I of the CAA (i.e., physical changes in, changes in the method of operation of, or additions to facilities that would result in increased emissions). The practical effect of these rule changes is to streamline the permitting process by eliminating the need for permittees to request that old minor source construction permits be reissued to make the changes approvable and federally enforceable before incorporating them into a FESOP or title V permit. The state-effective rule revision was submitted to EPA on April 9, 1999.

F. Compliance Assurance Monitoring (CAM) Rule Adoption

On April 7, 1998, the State of Florida adopted the CAM rule (40 CFR part 64) by reference into Rule 62–204.800(11), F.A.C. and made conforming amendments to Rule 62–213.440, F.A.C. These rule revisions were submitted to EPA on April 9, 1999.

G. Periodic Monitoring Rule

On July 7, 1998, EPA sent a letter to the State of Florida (from Winston A. Smith, Director, Air, Pesticides, and Toxics Management Division, EPA Region 4, to Howard L. Rhodes, Director, Division of Air Resources Management, FDEP) declaring that the State was inadequately administering its title V operating permit program by failing to include adequate periodic monitoring requirements in its title V permits (pursuant to 40 CFR 70.6). The State was also notified that EPA would issue a formal notification of deficiency, in accordance with the procedures outlined in 40 CFR 70.10, if action was not taken to rectify the deficiency. The basis for EPA's finding of deficiency was the State's assertion that it lacked regulatory authority to require periodic monitoring beyond that already included in the underlying applicable requirement. EPA had granted interim approval to Florida's Title V program with the understanding that since Florida's rules were essentially identical to the part 70 rule, the State would implement its program consistent with EPA's interpretation of 40 CFR 70.6 by

requiring insufficient monitoring already contained in applicable requirements to be supplemented with periodic monitoring requirements in title V permits. However, in practice, the State did not interpret its regulatory language in this manner and as a result was preparing permits that did not require monitoring sufficient to assure compliance with applicable requirements.

In response to the issues described in the July 7, 1998 letter, Florida initiated rulemaking and submitted revisions to Chapter 62–213, F.A.C. to EPA on July 1, 1999. The following rule changes became state-effective on July 15, 1999:

(1) Rule 62–213.420, F.A.C. was amended to clarify that the State may require additional periodic monitoring related information in the title V permit application in order to better evaluate the sufficiency of the monitoring requirements; and, (2) Rule 62–213.440, F.A.C. was amended to require the inclusion of periodic monitoring requirements in title V permits, to clarify what constitutes sufficient monitoring, to state the conditions under which monitoring records must be retained, and to provide examples of applicable requirements that contain sufficient monitoring requirements.

EPA believes that the changes described in this portion of the notice are appropriate and it is therefore proposing to approve these regulatory changes along with the State's Title V program final full approval.

What Is involved in This Final Action?

The Florida Department of Environmental Protection has fulfilled the conditions of the interim approval granted on September 25, 1995, and EPA is proposing full approval of the State's operating permit program. EPA is also proposing approval of other program changes made by the State since the interim approval was granted.

Administrative Requirements

I. Request for Public Comments

EPA requests comments on the program revisions discussed in this proposed action. Copies of the Florida submittals and other supporting documentation used in developing the proposed full approval are contained in a docket maintained at the EPA Region 4 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by August 1, 2001.

II. Executive Order 12866

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

III. Executive Order 12988

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.

IV. 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, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined in Executive Order 12866, and it does not involve decisions intended to mitigate environmental health or safety risks.

V. Executive Order 13084

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

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

VI. Executive Order 13132

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

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

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

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act 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 proposed rule will not have a significant impact on a substantial number of small entities because part 70 approvals under section 502 of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because this proposed approval does not create any new requirements, I certify that this proposed action will not have a significant economic impact on a substantial number of small entities.

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

VIII. Unfunded Mandates Reform Act of 1995

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

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

IX. Submission to Congress and the Comptroller General

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

X. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this proposed action must be filed in the United States Court of Appeals for the appropriate circuit by August 31, 2001. Filing a petition for reconsideration by the Administrator of this proposed 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) of the CAA.]

XI. National Technology Transfer and Advancement Act

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

In reviewing operating permit programs, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use VCS, EPA has no authority to disapprove an operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of an operating permit program that otherwise satisfies the provisions of the CAA. Therefore, the requirements of section 12(d) of NTTAA do not apply.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: June 22, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01–16570 Filed 6–29–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7004–4]

National Oil and Hazardous Substance Pollution Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Arcanum Iron & Metal Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region V is issuing a notice of intent to delete the Arcanum Iron & Metal Superfund Site (AIM Site) located in Arcanum, Twin Township, Drake County, Ohio from the National Priorities List (NPL) and requests public

comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at appendix B of 40 CFR part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Ohio, through the Ohio Environmental Protection Agency, have determined that all appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund. In the ''Rules and Regulations'' section of today's **Federal Register**, we are publishing a direct final notice of deletion of the Arcanum Iron & Metal Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse comment(s) on this notice of intent to delete or the direct final notice of deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

DATES: Comments concerning this Site must be received by August 1, 2001.

ADDRESSES: Written comments should be addressed to: Denise Battaglia, Community Involvement Coordinator, U.S. EPA (P–19J), 77 W. Jackson, Chicago, IL 60604 or fax number at, (312) 353–1155.

FOR FURTHER INFORMATION CONTACT: Kenneth Glatz, Remedial Project Manager at (312) 886–1434 or Gladys Beard, State NPL Deletion Process Manager at (312) 886–7253 or 1–800–621–8431, Superfund Division, U.S. EPA (SR–6J), 77 W. Jackson, IL 60604.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories

Repositories have been established to provide detailed information concerning this decision at the following address: U.S. EPA Region V Library, 77 W. Jackson, Chicago, IL 60604, (312) 353–5821, Monday through Friday 8 a.m. to 4 p.m.; Arcanum Public Library, 101 North Street, Arcanum, OH, 55802, (937) 692–8484, Monday to Thursday 9 p.m. to 8 a.m. and Friday and Saturday 9 a.m. to 5 p. m. ; Ohio Environmental Protection Agency, 122 S. Front Street, Lazarus Government Building, Columbus, OH 43215, (614) 644–3020, Monday through Friday 8 a.m. to 5 p.m.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: June 20, 2001.

David A. Ullrich,

Acting Regional Administrator, Region V.

[FR Doc. 01–16288 Filed 6–29–01; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 66, No. 127

Monday, July 2, 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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Notice of Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation will meet on Friday, July 13, 2001. The meeting will be held in the Paris North Room, Hotel Monaco, 501 Geary Street at Taylor, San Francisco, California, beginning at 8:30 a.m.

The Council was established by the National Historic Preservation Act of 1966 (16 U.S.C. 470) to advise the President and the Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Housing and Urban Development, and Transportation; the Administrators of the Environmental Protection Agency and General Services Administration; the Chairman of the National Trust for Historic Preservation; the President of the National Conference of State Historic Preservation Officers; a Governor; a Mayor; a Native Hawaiian; and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following:

I. Chairman's Welcome
II. Chairman's Report
III. Policy Issues
  A. Section 106 and the National Energy Policy—Action
  B. Preservation Initiatives for the Administration—Report and Possible Action
IV. Improving Federal Stewardship
  A. Task Force on Balancing Cultural and Natural Values in National Parks—Report and Discussion
  B. Proposed Alternate Section 106 Procedures for the Army—Action
  C. Chairman's Citation for Historic Preservation Achievement—Action
  D. Preservation of Manhattan Project Historic Properties—Action
  E. Preservation and the Military Construction Process—Report and Possible Action
V. Section 106 Issues
  Program Alternatives Underway—Report
VI. Executive Director's Report
  A. Major Section 106 Cases—Report and Possible Action
  B. Council Operating Procedures—Action
VII. New Business
VIII. Adjourn

Note: The meetings of the Council are open to the public. If you need special accommodations due to a disability, please contact the Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., Room 809, Washington, DC 20004, 202–606–8503, at least seven (7) days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Ave., NW., #809, Washington, DC 20004, 202–606–8503.

Dated: June 27, 2001.

John M. Fowler,

Executive Director.

[FR Doc. 01–16529 Filed 6–29–01; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–053–1]

Notice of Request for Reinstatement of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reinstatement of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request a reinstatement of an information collection in support of regulations governing the importation of fresh Hass avocados into the United States.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by August 31, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–053–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Rverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 01–053–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: For information on the regulations governing the importation of fresh Hass avocados into the United States, contact Mr. Wayne W. Burnett, Senior Import Specialist, Phytosanitary Issues Management Staff, Plant Protection and Quarantine, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–6799.

For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Mexican Hass Avocado Import Program.

OMB Number: 0579–0129.

Type of Request: Reinstatement of an information collection.

Abstract: The United States Department of Agriculture (USDA) is responsible for preventing plant pests from entering the United States and controlling and eradicating plant pests in the United States. The Plant

Protection Act authorizes the Department to carry out this mission. The Plant Protection and Quarantine (PPQ) program of USDA's Animal and Plant Health Inspection Service is responsible for implementing the regulations that carry out the intent of this Act. The regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56 through 319.56–8) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests, including fruit flies, that are new to or not widely distributed within the United States.

The regulations in § 319.56–2ff allow fresh Hass avocados grown in approved orchards in Michoacan, Mexico, to be imported into certain areas of the United States under conditions designed to ensure that the avocados do not harbor insect pests (including avocado stem weevils, seed weevils, and seed moths) that could harm U.S. agriculture. To reduce the pest risk to a negligible level, the regulations stipulate conditions for the importation of avocados, which include pest surveys, packinghouse procedures, inspection and shipping procedures, and restrictions on the time of year shipments may be imported into the United States.

Allowing avocados to be imported necessitates the use of certain information collection activities, including the use of an application for permit, a trust fund agreement, a phytosanitary certificate, certain marking requirements, seals, an annual workplan, and fruit fly surveys.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collections for 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average 1.165 hours per response.

Respondents: Packinghouse owners/operators in Mexico, importers, shippers, distributors, and handlers of fresh Hass avocados imported into the United States from Mexico.

Estimated annual number of respondents: 380.

Estimated annual number of responses per respondent: 1.

Estimated annual number of responses: 380.

Estimated total annual burden on respondents: 443 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 26th day of June 2001.

Craig A. Reed,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–16578 Filed 6–29–01; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Giant Sequoia National Monument Scientific Advisory Board Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Scientific Advisory Board established for the Giant Sequoia National Monument will hold its second meeting, July 17 and 18, 2001. The meeting will be held at the River Island Country Club, 31989 River Island Drive, Porterville, California. Topics for the meeting include: Allow for comments from the public; review and approve the minutes from the meeting held June 12 and 13, 2001; discuss and agree on advice regarding the Proposed Action (June 8, 2001 letter); and discuss the questions presented to the Scientific Advisory Board by the Forest. A final agenda can be obtained by contacting the Designated Federal Official to the Scientific Advisory Board Act Gaffrey or by visiting the Giant Sequoia National Monument web site at www.r5.fs.fed.us/giant_sequoia. Some members of the Scientific Advisory Board may participate in the meeting via telephone. In that event, arrangements will be made to enable the public to listen to all the members participating in the meeting. Scientific Advisory Board meetings are open to public attendance.

DATES: The meeting will begin on July 17, starting 8 a.m. and ending at 5 p.m. A field visit to the southern portion of the Giant Sequoia National Monument is scheduled July 18, from 8 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at River Island Country Club, 31989 River Island Drive, Porterville, CA 93257.

FOR FURTHER INFORMATION CONTACT: To receive further information contact Arthur L. Gaffrey, Designated Federal Official to the Scientific Advisory Board, telephone: (559) 784–1500, extension 111.

SUPPLEMENTARY INFORMATION: A field visit to parts of the Giant Sequoia National Monument may be held as part of the meeting on July 18. The field visit is open to the public. Anyone wishing to attend the field visit must provide his or her own transportation.

Written comments for the Scientific Advisory Board may be submitted to Forest Supervisor Arthur L. Gaffrey, Sequoia National Forest, 900 West Grand Avenue, Porterville, CA 93257.

To ensure adequate seating on July 17, public contact Forest Supervisor Gaffrey, if you are planning to attend. Guidelines for the public participation portion of the Scientific Advisory Board's meeting are as follows: The public will be allowed to address the Scientific Advisory Board during the first 30 minutes of the meeting on July 17. The public must provide a written copy of their presentation for inclusion in the meeting minutes. Each person wishing to make an oral presentation may do so for no more than 5 minutes, depending on the number of people wishing to address the Board. All presentations to the Board must be relative to the science surrounding the development of the Management Plan for the Giant Sequoia National Monument.

Dated: June 26, 2001.

Arthur L. Gaffrey,

Forest Supervisor, Sequoia National Forest.

[FR Doc. 01–16531 Filed 6–29–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with § 351.213 (1999) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review

Not later than the last day of July 2001, interested parties may request an administrative review of the following orders, findings, or suspended investigations, with anniversary dates in July for the following periods:

	Period
Antidumping Duty Proceedings	
Belarus: Solid Urea, A–822–801	7/1/00–6/30/01
Brazil:	
Industrial Nitrocellulose, A–351–804	7/1/00–6/30/01
Silicon Metal, A–351–806	7/1/00–6/30/01
Chile: Fresh Atlantic Salmon, A–337–803	7/1/00–6/30/01
Estonia: Solid Urea, A–447–801	7/1/00–6/30/01
France: Stainless Steel Sheet and Strip in Coils, A–427–814	7/1/00–6/30/01
Germany:	
Industrial Nitrocellulose, A–428–803	7/1/00–6/30/01
Stainless Steel Sheet and Strip in Coils, A–428–825	7/1/00–6/30/01
Iran: In-Shell Pistachio Nuts, A–507–502	7/1/00–6/30/01
Italy: Certain Pasta, A–475–818	7/1/00–6/30/01
Italy: Stainless Steel Sheet and Strip in Coils, A–475–824	7/1/00–6/30/01
Japan:	
Cast Iron Pipe Fittings, A–588–605	7/1/00–6/30/01
Clad Steel Plate, A–588–838	7/1/00–6/30/01
Industrial Nitrocellulose, A–588–812	7/1/00–6/30/01
Stainless Steel Sheet and Strip in Coils, A–588–845	7/1/00–6/30/01
Lithuania: Solid Urea, A–451–801	7/1/00–6/30/01
Mexico: Stainless Steel Sheet and Strip in Coils, A–201–822	7/1/00–6/30/01
Republic of Korea:	
Industrial Nitrocellulose, A–580–805	7/1/00–6/30/01
Stainless Steel Sheet and Strip in Coils, A–580–834	7/1/00–6/30/01
Romania: Solid Urea, A–485–601	7/1/00–6/30/01
Russia:	
Ferrovanadium and Nitrided Vanadium, A–821–807	7/1/00–6/30/01
Solid Urea, A–821–801	7/1/00–6/30/01
Tajikistan: Solid Urea, A–842–801	7/1/00–6/30/01
Taiwan:	
Stainless Steel Sheet and Strip in Coils, A–583–831	7/1/00–6/30/01
Butt-Weld Pipe Fittings, A–549–807	7/1/00–6/30/01
Canned Pineapple, A–549–813	7/1/00–6/30/01
Furfuryl Alcohol, A–549–812	7/1/00–6/30/01
The People's Republic of China:	
Bulk Aspirin, A–570–853	1/3/00–6/30/01
Carbon Steel Butt-Weld Pipe Fittings, A–570–814	7/1/00–6/30/01
Industrial Nitrocellulose, A–570–802	7/1/00–6/30/01
Persulfates, A–570–847	7/1/00–6/30/01
Sebacic Acid, A–570–825	7/1/00–6/30/01
The United Kingdom:	
Industrial Nitrocellulose, A–412–803	7/1/00–6/30/01
Stainless Steel Sheet and Strip in Coils, A–412–818	7/1/00–6/30/01
Turkmenistan: Solid Urea, A–843–801	7/1/00–6/30/01
Turkey: Certain Pasta, A–489–805	7/1/00–6/30/01
Ukraine: Solid Urea, A–823–801	7/1/00–6/30/01
Uzbekistan: Solid Urea, A–844–801	7/1/00–6/30/01
Countervailing Duty Proceedings	
Brazil: Certain Hot-Rolled Carbon Steel Flat Products, C–351–829	1/1/00–12/31/00
European Economic Community: Sugar, C–408–046	1/1/00–12/31/00
Italy: Certain Pasta, C–475–819	1/1/00–12/31/00
Turkey: Certain Pasta, C–489–806	1/1/00–12/31/00
Suspension Agreements	
Brazil:	
Hot-Rolled Flat-Rolled Carbon-Quality Steel Products, C–351–829	1/1/00–12/31/00
Hot-Rolled Flat-Rolled Carbon-Quality Steel Products, A–351–828	1/1/00–12/31/00

	Period
Russia: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products, A–821–809	1/1/00–12/31/00

In accordance with § 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with § 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of July 2001. If the Department does not receive, by the last day of July 2001, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 25, 2001.

Holly A. Kuga.

Senior Office Director, Group II, Office 4, AD/CVD Enforcement.

[FR Doc. 01–16597 Filed 6–29–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–808]

Stainless Steel Plate in Coils From Belgium; Extension of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 2, 2001.

FOR FURTHER INFORMATION CONTACT: Elfi Blum or Abdelali Elouaradia, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230 at (202) 482–0197 or (202) 482–1374, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

SUPPLEMENTARY INFORMATION:

Background

On May 21, 1999, the Department published in the **Federal Register** the antidumping duty order on certain stainless steel plate in coils from Belgium (64 FR 27756). On May 31, 2000, in accordance with 19 CFR 351.213, respondent ALZ and its affiliated U.S. importer TrefilARBED, Inc., and the petitioners, Allegheny Ludlum, AK Steel Corporation (formerly Armco, Inc.), J&L Speciality Steel Inc., North American Stainless, Butler-Armco Independent Union, Zanesville Armco Independent Union, and the United Steelworkers of America, AFL–CIO/CLC (collectively, petitioners), requested a review of the antidumping duty order on certain stainless steel plate in coils from Belgium. On July 7, 2000, we published a notice of ''Initiation of Antidumping Review.'' *See* 65 FR 41942. On August 14, September 5, and September 15, 2000, ALZ responded to sections A, B and D, then C, respectively, of the Department's antidumping questionnaire. On October 5, 2000, ALZ submitted a timely request for withdrawal from the administrative review pursuant to section 351.213(d) of the Department's regulations, and requested the return or destruction of its questionnaire responses. On October 20, 2000, the petitioners objected to ALZ's request for the return or destruction of the information submitted in the course of the proceeding. In accordance with the Department's practice, we granted ALZ its request to remove its questionnaire responses from the Department's record. For a detailed discussion regarding the removal of questionnaire responses from the administrative record, *see Memorandum to Barbara E. Tillman through Sally Gannon from Abdelali Elouaradia: Return or Destruction of ALZ, N.V. Questionnaire Response,* December 19, 2000 (on file in the Department's Central Records Unit, Room B–099). Given that petitioners also requested a review, we continued conducting this administrative review pursuant to section 751(a) of the Act. In light of the petitioners' request to continue the review process, the Department published in the **Federal Register** the preliminary results of review on February 26, 2001 (66 FR 11559–01), applying adverse facts available in accordance with section 776(b) of the Act to determine ALZ's rate.

Extension of Time Limits for Final Results

The parties in this proceeding have submitted extensive briefs concerning the Department's choice of facts available. In order to consider these comments, it is not practicable to complete this review by the current deadline of June 26, 2001. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time period for issuing the final results

of review until no later than October 24, 2001.

This notice is issued and published in accordance with section 751(a)(3)(A) of the Act and § 351.213(h)(2) of the Department's Regulations.

Dated: June 26, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–16598 Filed 6–29–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration, Commerce

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended export trade certificate of review, application no. 99–1A005.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted originally to California Almond Export Association (''CAEA'') on December 27, 1999. Notice of issuance of the Certificate was published in the **Federal Register** on January 6, 2000 (65 FR 760).

FOR FURTHER INFORMATION CONTACT: Vanessa M. Bachman, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, by telephone at (202) 482–5131 (this is not a toll-free number) or by E-mail at oetca@ita.doc.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–4021) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (2000).

The Office of Export Trading Company Affairs (''OETCA'') is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of the certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR § 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 99–00005, was issued to California Almond Export Association, L.L.C. on December 27, 1999 (65 FR 760, January 6, 2000).

California Almond Export Association L.L.C's Certificate of Review has been amended to:

1. Add each of the following companies as a new ''Member'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1): Fisher Nut Company, Modesto, California; Minturn Nut Company, LeGrand, California; Quality Nut Company, Escalon, California; and Ryan*Parreira Almond Company, Los Banos, California; and;

2. Delete Dole Nut Company, Bakersfield, California and Santa Fe Nut Company of Ballico, California, as ''Members'' of the Certificate.

The effective date of the amended certificate is March 26,2001. A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: June 26, 2001.

Vanessa M. Bachman,

Acting Director, Office of Export Trading, Company Affairs.

[FR Doc. 01–16475 Filed 6–29–01; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldridge National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that there will be a closed meeting of the Judges Panel of the Malcolm Baldridge National Quality Award on Wednesday, August 2, 2001. The Judges Panel is composed of nine members prominent in the field of quality management and appointed by the Secretary of Commerce. The purpose of this meeting is to discuss the criteria for moving applicants to consensus/site visits; review of Stage I process; a review of Stage I data and selection of applicants for consensus; a report on segmentation of Judges survey data; a discussion of the draft issue sheet on CEO engagement; a discussion of the draft flowchart for the November process; and a review of senior training. The applications under review contain trade secrets and proprietary commercial information submitted to the Government in confidence.

DATES: The meeting will convene August 2, 2001, at 9 a.m. and adjourn at 4:30 p.m. on August 2, 2001. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Chemistry Building, Training Room 1, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 12, 2001, that the meeting of the Judges Panel will be closed pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409. The meeting, which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: June 26, 2001.

Karen H. Brown,

Acting Director.

[FR Doc. 01–16530 Filed 6–29–01; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 010501107–1107–01]

RIN 0648XA67

Termination of 121.5/243 MHz Satellite Alerting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that the International Cospas-Sarsat Program plans on terminating 121.5/243 MHz satellite alerting on February 1, 2009. This action responds to guidance provided by the United States National Search and Rescue Committee, the International Maritime Organization, and the International Civil Aviation

Organization. These organizations have requested that 121.5/243 MHz satellite alerting be terminated, due to the high number of false alerts and the negative impact on 121.5/243 MHz emergency beacons users and search and rescue responders. The intended effect of this action is to transition the public from 121.5/243 MHz emergency beacons to emergency beacons operating at 406 MHz.

DATES: The termination of 121.5/243 MHz satellite alerting is expected to take place on February 1, 2009.

FOR FURTHER INFORMATION CONTACT: Ajay Mehta, SARSAT Program Manager, at (301) 457–5678.

SUPPLEMENTARY INFORMATION:

Background

The National Oceanic and Atmospheric Administration's National Environmental Satellite, Data, and Information Service (NESDIS) manages the Nation's operational geostationary and polar-orbiting environmental satellites, and manages a large collection of atmospheric, geophysical and oceanographic data. Within NESDIS, the Office of Satellite Data Processing and Distribution (OSDPD) manages and directs the operation of the central ground facilities which ingest, process, and distribute environmental satellite data and derived products to domestic and foreign users. OSDPD manages the United States Search and Rescue Satellite-Aided Tracking (SARSAT) Program, and represents the United States to the international Cospas-Sarsat Program. NOAA, along with the United States Coast Guard, United States Air Force and the National Aeronautics and Space Administration, is responsible for implementing the Cospas-Sarsat Program at the national level in the United States.

Cospas-Sarsat's ultimte mission is to assist in saving lives. The Cospas-Sarsat System has assisted in the rescue of more than 11,000 persons since its inception in 1982. The current Cospas-Sarsat Program was established by an inter-governmental agreement signed in 1988 between the Governments of Canada, France, the former Soviet Union and the United States.

The system works in the following manner: Search and rescue instruments are flown on the United States's NOAA polar-orbiting and geostationary-orbiting satellites and Russian Nadezhda series of polar-orbiting satellites. These instruments are capable of detecting signals from emergency beacons referred to as Emergency Locator Transmitters (ELTs), Emergency Position Indicating Radio Beacons (EPIRBs), or Personal Locator Beacons (PLSs). ELTs are primarily used by aircraft, EPIRBs by maritime vessels, and PLSb by individuals on land.

ELTs, EPIRBs, and PLBs may operate on either the 121.5, 243 or 406 MHz frequencies. 121.5/243 MHz beacons transmit an analog signal that does not contain any information about the beacon or user. Alternatively, the 406 MHz beacons transmit a digital code that contains information about the type of beacon. Each 406 MHz beacon in the world has a unique identifier. The unique identifier allows for additional information called registration data to be linked to each beacon. After receipt of ELT, EPIRB or PLB signals by the satellite, the satellite relays the signals to earth stations referred to as Local User Terminals (LUTs).

The LUT, after computing the location of the emergency beacon using Doppler technology, transmits an alert message to its respective Mission Control Center (MCC) via a data communication network. The MCC performs matching and merging of alert messages with other received messages, geographically sorts the data to determine the appropriate search and rescue authority, and subsequently transmits a distress messge to another MCC, an appropriate search and rescue authority such as a national Rescue Coordination Center (RCC) or a foreign SAR Point of Contact (SPOC). In the United States, distress alert data is transmitted to one of the following search and rescue authorities: the United States Air Force Rescue Coordination Center (AFRCC) at Langley AFB in Virginia; the 11th Rescue Coordination Center at Elmondorf AFB in Alaska; one of 10 United States Coast Guard Rescue Coordination Centers; or the Joint Rescue Coordination Center located in Key West, Florida that is responsible for some overseas search and rescue regions.

The USMCC also transmits distress messages internationally to: SAR Points of Contact (SPOCs) in other nations that are considered within the USMCC service area, but outside of its national search and rescue region; or MCCs in other nations.

Termination of 121.5/243 MHz Satellite Alerting

The Cospas-Sarsat Program made the decision to terminate 121.5/243 MHz satellite alerting services in response to guidance from the International Maritime Organization (IMO) and the International Civil Aviation Organization (ICAO). These two agencies of the United Nations are responsible for regulating the safety of ships and aircraft respectively, on international transits, and handling international standards and plans for maritime and aviation search and rescue. More than 180 nations are members of IMO and ICAO.

Another major factor in the decision to stop satellite processing of 121.5/243 MHz signals is due to problems in this frequency band which inundate search and rescue authorities with false alerts, adversely impacting the effectiveness of lifesaving services. Although the 406 MHz beacons currently cost more, they provide search and rescue agencies with more reliable and complete information to do their job more efficiently and effectively.

The implication of this Cospas-Sarsat decsion is that users of ELTs, EPIRBs, and PLBs that operate on 121.5/243 MHz should eventually begin using beacons operating on 406 MHz if they wish to continue having their beacons detected by satellites. United States registered civil aircraft may carry a 121.5 MHz ELT to satisfy the requirements described in CFR Title 14, part 91, section 207. At the present time, the United States does not mandate the carriage of 406 MHz ELTs. The carriage of 406 MHz ELTs is optional. The United States does not have any mandatory carriage requirements for 121.5 MHz EPIRBs.

Cospas-Sarsat is an international program and the decision to terminate satellite processing of distress signals at 121.5/243 MHz does not mean that users cannot continue to use 121.5/243 MHz emergency beacons. The result of this termination process is that the 121.5/243 MHz signals will no longer be detected by satellites, under the auspices of Cospas-Sarsat. This lack of signal processing could result in a distress signal from a 121.4/243 MHz emergency beacon not being detected, or the detection being significantly delayed. The termination of 121.5/243 MHz processing is planned far enough into the future to allow current 121.5/243 MHz emergency beacon users to transition smoothly to 406 MHz beacons.

(Authority: Pub. L. 98–8, Title I, 104 (1983); 15 U.S.C. 313; 33 U.S.C. 883a; 49 U.S.C. 44720(b))

Gregory W. Withee,

Assistant Administrator for Satellite and Information Services.

[FR Doc. 01–16575 Filed 6–29–01; 8:45 am]

BILLING CODE 3510–HR–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Public Comment Period on the Elimination of the Paper Visa Requirement with the Hong Kong Special Administrative Regime of the People's Republic of China (HKSAR)

June 26, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Seeking public comments on the elimination of the paper visa requirement with the HKSAR.

FOR FURTHER INFORMATION CONTACT: Lori Mennitt, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Electronic Visa Information System (ELVIS) allows foreign governments to electronically transfer shipment information to the U.S. Customs Service on textile and apparel shipments. On November 9, 1995, a notice was published in the **Federal Register** (61 FR 56576) seeking public comments on the implementation of ELVIS. Subsequently, a document published on December 29, 1998 (63 FR 71621) announced that, starting on January 1, 1999, the HKSAR would implement the ELVIS system. This implementation did not eliminate the requirement for a valid paper visa to accompany each shipment for entry into the United States.

As a result of successful use of the dual visa system, preparations are under way to move beyond the current dual system to the paperless ELVIS system with Hong Kong.

The Committee for the Implementation of Textile Agreements is requesting interested parties to submit comments on the elimination of the paper visa requirement for Hong Kong and utilization of the ELVIS system exclusively. Comments must be received on or before *insert date 60 days from publication*. Comments may be mailed to D. Michael Hutchinson, Acting Chairman, Committee for the Implementation of Textile Agreements, room 3001, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, DC 20230.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C.553(a)(1).

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.01–16590 Filed 6–29–01; 8:45 am]

BILLING CODE 3510–DR–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Cancellation of Certain Export Visa Requirements for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Lesotho

June 26, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs canceling certain export visa requirements.

EFFECTIVE DATE: August 20, 2001.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

On December 9, 1992, the Governments of the United States and the Kingdom of Lesotho agreed to establish an export visa arrangement for certain textiles and textile products, produced or manufactured in Lesotho and exported from Lesotho. CITA directed the U.S. Customs Service to prohibit entry of textile and textile products covered by the arrangement for which the Government of Lesotho had not issued an appropriate export visa. (See 58 FR 26121, published on April 30, 1993).

The African Growth and Opportunity Act (AGOA) provides that eligible textile and apparel articles enter free of duty and free of quantitative limitation, provided, inter alia, that the country has adopted an effective visa system to prevent unlawful transshipment of the articles and the use of counterfeit documents relating to importation of the articles into the United States. Pursuant to this requirement, the Governments of the United States and Lesotho agreed to a new, AGOA visa system, which entered into effect on April 23, 2001. (See 66 FR 21192, published on April 27, 2001)

As a result of the new, AGOA visa system, the Governments of the United States and Lesotho have agreed to terminate the 1992 visa arrangement, effective August 20, 2001. On and after this date, textiles and textile products will not be subject to the requirements of the 1992 visa arrangement. However, importers claiming preferential tariff treatment under the AGOA for entries of textile and apparel articles should ensure that those entries meet the requirements of the new, AGOA visa system. (See 66 FR 7837, published on January 25, 2001).

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 26, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive cancels and supersedes the directive issued to you on April 23, 1993, by the Chairman, Committee for the Implementation of Textile Agreements. That directive directs you to prohibit entry of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Lesotho which were not properly visaed by the Government of Lesotho.

The African Growth and Opportunity Act (AGOA) provides that eligible textile and apparel articles enter free of duty and free of quantitative limitation, provided, inter alia, that the country has adopted an effective visa system to prevent unlawful transshipment of the articles and the use of counterfeit documents relating to importation of the articles into the United States. Pursuant to this requirement, the Governments of the United States and Lesotho agreed to a new, AGOA visa system, which entered into effect on April 23, 2001. (See 66 FR 21192, published on April 27, 2001)

As a result of the new, AGOA visa system, the Governments of the United States and Lesotho have agreed to terminate the 1992 visa arrangement, effective August 20, 2001. On and after this date, textiles and textile products will not be subject to the requirements of the 1992 visa arrangement. However, importers claiming preferential tariff treatment under the AGOA for entries of textile and apparel articles should ensure that those entries meet the requirements of the new, AGOA visa system. (See 66 FR 7837, published on January 25, 2001).

Therefore, effective on August 20, 2001, you are directed to terminate the textile visa requirement set forth in the April 23, 1993 directive. Importers claiming preferential tariff treatment under the AGOA for entries of textile and apparel articles must continue to meet the requirements of the new, AGOA visa system. (See 66 FR 7837, published on January 25, 2001)

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 01–16591 Filed 6–29–01; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness).

ACTION: Notice.

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed reinstatement of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) whether the proposed collection of information is a necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 31, 2001.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Office of the Under Secretary of Defense (Personnel and Readiness) (Force Management Policy/Military Personnel Policy/Compensation), ATTN: Thomas R. Tower, 4000 Defense Pentagon, Washington, DC 20301–4000.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address or call (703) 693-1059.

Title, Associated Form, and OMB Control Number: Application for Annuity Certain Military Surviving Spouses, Form #: DD Form 2769, OMB Number: 0704–0402.

Needs and Uses: This information collection requirement is necessary to identify and pay surviving spouses who meet the criteria established for benefits under the provisions of The National Defense Authorization Act for Fiscal Year 1998, Public Law 105–85, Section 644, as amended. The DD Form 2769, ''Application for Annuity—Certain Military Surviving Spouses,'' used in this information collection, provides a vehicle for the surviving spouse to apply for the annuity benefit. The Department will use this information to determine if the applicant is eligible for the annuity benefit and make payment to the surviving spouse. The respondents of this information collection are a never-remarried surviving spouse of a member of a Uniformed Service who (1) died before March 21, 1974, and was entitled to retired or retainer pay on the date of death, or (2) was a member of a Reserve Component of the Armed Forces who died before October 1, 1978 and on the date of death would have been entitled to retired pay except for not yet being 60 years of age.

Affected Public: Individuals.

Annual Burden Hours: 200.

Number of Respondents: 200.

Responses Per Respondent: 1.

Average Burden per Response: 1 hour.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The National Defense Authorization Act of FY 1998, Public Law 105–85, section 644, requires the Secretary of Defense to pay an annuity to qualified surviving spouses. As required by the Act, no benefit shall be paid to any person under this section unless an application for such benefit is filed with the Secretary concerned by or on behalf of such person. This information collection is needed to obtain the necessary data so that the Department can determine is the applicant is eligible for the annuity benefit and make payment to the surviving spouse.

Dated: June 25, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 01–16537 Filed 6–29–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 01–20]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)91) arms sales notification. This is published to fulfill the requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, transmittal 01–20 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: June 25, 2001.

L.M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

18 JUN 2001
In reply refer to:
I-01/005626

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 01-20 and under separate cover the classified offset certificate thereto. This Transmittal concerns the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Hungary for defense articles and services estimated to cost $370 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Reporting of Offset Agreements in accordance with Section 36(b)(1)(C) of the Arms Export Control Act (AECA), as amended, requires a description of any offset agreement with respect to this proposed sale. Section 36(g) of the AECA, as amended, provides that reported information related to offset agreements be treated as confidential information in accordance with section 12(c) of the Export Administration Act of 1979 (50 U.S.C. App. 2411(c)). Information about offsets for this proposed sale are described in the enclosed confidential attachment.

Sincerely,

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments
As stated

Separate Cover:
Offset certificate

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 01-20

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser**: Hungary

(ii) **Total Estimated Value**:

Major Defense Equipment*	$ 6 million
Other	$364 million
TOTAL	$370 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase**: In support of the proposed F-16A/B aircraft lease being notified separately, four F-16A Block 10 operational capabilities upgrade aircraft for cannibalization and regeneration/upgrade of aircraft and engines, together with spare and repair parts, devices, support equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering and logistics personnel services and other related elements of logistics support.

(iv) **Military Department**: Air Force (SAE)

(v) **Prior Related Cases, if any**: none

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid**: none

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold**: See Annex attached

(viii) **Date Report Delivered to Congress**: 18 JUN 2001

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Hungary - Support for F-16A/B Aircraft

The Government of Hungary has requested a possible sale of four F-16A Block 10 operational capabilities upgrade aircraft for cannibalization and regeneration/upgrade of aircraft and engines, together with spare and repair parts, devices, support equipment, publications and technical documentation, personnel training and training equipment, U.S. Government and contractor engineering and logistics personnel services and other related elements of logistics support in support of an F-16 lease. The estimated cost is $370 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Hungary while enhancing weapon system standardization and interoperability with U.S. forces.

The Hungarian Air Force (HAF) currently operates MiG-29 aircraft. These former Warsaw Pact fighters are expensive to operate and maintain, lack essential NATO interoperability capabilities, and are nearing the end of their useful service lives. This proposed sale and the associated lease aircraft will enhance NATO interoperability while simultaneously providing operational capabilities as the Soviet-era aircraft in Hungarian inventory are eventually retired. This proposed sale would not impact the regional military balance of power. It will also allow the HAF to meet training requirements, as well as national air defense and NATO commitments, starting in early 2004.

The principal contractors will be Lockheed Martin Tactical Aircraft Systems of Fort Worth, Texas and Pratt and Whitney of East Hartford, Connecticut. One or more proposed offset agreements may be related to this proposed sale.

Implementation of this proposed sale will require the assignment of 11 U.S. Government and two contractor representatives for a period of up to three years to provide program support commencing with delivery of the aircraft to Hungary.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 01-20

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The F-16A Block 10 operational capability upgrade aircraft and Pratt and Whitney F-100-PW-200 engine are unclassified. The aircraft does not contain state-of-the-art technology.

2. The F-100-PW-200 engines and the associated component parts used in F-16A aircraft are unclassified. However, several manufacturing processes, design practices, and metallurgical fabrication techniques used are advanced technology methods found only in the U.S. propulsion technology industry. The sale of the engines to Hungary will not include the transfer of sensitive technology since the proposed sale does not include manufacturing processes, design practices, or metallurgical fabrication techniques.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that Hungary can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 01–16540 Filed 6–29–01; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Postponement of the Defense Finance and Accounting Service Board of Advisors

AGENCY: Department of Defense, Office of the Secretary of Defense (Comptroller).

ACTION: Notice of postponement of June 27, 2001 meeting.

SUMMARY: On Monday, June 18, 2001 (66 FR 32795), the Department of Defense published a notice of meeting of the Defense Finance and Accounting Service (DFAS) Board of Advisors scheduled for Wednesday, June 27, 2001. The meeting has been postponed and will be rescheduled and announced at a later date.

Dated: June 25, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–16538 Filed 6–29–01; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–412–001]

Algonquin Gas Transmission Company; Notice of Compliance Filing

June 26, 2001.

Take notice that on June 21, 2001, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheet, to be effective on June 7, 2001:

Fourth Revised Volume No. 1
Sub Second Revised Sheet No. 610

Algonquin states that the purpose of this filing is to comply with the directives of the Commission's Letter Order dated June 6, 2001, in Docket No. RP01–412–000 (June 6 Order).

On May 7, 2001, Algonquin filed revised tariff sheets in order to permit customers to electronically request service and execute service agreements via the LINKr System.

Algonquin states that the June 6 Order accepted certain tariff sheets in Algonquin's May 7 tariff filing, effective June 7, 2001, and required that Algonquin submit revised tariff sheets, as necessary, implementing the electronic version of the service request form on Algonquin's website and reflecting the elective nature of the electronic process.

Algonquin states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC

20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–16505 Filed 6–29–01; 8:45 am]

BILLING CODE 6717–0–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–413–001]

East Tennessee Natural Gas Company; Notice of Compliance Filing

June 26, 2001.

Take notice that on June 21, 2001, East Tennessee Natural Gas Company (East Tennessee) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective on June 7, 2001:

Sub Seventh Revised Sheet No. 111
Sub Second Revised Sheet No. 111A

East Tennessee states that the purpose of this filing is to comply with the directives of the Commission's Letter Order dated June 6, 2001, in Docket No. RP01–413–000 (June 6 Order).

East Tennessee states that, on May 7, 2001, revised tariff sheets were filed in this docket in order to permit customers to electronically request service and execute service agreements via the LINKr System.

East Tennessee states that the June 6 Order accepted certain of the tariff sheets in East Tennessee's May 7 tariff filing effective June 7, 2001, and required that East Tennessee file, as necessary, revised tariff sheets implementing the electronic version of the service request form on East Tennessee's website and reflecting the elective nature of the electronic process.

East Tennessee states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–16506 Filed 6–29–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER01–1740–002]

New York Independent System Operator, Inc.; Notice of Filing

June 21, 2001.

Take notice that on June 18, 2001, the New York Independent System Operator, Inc. (NYISO) filed revisions to its Open Access Transmission Tariff in order to include a description of the cost allocation methodology for its Incentivized Day-Ahead Economic Load Curtailment Program, pursuant to the Commission's order issued on May 16, 2001 in the above-captioned proceeding. The NYISO has requested an effective date of May 1, 2001.

The NYISO has served a copy of this filing upon parties on the official service lists maintained by the Commission for the above-captioned dockets.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214d of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before July 9, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http:www.ferc.fed.us/efi/doorbell.htm.*

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–16504 Filed 6–29–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–159–002)]

Southern Natural Gas Company; Notice of Compliance Filing

June 26, 2001.

Take notice that on June 19, 2001, Southern Natural Gas Company (Southern), tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets, with an effective date of June 4, 2001:

Second Substitute Second Revised Sheet No. 45
Substitute Original Sheet No. 45A

Southern states that the purpose of the filing is to clarify the circumstances under which Southern would pay to construct delivery and receipt point facilities or offer the Shipper a contribution in aid of construction (CIAC) under Southern's Rate Schedule FT. Southern is making this filing in compliance with the Commission's June 4, 2001 Order in this proceeding.

Southern states that copies of the filing will be served upon its shippers and interested state commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and

Regulations. All such protests must be filed 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–16507 Filed 6–29–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–52–043]

Williams Gas Pipelines Central, Inc.; Notice of Filing of Refund Report

June 26, 2001.

Take notice that on May 31, 2001, Williams Gas Pipelines Central, Inc. (Williams) tendered for filing its report of activities during the past year regarding collection of Kansas ad valorem tax refunds.

Williams states that this filing is being made in compliance with Commission order issues September 10, 1997 in Docket Nos. RP97–369–000, et al. The September 10 order requires first sellers to make refunds for the period October 3, 1983 through June 28, 1988. The Commission also directed that pipelines file a report annually concerning their activities to collect and flow through refunds of the taxes at issue.

Williams states that a copy of its filing was served on all parties included on the official service list maintained by the Secretary in this 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 July 6, 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's 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–16508 Filed 6–29–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1721–001, et al.]

Entergy Nuclear Indian Point 2, LLC, et al.; Electric Rate and Corporate Regulation Filings

June 25, 2001.

Take notice that the following filings have been made with the Commission:

1. Entergy Nuclear Indian Point 2, LLC

[Docket No. ER01–1721–001]

Take notice that on June 21, 2001, Entergy Nuclear Indian Point 2, LLC (''ENIP2'') tendered for filing a designation for a long term power purchase agreement and revised tariff sheets to ENIP2's FERC Electric Tariff, Original Volume No.1 in compliance with the Letter Order issued on May 24, 2001 in this Docket No. ER01–1721–000. The tariff revision incorporates a prohibition on power purchases from any affiliated public utility with a franchised service territory absent a rate filing under Section 205 of the Federal Power Act.

Comment date: July 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Wildflower Energy LP

[Docket No. ER01–1822–000]

Take notice that on June 21, 2001, Wildflower Energy LP (Wildflower) submitted a redesignated rate schedule, in compliance with the Commission's order in this docket issued on June 12, 2001.

Comment date: July 12, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Caithness Energy Marketing, LLC

[Docket No. ER01–2353–000]

Caithness Energy Marketing, LLC (Caithness Marketing) petitioned the Commission on June 19, 2001, for authority to sell electricity at market-based rates under Section 205(a) of the Federal Power Act, 16 U.S.C. § 824d(a); for the granting of certain blanket approvals and for the waiver of certain Commission regulations. Caithness Marketing is a Delaware limited liability company that proposes to engage in the wholesale sale of electric power.

Comment date: July 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Xcel Energy Services Inc.

[Docket No. ER01–2356–000]

Take notice that on June 19, 2001, Xcel Energy Services Inc.(XES), on behalf of Southwestern Public Service Company (Southwestern), submitted for filing a Service Agreement between Southwestern and Midwest Energy, Inc., which is an umbrella service agreement under Southwestern's Rate Schedule for Market-Based Power Sales (FERC Electric Tariff, Second Revised Volume No. 3).

XES requests that this agreement become effective on May 29, 2001.

Comment date: July 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Xcel Energy Operating Companies, Northern States Power Company, Northern States Power Company,(Wisconsin)

[Docket No. ER01–2358–000]

Take notice that on June 19, 2001, Northern States Power Company and Northern States Power Company (Wisconsin) (jointly NSP), wholly-owned utility operating company subsidiaries of Xcel Energy Inc., tendered for filing a Non-Firm and a Short-Term Firm Point-to-Point Transmission Service Agreement between NSP and Axia Energy, LP. NSP proposes the Agreements be included in the Xcel Energy Operating Companies FERC Joint Open Access Transmission Tariff, Original Volume No. 1, as Service Agreements 189–NSP and 190–NSP, pursuant to Order No. 614.

NSP requests that the Commission accept the agreement effective May 19, 2001, and requests waiver of the Commission's notice requirements in order for the agreements to be accepted for filing on the date requested.

Comment date: July 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Portland General Electric Company

[Docket No. ER01–2359–000]

Take notice that on June 19, 2001, Portland General Electric Company (PGE) filed revised tariff sheets to its Open Access Transmission Tariff. The revised sheets are intended: (1) to clarify that Energy Service Suppliers under Oregon's retail access provisions are deemed to be eligible customers; and (2) to revise PGE's Energy Imbalance provisions to require payments for imbalances based on the market price of energy.

PGE requests that the Commission make the revised tariff sheets effective as of September 1, 2001.

Comment date: July 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Northern Indiana Public Service Company

[Docket No. ER01–2360–000]

Take notice that on June 19, 2001, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Exelon Generation Company, LLC (Exelon). Copies of this filing have been sent to Exelon Generation Company, LLC the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Non-Firm Point-to-Point Transmission Service to Exelon pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of June 20, 2001.

Comment date: July 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Northern Indiana Public Service Company

[Docket No. ER01–2361–000]

Take notice that on June 19, 2001, Northern Indiana Public Service Company tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Mirant Americas Energy Marketing, LP (Mirant).Copies of this filing have been sent to Mirant Americas Energy Marketing, LP, the Indiana Utility Regulatory Commission, and the Indiana Office of Utility Consumer Counselor.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Non-Firm Point-to-Point Transmission Service to Mirant pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of June 20, 2001.

Comment date: July 10, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Old Dominion Electric Cooperative

[Docket No. ES01–38–000]

Take notice that on June 15, 2001, Old Dominion Electric Cooperative (Old Dominion) submitted an application pursuant to section 204 of the Federal Power Act seeking authorization to issue mortgage bonds in an amount not exceeding an aggregate of $250 million.

Old Dominion also requests a waiver of the Commission's competitive bidding and negotiated placement requirements at 18 CFR 34.2.

Comment date: July 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the Comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance). Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at http://www.ferc.fed.us/efi/doorbell.htm.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–16503 Filed 6–29–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11150–000—Michigan]

Cameron Gas and Electric Company; Notice of Availability of Environmental Assessment

June 26, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for an original license for the unlicensed Smithville and Mix Hydroelectric Project located on the Grand River, in the city of Easton Rapids, Eaton County, Michigan, and has prepared a Environmental Assessment (EA) for the project. In the EA, the Commission's staff has analyzed the potential environmental effects of the project and has concluded that approval of the project, with appropriate environmental measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, NE., Washington, DC 20426. The EA may also be viewed on the web at *http://www.ferc.fed.us/online/rims.htm*. Please call (202) 208–2222 for assistance. For further information, contact William Guey-Lee at (202) 219–2808.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–16510 Filed 6–29–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications Accepted for Filing and Soliciting Comments, Protests, and Motions to Intervene

June 26, 2001.

Take notice that the following hydroelectric applications have been

filed with the Commission and are available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project Nos.:* 12029–000, 12030–000 12031–000, 12032–000, 12040–000, 12041–000, 12042–000, 12043–000, 12044–000, and 12045–000.

c. *Date filed:* May 29 and June 4, 2001.

d. *Applicant:* Hydrodynamics, Inc.

e. *Name and Location of Projects:* All of these projects would be located on the U.S. Bureau of Reclamation's existing Greenfield Irrigation District canal system, using irrigation diversions from the Sun River below Gibson Dam, at the canal and drop structure identified in item j below, in Teton and Cascade Counties, Montana.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

g. *Applicant Contact:* Mr. Roger Kirk, Hydrodynamics, Inc., P.O. Box 1136, Bozeman, MT 59771, (406) 587–5086.

h. *FERC Contact:* James Hunter, (202) 219–2839.

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. Comments, protests, and motions to intervene 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 noted project numbers 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 Projects:* The name of each project identifies the drop structure at which it would be located; all of the described project works are proposed. (1) The Upper Turnbull Project No. 12029 would consist of a diversion structure, crest elevation 4,322 feet, on the Spring Valley Canal; a 1200-foot-long, 8-foot-diameter pen stock; a powerhouse containing a 4-MW generating unit; a tailrace returning flows to the canal at elevation 4,220 feet; and a 2-mile-long transmission line. (2) The Lower Turnbull Project No. 12030 would consist of a diversion structure, crest elevation 4,219 feet, on the Spring Valley Canal; a 2500-foot-long, 8-foot-diameter penstock; a powerhouse containing a 6-MW generating unit; a tailrace returning flows to the canal at elevation 4,067 feet; and a 2-mile-long transmission line. (3) The Mill Coulee Upper Project No. 12031 would consist of a diversion structure, crest elevation 4,010 feet, on the Mill Coulee Canal; an 800-foot-long, 54-inch-diameter penstock; a powerhouse containing a 1-MW generating unit; a tailrace returning flows to the canal at elevation 3,893 feet; and a ¾-mile-long transmission line. (4) The Mill Coulee Lower Project No. 12032 would consist of a diversion structure, crest elevation 3,893 feet, on the Mill Coulee Canal; a 480-foot-long, 54-inch-diameter penstock; a powerhouse containing a 370-kW generating unit; a tailrace returning flows to the canal at elevation 3,847 feet; and a ¼-mile-long transmission line. (5) The Mary Taylor Project No. 12040 would consist of a diversion structure, crest elevation 4,019 feet, on the Greenfield Main Canal; a 630-foot-long, 8-foot-diameter penstock; a powerhouse containing a 1.25-MW generating unit; a tailrace returning flows to the canal at elevation 3,976 feet; and a ⅓-mile-long transmission line. (6) The Woods Project No. 12041 would consist of a diversion structure, crest elevation 3,972 feet, on the Greenfield Main Canal; a 750-foot-long, 8-foot-diameter penstock; a powerhouse containing a 1.25-MW generating unit; a tailrace returning flows to the canal at elevation 3,919 feet; and a 0.1-mile-lone transmission line. (7) The Greenfield Project No. 12042 would consist of a diversion structure, crest elevation 3,918 feet, on the Greenfield Main Canal; a 650-foot-long, 5-foot-diameter penstock; a powerhouse containing an 0.8-MW generating unit; a tailrace returning flows to the canal at elevation 3,880 feet; and a 0.1-mile-long transmission line. (8) The A-Drop Project No. 12043 would consist of a diversion structure, crest elevation 4,054 feet, on the Greenfield Main Canal; a 570-foot-long, 8-foot-diameter penstock; a powerhouse containing a 1.25-MW generating unit; a tailrace returning flows to the canal at elevation 4,020 feet; and a .05-mile-long transmission line. (9) The Johnson Project No. 12044 would consist of a diversion structure, crest elevation 4,018 feet, on the Greenfield South Canal; a 900-foot-long, 8-foot-diameter penstock; a powerhouse containing a 1.0-MW generating unit; a tailrace returning flows to the canal at elevation 3,972 feet; and a ⅓-mile-long transmission line. (10) The Knights Project No. 12045 would consist of a diversion structure, crest elevation 3,878 feet, on the Greenfield Main Canal; a 1400-foot-long, 8-foot-diameter penstock; a powerhouse containing a 1.25-MW generating unit; a tailrace returning flows to the canal at elevation 3,818 feet; and a ¼-mile-long transmission line.

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 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 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–16509 Filed 6–29–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Sunshine Act Meeting

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 06/25/2001, 66 FR 33676.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: June 27, 2001, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket No. has been added to Item CAG –29 on the Commission Meeting of June 27, 2001.

Item No. CAG–29.

Docket No. and Company: MG98–13–001, Tuscarora Gas Transmission Company.

David P. Boergers,

Secretary.

[FR Doc. 01–16666 Filed 6–28–01; 11:23 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7003–3]

Investigator-Initiated Grants: Request for Applications

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of request for applications.

SUMMARY: This notice provides information on the availability of fiscal year 2001 investigator-initiated grants program announcements, in which the areas of research interest, eligibility and submission requirements, evaluation criteria, and implementation schedules are set forth. Grants will be competitively awarded following peer review.

DATES: Receipt dates vary depending on the specific research areas within the solicitations and are listed below.

FOR FURTHER INFORMATION CONTACT: U.S. Environmental Protection Agency, National Center for Environmental Research (8703R), 1200 Pennsylvania Avenue, NW., Washington DC 20460, telephone (800) 490–9194. The complete announcements can be accessed on the Internet from the EPA home page: http://www.epa.gov/ncerqa under ''announcements.''

SUPPLEMENTARY INFORMATION: In its Requests for Applications (RFA) the U.S. Environmental Protection Agency (EPA) invites research grant applications in the following areas of special interest to its mission: (1) Mercury: Transport, Transformation, and Fate in the Atmosphere; (2) Corporate Environmental Behavior: Examining the Effectiveness of Government Interventions and Voluntary Initiatives; (3) Issues in Human Health Risk Assessment: Novel Mechanistic Approaches in Human Health Risk Assessment; (4) Health Effects of Chemical Contaminants in Drinking Water; and (5) Microbial Risk in Drinking Water. Applications must be received as follows: August 15, 2001, for topics (1) and (2); September 12, 2001, for topic (3); September 17, 2001, for topics (4) and (5). The RFAs provide relevant background information, summarize EPA's interest in the topic areas, and describe the application and review process.

Contact person for the Mercury RFA is William Stelz (*stelz.william@epa.gov,* telephone 202–564–6834. Contact person for the Corporate Environmental Behavior RFA, is Susan Carillo (*carillo.susan@epa.gov*), telephone 202–564–4664. Contact person for the Human Health Risk Assessment RFA is Chris Saint, telephone 202–564–6909 (*saint.chris@epa.gov*) or Nigel Fields, telephone 228–688–1981 (*fields.nigel@epa.gov*). Contact person for the Drinking Water RFAs is Maggie Breville, telephone 202–564–6893 (*breville.maggie@epa.gov*).

Dated: June 13, 2001.

Approved for publication:

Ann Akland,

Acting Assistant Administrator for Research and Development.

[FR Doc. 01–16571 Filed 6–29–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7005–7]

EPA Science Advisory Board; Notification of Public Advisory Committee Meetings

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that several committees (Executive Committee (EC), Ecological Processes and Effects Committee (EPEC), Clean Air Scientific Advisory Committee (CASAC), Environmental Health Committee

(EHC)/Integrated Human Exposure Committee (IHEC) joint meeting, and Arsenic Rule Benefits Review Panel) of the EPA Science Advisory Board (SAB) will meet on the dates and times noted below. All times noted are Eastern Standard Time. The meetings are open to the public, however, seating is limited and available on a first come basis.

1. Executive Committee—July 17–18, 2001

The US EPA Science Advisory Board's (SAB's) Executive Committee will meet on Tuesday and Wednesday, July 17–18, 2001 from 8:30 am to 5:00 pm on July 17 and 8:30 to 12:00 noon on July 18. The meeting will be held in the USEPA, National Risk Management Research Laboratory (NRMRL), 26 West Martin Luther King Drive, Cincinnati, Ohio 45268. Telephone: (513) 569–7418.

Purpose of the Meeting—At this meeting, the Executive Committee expects to review the following draft reports prepared by its Committees or subcommittees. Please check with SAB Staff (see below) prior to the meeting to determine the final list of review issues.

(a) Executive Committee (EC) of the EPA Science Advisory Board (SAB) ''Improving Science-Based Environmental Stakeholder Processes; an SAB Commentary''

(b) Scientific and Technological Achievement Awards Subcommittee (STAA) of the EPA Science Advisory Board (SAB) ''Recommendations on the FY2000 Scientific and Technological Achievement Award Nominations'' (see 66 **Federal Register** 19933, dated April 18, 2001 for details).

(c) Scientific and Technological Achievement Awards Subcommittee (STAA) of the EPA Science Advisory Board (SAB) ''The Process of the Scientific and Technological Achievement Awards; An SAB Commentary'' (see 66 **Federal Register** 19933, dated April 18, 2001 for details).

The SAB may review other reports if they are available in time. Additional issues on the agenda include: (a) activities of the various SAB committees; (b) consideration of Cumulative Risk issues; (c) addressing concerns raised about activities during the course of preparing reports; (d) the role of social science in SAB activities; and (e) project planning for FY2002.

Charge to the Executive Committee—The focus of the Executive Committee review of draft reports prepared by its Committees or subcommittees is normally limited to the following issues: (a) Does the draft report adequately responded to the questions posed in the Charge? (b) Are the statements and/or responses in the draft report clear? (c) Are there any errors of fact in the draft report?

In accord with the Federal Advisory Committee Act (FACA), the public and the Agency are invited to submit written comments on these three questions. Submissions should be received by July 13, 2001 by Ms. Diana Pozun, EPA Science Advisory Board, Mail Code 1400A, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. (Telephone (202) 564–4544, FAX (202) 501–0582; or via e-mail at *pozun.diana@epa.gov*). Submission by e-mail to Ms. Pozun will maximize the time available for review by the Executive Committee.

The SAB will have a brief period available for applicable public comment. Anyone wishing to make oral comments on the three focus questions above, and that are not duplicative of previously submitted written comments, should contact the Designated Federal Officer for the Executive Committee, Dr. Donald G. Barnes (Tel: 202–564–4533; Fax: 202–501–0323; USEPA Science Advisory Board, Mail Code 1400A, USEPA, 1200 Pennsylvania Ave. NW, Washington, DC 20460; *barnes.don@epa.gov*) by July 10, 2001. See below for more information on providing comments.

Availability of Materials—The draft meeting agenda and drafts of any reports that will be reviewed at the meeting will be available to the public on the SAB website (*http://www.epa.gov/sab*) by close-of-business on July 6, 2001.

For Further Information—Any member of the public wishing further information concerning this meeting should contact Dr. Donald G. Barnes, Designated Federal Officer (DFO) for the Executive Committee at US EPA Science Advisory Board (1400A), 1200 Pennsylvania Avenue NW, Washington, DC 20460; phone (202) 564–4533; fax (202) 501–0323; or via e-mail at *barnes.don@epa.gov.*

2. Ecological Processes and Effects Committee (EPEC)—July 18–20, 2001

The Ecological Processes and Effects Committee of the US EPA Science Advisory Board (SAB), will meet on Wednesday through Friday, July 18–20, 2001 at The Westin Cincinnati, 21 East 5th Street, Cincinnati, OH, telephone 513–621–7700. The meeting will begin at 12:30 p.m. on July 18 and adjourn no later than noon on July 20.

Purpose of the Meeting—(a) Review the draft Agency document, Planning for Ecological Risk Assessment: Developing Management Objectives: The draft document, developed by a technical panel of the EPA Risk Assessment Forum, is designed to help decision-makers work with risk assessors, stakeholders, and other analysts to plan for ecological risk assessments that will effectively inform the decisions they need to make. The document presents the three steps of Planning: Identify Decision Context, Develop Objectives, and Identify Information Needs. It also describes how planning fits into the overall risk-assessment process and provides several case examples showing how the process might be applied in EPA programs.

Charge to the Panel: The Agency has asked the SAB to respond to the following questions:

(1) The primary audience for the guidance document is EPA risk managers, but also should be useful to managers and decisionmakers outside the Agency. Overall, does the SAB think this guidance may be useful and help decisionmakers improve the planning of ecological risk assessments? What additional principles should be included or excluded in the document?

(2) Are the steps in setting management objectives clear and is the overall process logical? Are the key concepts well defined?

(3) Is the depth of discussion and level of technical detail appropriate? If not, how would the SAB change it?

(4) Discuss the flexibility afforded by the guidance and its applicability to different situations (e.g., site-specific, national level, etc.)?

(5) Comment on the effectiveness of the examples, figures, tables, and text boxes.

(b) *Review the Southeastern Ecological Framework (SEF):* EPA Region 4, working with the University of Florida, has developed the Southeastern Ecological Framework, a Geographic Information System (GIS)-based approach for identifying a network of important regional ecological hubs and ''greenways'' corridors that connect them throughout the 8-state region. The SEF builds on the approach developed in Florida for identification of a network of greenways (the Florida Ecological Network). The hubs of the framework are typically land areas with high habitat diversity, little forest fragmentation, and greater than 5,000 acres in size. The corridors of the framework connect the hubs and typically follow natural land forms and water features, allowing ecosystem processes to operate at a larger scale. The model depicts a functioning whole system that integrates ecosystem processes across many scales by maintaining connectivity among the parts. The SEF is designed to be a planning tool that can be used by

anyone interested in protecting water quality, species habitat, important ecological areas, quality of life and other important natural features by preserving connectivity between those natural areas.

Charge to the Panel: The Agency has asked the SAB to respond to the following questions:

(1) Is the Florida Ecological Network approach consistent with modeling an ecological framework for a region?

(2) Are the data layers used in developing the Southeastern Ecological Framework sufficient to indicate ecological integrity?

(3) Would a similar model or approach be applicable for developing a framework for the U.S.?

(4) Would additional or alternate data layers be needed for a national framework?

(5) What modification might be made to increase the utility of the approach as a decision support tool in meeting EPA's program activities and Government Performance and Results Act (GPRA) goals?

(6) Discuss what linkages between various indicators and EPA programs or control authorities may help to elevate the use of SEF as a decision support tool?

Availability of Review Materials: A copy of the draft document, Planning for Ecological Risk Assessment: Developing Management Objectives is available from Ms. Marilyn Brower, U.S. Environmental Protection Agency, Risk Assessment Forum Staff (8601D), 1200 Pennsylvania Ave, NW., Washington, DC 20460, telephone (202) 564–3363, or e-mail at *brower.marilyn@epa.gov.* Review materials describing the Southeastern Ecological Framework are available from Dr. Cory Berish, Chief of the Planning and Analysis Branch, U.S. Environmental Protection Agency, Region 4, Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, GA 30303–8960, telephone (404) 562–8276, or e-mail at *berish.cory@epa.gov.*

For Further Information—Any member of the public wishing further information concerning this meeting or wishing to submit brief oral comments (10 minutes or less) must contact Ms. Stephanie Sanzone, Designated Federal Officer, EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–4561; FAX (202) 501–0582; or via e-mail at *sanzone.stephanie@epa.gov.* Requests for oral comments must be *in writing* (e-mail, fax or mail) and received by Ms. Sanzone no later than noon Eastern Standard Time on July 11, 2001.

3. Environmental Health Committee and the Integrated Human Exposure Committee (EHC/IHEC)—Joint Meeting—July 19–20, 2001

The Environmental Health Committee and the Integrated Human Exposure Committee (EHC/IHEC) of the US EPA Science Advisory Board (SAB), will meet jointly on Thursday and Friday, July 19–20, 2001 at The Westin Cincinnati, 21 East 5th Street, Cincinnati, OH, telephone 513–621–7700. The meeting will begin 9 am Eastern Standard Time on July 19, and adjourn no later than 5 pm on July 20.

Purpose of the Meeting—EPA is currently developing an indoor air toxics strategy to reduce risks from toxic air pollutants indoors, using non-regulatory, voluntary actions. To help focus Agency efforts on the most substantial risks, the Office of Radiation and Indoor Air (ORIA) developed a draft strategy presenting an ''order-of-magnitude,'' screening-level ranking and selection of key air toxics indoors. The ranking analysis used a methodology similar to that used to select key pollutants for the National Air Toxics Program/Urban Air Toxics Strategy, as presented in the Technical Support Document for that program (for more details, please see http://www.epa.gov/ttn/uatw/urban/urbanpg.html).

Charge to the Committee—The Charge asks the EHC/IHEC to respond to the following four primary questions:

(a) Is the overall methodology suitable for the purposes of the ranking analysis (i.e., development of an ''order-of-magnitude,'' screening-level ranking and selection of key air toxics indoors)?

(b) Are the criteria used to select the monitoring studies for the analysis appropriate? Are the studies chosen for the ranking analysis suitable, and are there other studies that you believe should be included in this analysis? Were the methods used to select and statistically analyze the data within the studies useful to the analysis?

(c) Is the methodology for selection of the ''risk-based concentrations'' (based on that presented in the Technical Support Document for the National Air Toxics Program/Urban Air Toxics Strategy) useful in the context of this analysis?

(d) How well are adequacy, limitations, and uncertainties of the analysis described and addressed, including:

(1) Incomplete data on indoor concentrations and hazard/risk indices.

(2) Difficulties in determining the representativeness/accuracy of the ''typical'' levels indoors.

(3) The use of short-term monitoring data to represent chronic exposure periods.

(4) Issues related to the age of the data.

(5) Variations in the methods used by the various agencies to arrive at the health indices, which are the basis for the ''risk-based concentrations?''

Availability of Review Materials: The principal review document is available via request to Ms. Mary Clark, phone (202) 564–9348, or by email to *clark.marye@epa.gov.*

For Further Information—Any member of the public wishing further information concerning this meeting or wishing to submit brief oral comments (10 minutes or less) must contact Samuel Rondberg, Designated Federal Officer, EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (301) 812–2560, FAX (410) 286–2689; or via e-mail at samuelr717@aol.com. Requests for oral comments must be *in writing* (e-mail, fax or mail) and received by Mr. Rondberg no later than noon (EDT) on July 13, 2001.

4. The Arsenic Rule Benefits Review Panel (ARBRP)—July 19–20, 2001

The Arsenic Rule Benefits Review Panel (ARBRP) of the US EPA Science Advisory Board, will meet in the Ronald Reagan Building/International Trade Center Conference Center (Polaris Suite), 1300 Pennsylvania Avenue, NW., Washington, DC 20005. The meeting will begin by 8:30 a.m. and adjourn no later than 5 p.m. Eastern Standard Time on both days. The meeting is open to the public, however, seating is limited and available on a first come basis.

Purpose of the Meeting—The Panel will meet to review the Agency's report Arsenic in Drinking Water Rule Economic Analysis (EPA 815–R–00–026; December 2000). A report will be prepared and delivered to the EPA Administrator as a result of the review.

Background—Studies have linked long-term exposure to arsenic in drinking water to cancer of the bladder, lungs, skin, kidney, nasal passages, liver, and prostate. Non-cancer effects associated with arsenic ingestion include effects to the cardiovascular, pulmonary, immunological, neurological, and endocrine (e.g., diabetes) systems. The current standard of 50 ppb was set by EPA in 1975, based on a Public Health Service standard originally established in 1942. A March 1999 report by the National Academy of Sciences concluded that the current standard does not achieve EPA's goal of

protecting public health and should be lowered as soon as possible.

The Safe Drinking Water Act, as amended, 1996, (SDWA) requires EPA to revise the existing 50 parts per billion (ppb) arsenic standard. In response to this mandate, the Agency published a standard of 10 ppb to protect consumers against the effects of long-term, chronic exposure to arsenic in drinking water on January 22, 2001. The rule is significant in that it is the second drinking water regulation for which EPA has used the discretionary authority under section 1412(b)(6) of the SDWA to set the Maximum Contaminant Level (MCL) higher than the technically feasible level, which is 3 ppb for arsenic—based on a determination that the costs would not justify the benefits at this level. The January 22, 2001 arsenic rule is based on the conclusion that a 10 ppb MCL maximizes health risk reduction at a cost justified by the benefits.

The January 22, 2001 rule will apply to all 54,000 community water systems and requires compliance by 2006. A community water system is a system that serves 15 locations or 25 residents year-round, and includes most cities and towns, apartments, and mobile home parks with their own water supplies. EPA estimates that roughly five percent, or 3000, of the community water systems, serving 11 million people, will have to take corrective action to lower the current levels of arsenic in their drinking water. The new standard will also apply to 20,000 ''non-community'' water systems that serve at least 25 of the same people more than six months of the year, such as schools, churches, nursing homes, and factories. EPA estimates that five percent, or 1,100, of these water systems, serving approximately 2 million people, will need to take measures to comply with the January 22, 2001 rule. Of all of the affected systems, 97 percent are small systems that serve fewer than 10,000 people each.

Following the January 22, 2001 **Federal Register** promulgation of the arsenic rule, a number of issues were raised to EPA by States, public water systems, and others regarding the adequacy of science and the basis for national economic analyses informing decisions about the rule. Because of the importance of the arsenic rule and the national debate surrounding it related to the science and economic analyses that inform the decision, EPA's Administrator publicly announced on March 20, 2001, that the Agency would take additional steps to reassess the scientific and economic issues associated with this rule, to gather more information, and to seek further public input on each of these important issues.

Key stakeholder concerns on the benefits component of the economic analysis include the following issues: (1) The timing of health benefits accrual (latency); (2) the use of the Value of Statistical Life as a measure of health benefits; (3) the use of alternative methodologies for benefits estimation; (4) how the Agency considered non-quantifiable benefits in its regulatory decision-making process; (5) the analysis of incremental costs and benefits; and (6) the Agency's assumption that health risk reduction benefits will begin to accrue at the same time costs begin to accrue.

Charge to the Committee—The EPA Science Advisory Board (SAB) will convene a panel of nationally recognized technical experts to review the methods for estimating the benefits associated with the final arsenic in drinking water rule. The Panel has been asked to review the Agency's analysis of quantified and unquantified benefits associated with the arsenic drinking water rule (see 66 FR 6976–7066, dated January 22, 2001, *www.epa.gov/safewater/ars/arsenic_finalrule.htm),* specifically, the Agency asks the SAB to evaluate whether the components, methodology, criteria and estimates reflected in EPA's economic analysis (Arsenic in Drinking Water Rule Economic Analysis; EPA 815–R–00–26, 2001), are reasonable and appropriate in light of: (1) The EPA Science Advisory Board's (SAB) benefits transfer report (EPA–SAB–EEAC–00–013, July 2000, entitled An SAB Report on EPA's White Paper Valuing the Benefits of Fatal Cancer Risk Reductions—available on the SAB Website at www.epa.gov/sab/eeacf013.pdf), (2) EPA's Guidelines for Preparing Economic Analyses (EPA 240–R–00–003; September 2000; *www.epa.gov/economics*), (3) relevant requirements of the Safe Drinking Water Act (SDWA—www.epa.gov/safewater/sdwa/sdwa.htm), (4) the National Drinking Water Advisory Council recommendations to EPA on benefits (Benefits Working Group Report to the National Drinking Water Advisory Council; unpublished, October 29, 1998), and (5) recent literature. As part of a general review, consideration should be given to the following issues:

(a) How should total benefits and costs and incremental benefits and costs be addressed in analyzing regulatory alternatives to ensure appropriate consideration by decision makers and the public?

(b) How should latency be addressed in the benefits estimates when existing literature does not provide specific quantitative estimates of latency periods associated with exposure to arsenic in drinking water?

(c) Should reduction/elimination of exposure be evaluated as a separate benefits category, in addition to or in conjunction with mortality and morbidity reduction?

(d) How should health endpoints (other than bladder and lung cancer) be addressed in the analysis, when [existing] literature does not provide specific quantification, to ensure appropriate consideration by decision makers and the public?

(e) How should uncertainties be addressed in the analysis to ensure appropriate consideration by decision makers and the public?

In order to ensure that the SAB's recommendations are fully considered in decision making, the Agency has asked for a report to be made available to the Administrator in August 2001 to coincide with the findings and recommendations from independent reviews of the health effects by the National Academy of Sciences and costs by the National Drinking Water Advisory Council.

For Further Information—Any member of the public wishing further information concerning this meeting should contact Mr. Thomas O. Miller, Designated Federal Officer, EPA Science Advisory Board, U.S. Environmental Protection Agency (1400A), 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone (202) 564–4558; FAX (202) 501–0582; or via e-mail at *miller.tom@epa.gov.* For a copy of the draft meeting agenda, please contact (primary) Ms. Wanda Fields, Management Assistant at (202) 564–4539, or by FAX at (202) 501–0582; or (alternate) Ms. Rhonda Fortson, Management Assistant at (202) 564–4563 or by FAX at (202) 501–0582 or via e-mail at *fortson.rhonda@epa.gov.*

Materials that are the subject of this review are available on the EPA Website as noted in the section on ''Charge to the Committee'' above or from Ms. Rebecca K Allen, US EPA, Office of Water (OW)(MS 4607), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, Phone: (202) 260–6667 or via e-mail at *allen.rebeccak@epa.gov.*

Public Oral or Written Comments—Members of the public who wish to make a brief oral presentation (5 minutes or less per person or organization, depending on the number of requests) to the Panel must contact Mr. Miller *in writing* (by letter or by fax—see contact information above) no later than 12 noon Eastern Standard Time, Monday, July 16, 2001 in order to be included on the Agenda. The request

should identify the name of the individual who will make the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, etc), and at least 35 copies of an outline of the issues to be addressed or the presentation itself. See below for more information on providing written or oral comments.

5. Clean Air Scientific Advisory Committee (CASAC)—July 23–24, 2001

The Particulate Matter Review Panel of the Clean Air Scientific Advisory Committee (CASAC) of the EPA Science Advisory Board (SAB) will meet on Monday and Tuesday, July 23–24, 2001 in the Main Auditorium, US Environmental Protection Agency Environmental Research Center, Route 54 and Alexander Drive, Research Triangle Park, NC. The meeting will begin at 8:30 am and end no later than 5:30 pm on each day.

Purpose of the Meeting: (a) The CASAC PM Review Panel will conduct a *peer review* of the EPA Air Quality Criteria for Particulate Matter (Second External Review Draft) prepared by EPA's National Center for Environmental Assessment (NCEA); and (b) The CASAC PM Review Panel will also conduct a *Consultation* with the EPA's Office of Air Quality Planning and Standards (OAQPS) on the preliminary draft of OAQPS's Staff Paper for particulate matter, Review of the National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information, and the draft Particulate Matter NAAQS Risk Analysis Scoping Plan.

Availability of Review Materials: (a) EPA Air Quality Criteria for Particulate Matter (Second External Review Draft)—This document assesses the latest available scientific information on the effects of airborne particulate matter (PM) on human health and welfare. To obtain a copy of the EPA Air Quality Criteria for Particulate Matter (Second External Review Draft), or to obtain further information concerning this document, please refer to 66 FR 18929, April 12, 2001. (b) Review of the National Ambient Air Quality Standards for Particulate Matter: Policy Assessment of Scientific and Technical Information and the Draft Particulate Matter NAAQS Risk Analysis Scoping Plan—These documents have both been released for comment. To obtain copies or further information, please refer to 66 FR 32621, dated June 15, 2001.

For Further Information—Members of the public desiring additional information about the meeting should contact Mr. Robert Flaak, Designated Federal Officer, Clean Air Scientific Advisory Committee, US EPA Science Advisory Board (1400A), U.S. EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (FedEx address: US EPA SAB, Suite 6450, 1200 Pennsylvania Ave. NW, Washington, DC 20004); telephone/voice mail at (202) 564–4546; fax at (202) 501–0582; or via e-mail at *flaak.robert@epa.gov*. The draft agenda will be available approximately two weeks prior to the meetings on the SAB website (*http://www.epa.gov/sab*) or from Ms. Rhonda Fortson, Management Assistant, at (202) 564–4563; FAX: (202) 501–0582; or e-mail at: *fortson.rhonda@epa.gov*.

Public Oral or Written Comments—Members of the public who wish to make a brief oral presentation at the meeting must contact Mr. Flaak *in writing* (by letter, fax, or e-mail—see previously stated information) no later than 12 noon Eastern Standard Time, Friday, July 13, 2001 in order to be included on the Agenda. For this meeting, we have allocated a total of 2.5 hours for public comments to be divided equally among those requesting speaking time, with a maximum of ten minutes per speaker or organization. See below for more information on providing written or oral comments. Written comments of any length will be accepted up until the date of the meeting.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible (*unless otherwise stated*). The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements.

Oral Comments: In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise stated above). For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting.

Written Comments: Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to the appropriate DFO at the address/contact information noted above in the following formats: One hard copy with original signature, and one electronic copy via e-mail (acceptable file format: WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format). Those providing written comments and who attend the meeting are also asked to bring 25 copies of their comments for public distribution.

General Information—Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in The FY2000 Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact the appropriate DFO at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: June 27, 2001.

Donald G. Barnes,

Staff Director, EPA Science Advisory Board.

[FR Doc. 01–16569 Filed 6–29–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00729; FRL–6790–8]

National Assessment of the Worker Protection Program-Workshop #3; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The National Assessment of the Worker Protection Program-Workshop #3 will be held in Lake Buena Vista, Florida. The purpose of this meeting is to continue the nationwide assessment of the agricultural worker protection program. The regulation (40 CFR part 170) that implements this program was fully implemented in 1995. The national assessment meeting is being co-hosted by the National Environmental

Education and Training Foundation and EPA's Office of Pesticide Programs. The meeting will continue discussions of the agricultural worker protection regulation, the implementation and effectiveness of its provisions, the enforcement at the state level, and the possible future directions for the program. This is the third in a series of workshops and represents an opportunity for EPA, states, agricultural employers, worker representatives, and other program stakeholders to engage in problem solving workgroup discussions on major aspects of the regulation. The first workshop was held on June 6–7, 2000, in Austin, Texas and the second workshop was held in Sacramento, California on December 11–13, 2000.

DATES: The meeting will be held July 30 to August 1, 2001 from 8 a.m to 5:30 p.m.

ADDRESS: The meeting will be held at the Hilton, 1751 Hotel Plaza Boulevard, P.O. Box 22781, Lake Buena Vista, FL; 32830–2781; telephone number: (407) 827–4000.

FOR FURTHER INFORMATION CONTACT: Sara Ager, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (703) 305–7666; e-mail address: Ager.Sara@epa.gov.

SUPPLEMENTARY INFORMATION:

1. Does this Action Apply to Me?

This action is directed to the public in general, however, the size of the meeting facilities could limit the number of participants. This action may be of interest to farm worker groups, agricultural employers, state governments, county extension services, and pesticide product manufacturers. If you have any questions regarding the applicability of this action to a particular entity, consult the party listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document or Related Documents?

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/. You may also go directly to the **Federal Register** listing at http://www.epa.gov/fedrgstr/.

III. How Can I Request to Participate in this Meeting and is There a Deadline?

You may request to participate in and register for this meeting by phone, by fax, through the mail, or electronically by no later than June 28, 2001 to: Meetings Management, Inc., P.O. Box 30045, Alexandria, VA. 22310, telephone number: (703) 922–7944; Fax number: (703) 922–7780; e-mail address: Mmagnini@BellAtlantic.net. Since space is limited, we recommend registering as soon as possible. We discourage people from registering on-site as facilities are limited. Please also note that you must make your own hotel room reservations.

The National Assessment of the Worker Protection Program-Workshop #3 will continue workgroup discussions about EPA's national agricultural worker protection program implementation and effectiveness as related to training, enforcement, compliance, and communications.

List of Subjects

Environmental protection; Pesticides.

Dated: June 20, 2001.

Jay Ellenberger,

Director, Field and External Affairs Division,Office of Pesticide Programs.

[FR Doc. 01–16572 Filed 6–29–01; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7004–8]

Intent To Grant an Exclusive Patent License

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to grant an exclusive patent license.

SUMMARY: Pursuant to 35 U.S.C. 207 and 37 CFR part 404, EPA hereby gives notice of its intent to grant an exclusive, royalty-bearing revocable license to practice the invention described and claimed in the patent application listed below, all patent applications derived therefrom, and all patents granted in connection with such patent applications, to Composite Membranes Corporation, Castlerock, Colorado.

The patent application is:

U.S. Patent Application No. 09/212.375, entitled ''Novel Pervoporation Membrane for Separation and Recovery of Volatile Organic Compounds from Wastewater,'' filed December 16, 1998.

The invention was announced as being available for licensing in the March 1, 1999 issue of the **Federal Register** (60 FR 9990). The proposed exclusive license will contain appropriate terms, limitations and conditions to be negotiated in accordance with 35 U.S.C. 209 and the U.S. Government patent licensing regulations at 37 CFR part 404.

EPA will negotiate the final terms and conditions and grant the exclusive license, unless within 60 days from the date of this Notice, EPA receives, at the address below, written objections to the grant, together with supporting documentation. The documentation from objecting parties having an interest in practicing the above patent application should include an application for exclusive or nonexclusive license with the information set forth in 37 CFR 404.8. The EPA Patent Counsel and other EPA officials will review all written responses and then make recommendations on a final decision to the Director, National Risk Management Research Laboratory, who has been delegated the authority to issue patent licenses under 35 U.S.C. 207.

DATES: Comments to this notice must be received by EPA at the address listed below by August 31, 2001.

FOR FURTHER INFORMATION CONTACT: Alan Ehrlich, Patent Counsel, Office of General Counsel (Mail Code 2377A), U.S. Environmental Protection Agency, Washington, DC 20460, telephone (202) 564–5457.

Dated: June 18, 2001.

Marla E. Diamond,

Associate General Counsel.

[FR Doc. 01–16565 Filed 6–29–01; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

June 25, 2001.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0988.

Expiration Date: 12/31/2001.

Title: Election to Freeze Part 36 Categories and Allocations.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 700 respondents; .50 hours per response (avg.); 350 total annual burden hours (for all collections approved under this control number).

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: One-time Requirement; Third Party Disclosure.

Description: In a Report and Order issued in CC Docket No. 80–286, released May 22, 2001 (FCC 01–162), the Commission adopted the recommendation of the Federal-State Joint Board to impose an interim freeze of the Part 36 category relationships and jurisdictional cost allocation factors. Specifically, pending comprehensive reform of the Part 36 separations rules, the Commission adopted a freeze of all Part 36 category relationships and allocation factors for price cap carriers, and a freeze of all allocation factors for rate-of-return carriers. The interim freeze will be in effect for five years or until the Commission has completed comprehensive separations reform, whichever comes first. The Commission further concluded that several issues, including the separations treatment of Internet traffic, should be addressed in the context of comprehensive separations reform. The Commission believes that these measures will bring simplification and regulatory certainty to the separations process in a time of rapid market and technology changes until reform is completed. The Commission recognized that smaller rate-of-return ILECs, because of their differing business structures, would not be required to freeze both their Part 36 categories and allocation factors, unlike price cap carriers. The Commission found, however, that those rate-of-return carriers that desire to freeze their categories may elect to do so by July 1, 2001. Accordingly, the Commission adopted a final rule providing that rate-of-return carriers participating in the National Exchange Carrier Association (NECA or Association) tariffs should notify NECA by July 1, 2001, if they elect to freeze their categories. Rate-of-return carriers that do not participate in Association tariffs will be able to elect to freeze their categories by notifying the Commission of their election by July 1, 2001. The Commission will use the information to verify which rate of rate-of-return ILECs have decided to freeze their Part 36 categories, as well as their allocation factors. Obligation to respond: Required to obtain or retain benefits.

Public reporting burden for the collection of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–16478 Filed 6–29–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1381–DR]

Florida; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Florida (FEMA–1381–DR), dated June 17, 2001, and related determinations.

EFFECTIVE DATE: June 17, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 17, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, as follows:

I have determined that the damage in certain areas of the State of Florida, resulting from Tropical Storm Allison on June 11–15, 2001, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Florida.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas, and Hazard Mitigation throughout the State. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Charles M. Butler of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Florida to have been affected adversely by this declared major disaster:

Gadsden, Jefferson, Leon, Liberty and Wakulla Counties for Individual Assistance.

Bay, Calhoun, Gadsden, Holmes, Leon and Liberty Counties for Public Assistance.

All counties within the State of Florida are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–16525 Filed 6–29–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1381–DR]

Florida; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Florida, (FEMA–1381–DR), dated June 17, 2001, and related determinations.

EFFECTIVE DATE: June 19, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3772.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Florida is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 17, 2001:

Jefferson and Wakulla Counties for Public Assistance (already designated for Individual Assistance).
Washington County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamcik,

Deputy Assistant Director, Readiness, Response and Recovery Directorate.

[FR Doc. 01–16526 Filed 6–29–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1380–DR]

Louisiana; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Louisiana (FEMA–1380–DR), dated June 11, 2001, and related determinations.

EFFECTIVE DATE: June 22, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–5920.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective June 22, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamcik,

Deputy Assistant Director, Readiness, Response and Recovery Directorate.

[FR Doc. 01–16524 Filed 6–29–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1370–DR]

Minnesota; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Minnesota, (FEMA–1370–DR), dated May 16, 2001, and related determinations.

EFFECTIVE DATE: June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–5920.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Minnesota is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 16, 2001:

Crow Wing and Meeker Counties for Individual Assistance (already designated for Public Assistance).
Kandiyohi and Lake of Woods Counties for Individual and Public Assistance.
Mower County for Public Assistance (already designated for Individual Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamcik,

Deputy Assistant Director, Readiness, Response and Recovery Directorate.

[FR Doc. 01–16521 Filed 6–29–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1382–DR]

Mississippi; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Mississippi (FEMA–1382–DR), dated June 21, 2001, and related determinations.

EFFECTIVE DATE: June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–5920.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated June 21, 2001, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121, as follows:

I have determined that the damage in certain areas of the State of Mississippi, resulting from Tropical Storm Allison on June 6–13, 2001, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 (Stafford Act). I, therefore, declare that such a major disaster exists in the State of Mississippi.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint David J. Fukutomi of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Mississippi to have been affected adversely by this declared major disaster:

George, Hancock, Harrison, Jackson, and Pearl River Counties for Public Assistance.

All counties within the State of Mississippi are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–16527 Filed 6–29–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1382–DR]

Mississippi; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Mississippi (FEMA–1382–DR), dated June 21, 2001, and related determinations.

EFFECTIVE DATE: June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–5920.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Gracia Szczech of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of David J. Fukutomi as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–16528 Filed 6–29–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1379–DR]

Texas; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas (FEMA–1379–DR), dated June 9, 2001, and related determinations.

EFFECTIVE DATE: June 20, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–5920.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective June 20, 2001.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Archibald C. Reid, III,

Deputy Assistant Director, Readiness, Response and Recovery Directorate.

[FR Doc. 01–16523 Filed 6–29–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1378–DR]

West Virginia; Amendment 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of West Virginia (FEMA–1378–DR), dated June 3, 2001, and related determinations.

EFFECTIVE DATE: June 20, 2001

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–5920.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, effective this date and pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Carlos N. Mitchell of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

This action terminates my appointment of Charles M. Butler as Federal Coordinating Officer for this disaster.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–16522 Filed 6–29–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1369–DR]

Wisconsin; Amendment No. 4 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Wisconsin (FEMA–1369–DR), dated May 11, 2001, and related determinations.

EFFECTIVE DATE: June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–5920.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the reopening of the incident period and expansion of the incident type for this disaster. The incident period for this declared disaster is now April 10, 2001, and continuing. The incident type is now amended to include tornadoes.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 01–16519 Filed 6–29–01; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1369–DR]

Wisconsin; Amendment No. 5 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Wisconsin, (FEMA–1369–DR), dated May 11, 2001, and related determinations.

EFFECTIVE DATE: June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Readiness, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–5920.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Wisconsin is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of May 11, 2001:

Calumet, Portage, Rusk, Waupaca, Waushara, and Wood Counties for Public Assistance.
Outagamie and Winnebago Counties for Individual and Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Robert J. Adamcik,

Deputy Assistant Director, Readiness, Response and Recovery Directorate.

[FR Doc. 01–16520 Filed 6–29–01; 8:45 am]

BILLING CODE 6718–02–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 July 16, 2001.

A. *Federal Reserve Bank of Atlanta* (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Wilhelmina Parish Belcer, Rober t Allen Bowen, Joseph Dennis DuRant, Bobby Lamar George, Don Williams Hersman, and Michael Shay McCormick, all of Bonifay, Florida; James Ferris Adams, Robert Earl Black, and Brian Keiffer James, all of Destin, Florida; Orilious Gaither Banks and Franklin Lee Fisher of Ft. Walton Beach, Florida; Michael Prewitt McCann and Charles Richard Vawter, Jr. of Sylacauga, Alabama; Guy Fletcher Medley, Dothan, Alabama; Machael Alan Medley, Louisville, Alabama; Rupert Earl Phillips, Baker, Florida; Claude Carroll Royster, III, Shalimar, Florida; and Donald Terry Tillman, Ariton, Alabama; to acquire voting shares of Bonifay Holding Company, Inc., Bonifay, Florida, and thereby indirectly acquire voting shares of The Bank of Bonifay, Bonifay, Florida.

B. *Federal Reserve Bank of Minneapolis* (JoAnne F. Lewellen, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. Davis Bancshares Limited Partnership, Rapid City, South Dakota; to retain voting shares of Belle Fourche Bancshares, Inc., Belle Fourche, South Dakota, and thereby indirectly retain voting shares of Pioneer Bank & Trust, Belle Fourche, South Dakota.

2. Joseph M. Skophammer Trust and Nancy L. Skophammer, both from Hartland, Minnesota; to acquire voting shares of Hartland Bancshares, Inc., Hartland, Minnesota, and thereby indirectly acquire voting shares of Farmers State Bank of Hartland, Hartland, Minnesota.

C. *Federal Reserve Bank of Kansas City* (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Thomas G. Fitzgerald, James G. Fitzgerald, Joyce M. Fitzgerald, Jane M. Fitzgerald, the Andrew James Fitzgerald Irrevocable Trust Dated December 15, 1982, the Timothy Edward Fitzgerald Irrevocable Trust Dated May 1, 1983, the Lauren Webb Fitzgerald Irrevocable Trust Dated May 1, 1983, and the Thomas Gosselin Fitzgerald Jr. Irrevocable Trust Dated January 3, 1985, all of Inverness, Illinois, to acquire voting shares of First Bancorp of Durango, Inc., Durango, Colorado, and thereby indirectly acquire voting shares of The First National Bank of Durango, Durango, Colorado.

Board of Governors of the Federal Reserve System, June 26, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–16511 Filed 6–29–01; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the

proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 26, 2001.

A. *Federal Reserve Bank of New York* (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045–0001:

1. Canadian Imperial Bank of Commerce, Toronto, Canada; CIBC World Markets Inc., Toronto, Canada; CIBC Delaware Holdings, New York, New York; and Amicus Holdings, Inc., Cicero, Illinois; to acquire 95 percent of Series C preferred stock and 51 percent of total voting shares of Juniper Financial Corp., Wilmington, Delaware, and thereby indirectly acquire Juniper Bank, Wilmington, Delaware.

B. *Federal Reserve Bank of Atlanta* (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Newnan Coweta Bancshares, Inc., Newnan, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Newnan Coweta Bank, Newnan, Georgia.

2. Central Alabama Bancshares, Inc., Wetumpka, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of First Community Bank of Central Alabama (in organization), Wetumpka, Alabama.

C. *Federal Reserve Bank of San Francisco* (Maria Villanueva, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105–1579:

1. Centennial First Financial Services, Redlands, California; to acquire 100 percent of the voting shares of Palomar Community Bank, Escondido, California.

Board of Governors of the Federal Reserve System, June 26, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–16512 Filed 6–29–01; 8:45 am]

BILLING CODE 6210–01–P

GENERAL ACCOUNTING OFFICE

Advisory Council on Government Auditing Standards; Government Auditing Standards: Independence

AGENCY: General Accounting Office.

ACTION: Notice of document availability.

SUMMARY: On May 4, 2001, the U.S. General Accounting office (GAO), on the recommendation of the Advisory Council on Government Auditing Standards, issued an exposure draft of a proposed revision to Government Auditing Standards (also known as the Yellow Book) titled Government Auditing Standards: Independence (GAO/GAGAS–ED–4). The proposed revision would expand the definition of personal impairments, highlight the distinction between external and internal reporting, and acknowledge the ways that organizations can be free from organizational impairments to independence. Specifically, the exposure draft proposes expanding the examples of personal impairments and adding criteria to help audit organizations understand whether the provisions of nonaudit service affect the subject matter of the audit. The exposure draft emphasizes that auditors and audit organizations have an obligation to evaluate the circumstances and relationships on each assignment to identify situations that could result in an actual or perceived impairment to independence, including whether the performance of nonaudit services affects the subject matter being audited. The exposure draft also recognizes that internal auditors play a vital role in government auditing and can be free from organizational impairments to independence. However, since internal auditors are responsible to management while external auditors are responsible to third parties outside the audited entity, a fundamental difference exists between internal and external auditors. The exposure draft acknowledges this difference by retaining the sections on internal audit in the 1994 revision of Government Auditing Standards but refocusing the discussion to organizational impairment considerations when reporting internally to management. In addition, the exposure draft expanded by two ways the criteria that define organizations that can report externally. First, the exposure draft expands the presumptive criteria by specifying additional ways for an organization to be free from organizational impairments to independence. If the audit organization meets any of the presumptive criteria listed in the exposure draft, it can be considered organizationally independent to audit externally. Second, the exposure draft recognizes that other organizational structures can provide sufficient safeguards to prevent the audited entity from interfering with the audit organization's ability to perform the work and report the results impartially. If the audit organization meets all the statutory protections listed in the exposure draft, it can be considered organizationally independent to report externally.

DATES: Comments are accepted through July 30, 2001.

ADDRESSES: A copy of the exposure draft can be obtained on the Internet on GAO's Home Page (www.gao.gov). Additional copies of these proposed standards can be obtained from the U.S. General Accounting Office, Room 1100 700 4th Street, NW., Washington, DC 20548, or by calling (202) 512–6000.

FOR FURTHER INFORMATION CONTACT: Marcia Buchanan, Assistant Director, Government Auditing Standards, 202–512–9321.

SUPPLEMENTARY INFORMATION: To facilitate analysis of your comments, it would be helpful if you sent them both in writing and on diskette (in Word or ASCII format). To ensure that your comments are considered by the council in their deliberations, please submit them by July 30, 2001, to the following address: Government Auditing Standards Comments, Independence Exposure Draft, U.S. General Accounting Office, Room 5X16 (FMA), 441 G Street, NW., Washington, DC 20548. (31 U.S.C. 7501–7507).

Jeffrey C. Steinhoff,

Managing Director, Financial Management and Assurance.

[FR Doc. 01–16560 Filed 6–29–01; 8:45 am]

BILLING CODE 1610–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–01–51]

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 Invited

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

Pulmonary Function Testing Course Approval Program, 29 CFR 1910.1043 (OMB NO. 0920–0138)—Extension—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 has responsibility under the Cotton Dust Standard, 29 CFR 1910.1043, for approving courses to train technicians to perform pulmonary function testing in the Cotton Dust Industry. Successful completion of a NIOSH approved course is mandatory under the Standard. To carry out its responsibility, NIOSH maintains a Pulmonary Function Testing Course Approval Program. The program consists of an application submitted by potential sponsors who seek NIOSH approval to conduct courses, and if approved, notification to NIOSH of any course or faculty changes during the period of approval. The application form and addend materials, including agenda, vitae and course materials, is reviewed by the National Institute for Occupational Safety and Health to determine if the applicant has developed a program which adheres to the criteria required in the Standard. Following approval, any subsequent changes to the course are submitted by course sponsors via letter and reviewed by NIOSH staff to assure that changes in faculty or course content continue to meet course requirements. Applications and materials to be a course sponsor and carry out training are submitted voluntarily by institutions and organizations from throughout the country. This is required for NIOSH to evaluate a course to determine whether it meets the criteria in the Standard and whether technicians will be adequately trained as mandated under the Standard. The estimated annual cost to respondents is $1058.00.

Respondents	Number of respondents	Number of responses	Avg. burden/ response (in hrs.)	Total burden hours
Sponsoring organization	71	1	1	71
Total				71

Dated: June 22, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–16490 Filed 6–29–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–01–49]

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 Invited

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 Seleda Perryman, 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

Hanford Birth Cohort Study—New—The Agency for Toxic Substances and Disease Registry (ATSDR) is mandated pursuant to the 1980 Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and its 1986 Amendments, the Superfund Amendments and Re-authorization Act (SARA), to prevent or mitigate adverse human health effects and diminished quality of life resulting from the exposure to hazardous substances into the environment. This legislation was, in part, in response to the lack of scientific information about potential adverse health effects resulting from exposure of a general population to hazardous substances. Although environmental exposures have been documented at many hazardous waste sites in the United States, most existing data are for occupational exposures. However, environmental exposure of a general population is more likely to include exposure of vulnerable subpopulations (e.g., pregnant women, children, elderly, and the infirm). ATSDR plans activities to address these issues which include conducting health studies at sites on the Environmental Protection Agency's (EPA) National Priorities List (NPL) to determine whether and to what degree exposure to hazardous substances at these sites are harmful to human health.

The Hanford Nuclear Reservation, in south central Washington State, is on EPA's National Priorities List. Between 1944 when it opened until its closing in 1972, radioactive Iodine was released to the air from chemical separation facilities funded to produce plutonium for atomic weapons. The Hanford Environmental Dose Reconstruction Project (HEDR) estimates that the majority of releases of Iodine–131 occurred between 1944 and 1951. Broad-based scientific studies indicate that exposure to radioactive materials (including Iodine–131), may be associated with an increased risk of developing autoimmune or cardiovascular diseases. Children up to five years of age may be at higher risk than the general population of developing these diseases after exposure.

The objective of the Hanford Birth Cohort Study is to compare information on the rates of autoimmune and cardiovascular diseases among a population exposed to radioactive contaminants during 1945–1951 and the rates of a less-exposed comparison population. This study may have applicability to other sites where exposure to radioactive contaminants has occurred.

ATSDR currently has underway an information collection at the Hanford Nuclear Reservation to develop educational materials and interventions related to thyroid disease for individuals exposed to I–131 as young children—the Hanford Community Health Project (OMB No. 0923–031). This Hanford Birth Cohort Study is a separate project which will collect information on rates of autoimmune and cardiovascular disease among the selected population. Integral to designing this project, ATSDR reviewed the work of the National Cancer Institute's (NCI) Committee on Exposure of the American People to I–131 from the Nevada Atomic Bomb Tests as well as the NCI's report titled ''Exposure of the American People to IODINE–131 from Nevada Nuclear-Bomb Tests.''

In another ATSDR project (OMB No. 0923–0006), approximately 6,000 people were located who were born between 1940 and 1951 in three high-exposed counties nearest the Hanford site (Benton, Franklin, and Adams). For the currently proposed study, ATSDR will randomly select and interview up to 1,000 individuals from this entire birth cohort of 15,001 (including the 6,000 people who were previously located). The comparison population will include a random selection of 1,000 persons born in three low-exposed counties located farther away from the Hanford site (San Juan, Whatcom, and Mason).

To reduce the amount of time required by the respondents, Computer Assisted Telephone Interviews (CATI) will be conducted. Following completion of all respondent interviews, the data will be tabulated and analyzed (the high exposed group will be compared with the low exposed group). The information collected in this proposed study will provide reliable baseline information on the incidence of autoimmune and cardiovascular diseases as related to exposure to releases from the Hanford facility and will also provide the information needed to generate appropriate and valid hypotheses for future activities, such as other epidemiologic studies.

Other than their time to participate, there is no cost to the respondents.

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)	Total annual burden in hours
High Exposed Population	1,000	1	30/60	500
Low Exposed Population	1,000	1	30/60	500
Total				1,000

Dated: June 25, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–16491 Filed 6–29–01; 8:45 am]

BILLING CODE 4163–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–01–50]

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 Invited

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:

Contents of a Request for a Health Hazard Evaluation (OMB No. 0920–0102)—EXTENSION—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.

Each year, in accordance with its mandates under the Occupational Safety and Health Act of 1970 and the Federal Mine Safety and Health Act of 1977, the National Institute for Occupational Safety and Health (NIOSH) responds to approximately 450 requests for health hazard evaluations to identify potential chemical, biological or physical hazards at the workplace. A printed NIOSH form is available for requesting these health hazard evaluations. The form is also available on the Internet and differs

from the printed version only in format and in the fact that it uses an Internet address to which recipients can submit the form to NIOSH. Both the printed and Internet versions of the form provide the mechanism for employees, employers, and other authorized representatives to supply the information required by the regulations which govern the NIOSH health hazard evaluation program (42 CFR 85.3–1). In general, if employees are submitting the form it must contain the signatures of three or more current employees. However, regulations allow a single signature if the requestor is one of three (3) or fewer employees in the process, operation, or job of concern. It takes approximately six (6) NIOSH employees about five (5) minutes to evaluate the submitted form. The information provided is used by NIOSH to determine whether there is reasonable cause to justify conducting an investigation. The purpose of investigations conducted in the health hazard evaluation program is to help employers and employees identify and eliminate occupational health hazards. Without the information requested on this form, NIOSH would be unable to perform its legislated function of conducting health hazard evaluations in workplaces. There are no costs to respondents to obtain this form or to request a health hazard evaluation.

Respondents	No. of respondents	No. of responses per respondent	Avg. burden per response (in hrs.)	Total burden hours
Employees and representatives	290	1	12/60	58
Employers	160	1	12/60	32
Total	450			90

Dated: June 22, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–16492 Filed 6–29–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01158]

Human Immunodeficiency Virus (HIV) Related Applied Research; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for human immunodeficiency virus (HIV) related applied research for the control and prevention of HIV. This program addresses the ''Healthy People 2010'' focus area of HIV. For a copy of ''Healthy People 2010'' visit the internet site: *http://www.health.gov/healthypeople.*

The purpose of this program is to encourage new and innovative methods to further the prevention of HIV infection.

Projects that will be considered for funding are applied research for the control and prevention of HIV that address only the following Research Topics:

1. Community Interventions Among Adolescents

Funds are available to support formative research that will lead to community or structural based interventions to prevent HIV among high-risk adolescents, aged 17 or younger. High-risk adolescents is defined as youth 17 or younger who engage in activities that put them at higher risk for becoming HIV infected. Structural interventions are defined as factors that are barriers to, or facilitators of, an individual's HIV prevention behaviors. They directly or indirectly affect an individual's ability to avoid exposure to HIV and include physical, social, cultural, organizational, community, economic, legal or policy aspects of the individual's environment.

2. Demonstration Projects for the Efficient Allocation of HIV Prevention Resources

Funds are available to support research to develop decision making tools for the efficient allocation of HIV prevention resources. An efficient allocation is defined as expending resources on interventions that are cost-effective, producing an optimal outcome at the least cost. The research should fully address the data needs and requirements for the practical use of cost effectiveness analysis to allocate resources. Applicants must demonstrate the ability to either identify and evaluate models and tools currently being used by state and local health departments and community based organizations or the ability to develop, pilot and evaluate models and tools usable by state and local health departments and community based organizations. Applicants should also demonstrate a willingness to collaborate with CDC and others in the documentation and dissemination of the research findings.

3. Biologic Determinants of HIV Transmission

Funds are available to support research on biologic determinants of HIV transmission. These determinants will include the effect of antiretroviral use by source partners and other factors such as viral load, viral resistance and replication fitness, genetic factors including HLA class, and mucosal and humoral immunity. Applicants must demonstrate the potential to recruit at least 10 recently infected individuals (ie., infected less than six months) per month with their source partners and a comparison cohort of uninfected but exposed individuals and their partners. The applicants should demonstrate adequate laboratory capacity and a willingness to collaborate with the CDC laboratory.

4. HIV Testing Survey Among Asians/Pacific Islanders

Funds are available to implement the HIV testing survey (HITS) among Asians/Pacific Islanders in urban settings in geographic areas highly impacted by the HIV epidemic. HITS assesses determinants of HIV-related risk, testing and care-seeking behaviors. Applicants must demonstrate the ability to cooperate with health officials and community groups to gain access to this target population and to interview at least 300 persons during the one-year project period. Applicants should also

demonstrate a willingness to collaborate with CDC in developing and disseminating findings from this survey.

5. HIV Testing Survey Among American Indians/Alaska Natives

Funds are available to implement the HIV testing survey (HITS) among American Indians/Alaska Natives in urban settings in geographic areas highly impacted by the HIV epidemic. HITS assesses determinants of HIV-related risk, testing and care-seeking behaviors. Applicants must demonstrate the ability to cooperate with health officials, community groups and/or tribal leaders to gain access to this target population and to interview at least 300 persons during the one-year project period. Applicants should also demonstrate a willingness to collaborate with CDC in developing and disseminating findings from this survey.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, public and private non-profit organizations, State and local governments or their bona fide agents or instrumentalities, federally recognized Indian Tribal governments, Indian tribes or organizations.

Note: Title 2 United States Code Section 1611 states that an organization described in section 501(c)(4) of the Internal Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, or loan.

C. Availability of Funds

1. Community Interventions Among Adolescents

Approximately $200,000 is available in FY 2001 to fund approximately one to two new awards. It is expected that the award will begin September 30, 2001, and will be made for a 12 month budget period within a project period of up to four years. Funding estimates are subject to change.

2. Demonstration Projects for the Efficient Allocation of HIV Prevention Resources

Approximately $1,250,000 is available in FY 2001 to fund approximately five new awards. It is expected that the average award will be $250,000. It is expected that awards will begin September 30, 2001, and will be made for a 12 month budget period within a project period of one year. Funding estimates are subject to change.

3. Biologic Determinants of HIV Transmission

Approximately $1,000,000 is available in FY 2001 to fund approximately up to two new awards. It is expected that the average award will be $500,000, ranging from $500,000 to $1,000,000. It is expected that awards will begin September 30, 2001, and will be made for a 12 month budget period within a project period of up to five years. Funding estimates are subject to change.

4. HIV Testing Survey Among Asians/Pacific Islanders

Approximately $100,000 is available in FY 2001 to fund approximately one new award. It is expected that the award will begin September 30, 2001, and will be made for a 12 month budget period for a one year project period. Funding estimates are subject to change.

5. HIV Testing Survey Among American Indians/Alaska Natives

Approximately $100,000 is available in FY 2001 to fund approximately one new award. It is expected that the award will begin September 30, 2001, and will be made for a 12 month budget period for a one year project period. Funding estimates are subject to change.

Continued awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities under 2. (CDC Activities). Recipient activities to achieve the purposes of this program will vary by project.

1. Recipient Activities

a. Develop research protocol.

b. Carry out the activities according to the approved protocol.

c. Ensure that appropriate approvals are secured for the protection of human subjects, Office of Management and Budget and Paperwork Reduction Act, privacy, confidentiality, and data security.

d. Compile and disseminate findings.

2. CDC Activities

a. Through publications and other methods, CDC will collaborate as necessary in the development of a research common protocol for Institutional Review Board (IRB) review by all cooperating institutions participating in the research project. The CDC IRB will review and approve the protocol initially and on at least an annual basis until the research project is completed.

b. Monitor and evaluate scientific and operational accomplishments of the project through periodic site visits, frequent telephone calls, and review of technical reports and interim data analysis.

c. Assist in facilitating the planning and implementation of the necessary linkages with local or State health departments and assist with the developmental strategies for applied clinical or prevention oriented research programs, for recipients whose projects involve collaboration with a State or local health department.

d. Assist with the facilitation of the technological and methodological dissemination of successful prevention and intervention models among appropriate target groups, such as, State and local health departments, community based organizations, and other health professionals.

e. Provide technical assistance in planning and evaluating strategies and protocols, as requested.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative, excluding the budget, should be no more than 11 doubled-spaced pages, printed on one side, with one inch margins, and unreduced font.

The application narrative should consist of:

1. Abstract (Not to exceed 1 page): An executive summary of your program covered under this announcement. Identify the Research Topic that the application addresses.

2. Program Plan (Not to exceed 10 pages): In developing the application under this announcement, please review the recipient activities and, in particular, evaluation criteria and respond concisely and completely.

3. Budget: Submit an itemized budget and supporting justification that is consistent with your proposed program plan.

F. Submission and Deadlines

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are available in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

On or before August 17, 2001, submit your application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (1) or (2) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC. CDC will act as reviewer for these applications.

1. The inclusion of a brief review of the scientific literature pertinent to the study being proposed and specific research questions or hypotheses that will guide the research. The originality and need for the proposed research, the extent to which it does not replicate past or present research efforts, and how findings will be used to guide prevention and control efforts. (25 points)

2. The quality of the plans to develop and implement the study. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

(a) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

(b) The proposed justification when representation is limited or absent.

(c) A statement as to whether the design of the study is adequate to measure differences when warranted.

(d) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits. (25 points)

3. Extent to which proposed activities, if well executed, support attaining project objectives. (25 points)

4. Extent to which personnel involved in this project are qualified, including evidence of past achievements appropriate to the project, and realistic and sufficient time commitments. Evidence of adequacy of facilities and other resources supported to carry out the project. (25 points)

5. Other (not scored)

(a) *Budget:* Will be reviewed to determine the extent to which it is reasonable, clearly justified, consistent with the intended use of the funds, and allowable. All budget categories should be itemized.

(b) *Human Subjects:* Does the application adequately address the requirements of Title 45 CFR part 46 for the protection of human subjects?

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. An annual progress report;

2. Financial status report, no more than 90 days after the end of the budget period; and

3. final financial status report and performance report, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment 1 of the announcement in the application kit.

AR–1—Human Subjects Requirements
AR–2—Inclusion of Women and Racial and Ethnic Minorities in Research Requirements
AR–4—HIV/AIDS Confidentiality Provisions
AR–5—HIV Program Review Panel Requirements
AR–6—Patient Care Prohibitions
AR–9—Paperwork Reduction Act Requirements
AR–10—Smoke-Free Workplace Requirements
AR–11—Healthy People 2010
AR–12—Lobbying Restrictions
AR–22—Research Integrity

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under the Public Health Service Act, Section 317(k)(2) [42 U.S.C. 247b(k)(2)], as amended. The Catalog of Federal Domestic Assistance number 93.943, Epidemiologic Research Studies of Acquired Immunodeficiency Syndrome (AIDS) and Human Immunodeficiency Virus (HIV) Infection in Selected Population Groups.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page e-mail address *www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the announcement number of interest.

If you have questions after reviewing the contents of all documents, business management technical assistance may be obtained from: Brenda Hayes, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, telephone (770) 488–2741, or facsimile at (770) 488–2847, or Email address: *www.bkh4@cdc.gov.*

You may obtain programmatic technical assistance from: Sharon Robertson, National Center for HIV, STD and TB Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE, Atlanta, GA 30333, Telephone (404) 639–4592, Email address: *www.sqr2@cdc.gov.*

Dated: June 26, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–16532 Filed 6–29–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01140]

Expansion of HIV/AIDS/STD Surveillance, Care, and Prevention Activities in the Republic of Uganda; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for the expansion of HIV/AIDS/STD surveillance, care, and prevention activities in the Republic of Uganda.

The purpose of this cooperative agreement is to improve HIV/AIDS

surveillance, care, and prevention capacity and activities in Uganda. This will be accomplished by cooperation between CDC and the Ministry of Health AIDS Control Program (MOH/ACP) of Uganda. These collaborative activities could profoundly change the focus and activities of the Ugandan National AIDS Policy. Most importantly, having a better understanding of the association between specific behaviors, STDs, and HIV prevalence will likely improve AIDS control programs and prevention efforts in Uganda and eventually throughout sub-Saharan Africa.

The U.S. Government seeks to reduce the impact of HIV/AIDS in specific countries within sub-Saharan Africa, Asia, and the Americas through its Leadership and Investment in Fighting an Epidemic (LIFE) initiative. Through this LIFE program, CDC has initiated its Global AIDS Program (GAP) to strengthen capacity and expand activities in the areas of (1) HIV primary prevention; (2) HIV care, support, and treatment; and (3) capacity and infrastructure development, especially for surveillance. Targeted countries represent those with the most severe epidemics and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. government agencies are already active. Uganda is one of these targeted countries.

As a key partner in the U.S. Government's LIFE initiative, CDC is working in a collaborative manner with national governments and other agencies to develop programs of assistance to address the HIV/AIDS epidemic in LIFE initiative countries. In particular, CDC's mission in Uganda is to work with Ugandan and international partners in discovering and applying effective interventions to prevent HIV infection and associated illness and death from AIDS.

Uganda has been a global leader in the development of programs to combat the spread of HIV. Although Uganda was one of the first countries in the world to experience an AIDS epidemic, it was also one of the first to show a sustained decline in HIV/AIDS prevalence rates, due in part to a rapid national response. However, despite intensive interventions, incidence and prevalence rates of HIV infection are still unacceptably high in Uganda. It is estimated that about 1,500,000 people (7–8 percent of the general population) in the country are living with HIV. These statistics suggest the need for the expansion and improvement of a range of surveillance, care, and prevention activities and services.

Accurate surveillance is the mainstay of public health programs, providing essential information for focusing prevention activities, allocating resources, and monitoring effectiveness of programs. While Uganda has shown a decrease in HIV prevalence, questions remain as to which specific behavior changes are partly responsible for this decrease and how much of the reduction is due to a lessening of HIV/STD incidence versus mortality rates. Additionally, gaps in care and prevention activities are factors that must be addressed to reduce the epidemic's burdensome impact in Uganda. The prevention and control of HIV/AIDS in Uganda will continue to depend on the availability of accurate surveillance data and the continuation and expansion of basic care and prevention activities.

B. Eligible Applicants

Assistance will be provided only to the AIDS Control Program (ACP) of the Uganda Ministry of Health (MOH). No other applications are solicited.

The ACP is the only appropriate and qualified organization to conduct a specific set of activities supportive of the CDC Global AIDS Program's technical assistance to Uganda because:

1. The ACP is uniquely positioned, in terms of legal authority, ability, and credibility among Ugandan citizens, to collect crucial data on HIV/AIDS prevalence and incidence, as well as other health information, among Ugandan citizens.

2. The ACP already has established mechanisms to access health information, enabling it to immediately become engaged in the activities listed in this announcement.

3. The purpose of the announcement is to build upon the existing framework of health information and activities that the MOH itself has collected or initiated.

4. The Ministry of Health in Uganda has been mandated by the Ugandan constitution to coordinate and implement activities necessary for the control of epidemics, including HIV/AIDS and STDs.

C. Availability of Funds

Approximately $700,000 is available in FY 2001 to fund this award. It is expected that the award will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of five years. Annual funding estimates may change.

Continuation awards within the approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

All requests for funds, including the budget contained in the application, shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

Use of Funds

Funds received under this announcement may not be used for the direct purchase of antiretroviral drugs to treat established HIV infection, occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

Applicants may contract with other organizations under these cooperative agreements, however, applicants must perform a substantial portion of the activities (including program management and operations and delivery of prevention services for which funds are requested.

No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

A. *Alterations and Renovations:* Unallowable.

B. *Customs and Import Duties:* Unallowable. This includes consular fees, customs surtax, value added taxes, and other related charges.

C. *Indirect Costs:* With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

D. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

On or before July 25, 2001, submit an electronic or hard copy of the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement. If you choose to

submit your application electronically, you should submit hard copies of your application on or before August 9, 2001.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group.

Late Applications: Applications which do not meet the criteria 1. or 2. above will be returned to the applicant.

E. Where To Obtain Additional Information

Forms are available in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm*

This and other CDC announcements can be found on the CDC home page Internet address—*http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements.'' To obtain business management technical assistance, contact: Dorimar Rosado, Grants Management Specialists, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone number: (770) 488–2782, Email: *dpr7@cdc.gov.*

For program technical assistance, contact: Jonathan Mermin, MD, MPH, Global AIDS Program (GAP), Uganda Country Team, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), P.O. Box 49, Entebbe, Uganda, Telephone: 41–32–0776, Email: *jhm7@cdc.gov.*

Dated: June 26, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–16533 Filed 6–29–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01141]

Developing HIV/AIDS Management and Research Capacity in Uganda: Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for developing management, evaluation, and research capacity for HIV/AIDS programs in Uganda.

The purpose of this program is to produce public health specialists who possess the knowledge, skills, and professional approach required to assume HIV/AIDS leadership roles within the public health systems of Uganda. This will be accomplished by supporting the provision of training through short courses and a fellowship in HIV/AIDS program management and evaluation and in HIV/AIDS research in Uganda. The fellowship will also improve communication among the country's AIDS specialists, encouraging future collaboration and information-sharing. In general, the development of well-trained specialists will help to assure that the country meets, in a self-reliant manner, the current and future challenges that HIV/AIDS presents to public health in Uganda.

The U.S. Government seeks to reduce the impact of HIV/AIDS in specific countries within sub-Saharan Africa, Asia, and the Americas through its Leadership and Investment in Fighting an Epidemic (LIFE) initiative. Through this LIFE program, CDC has initiated its Global AIDS Program (GAP) to strengthen capacity and expand activities in the areas of (1) HIV primary prevention; (2) HIV care, support, and treatment; and (3) capacity and infrastructure development. Targeted countries represent those with the most severe epidemics and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. Government agencies are already active. Uganda is one of these targeted countries.

Uganda has been a global leader in the development of programs to combat the spread of HIV. Despite intensive interventions and reduced HIV incidence, however, incidence and prevalence rates of HIV infection are still unacceptably high. It is estimated that 1,500,000 people (7–8 percent of the adult population) in Uganda are living with HIV. In addition, Uganda's success in developing these innovative HIV/AIDS intervention programs has generated a strong demand for people with the time and skills to manage and evaluate the programs and to conduct high-level HIV/AIDS research. Currently, the supply of qualified people able to devote all of their time to HIV/AIDS program management or HIV/AIDS research is limited; persons running HIV programs are often too involved with day-to-day activities to be able to stay abreast of issues related to the multiple aspects of the HIV epidemic or to meet all of the daily management demands created by the new programs. The availability of training in HIV/AIDS-specific program management and research to meet this demand is also limited in Uganda. In fact, no systematic public health training specifically oriented towards HIV/AIDS is currently offered in Uganda.

Establishing a core group of well-trained experts in the various aspects of HIV/AIDS will expand the country's capacity in HIV/AIDS programs and research and will provide much-needed cross-fertilization of disciplines.

B. Eligible Applicants

Assistance will be provided only to the Institute of Public Health (IPH) at Makerere University in Kampala, Uganda. No other applications are solicited.

The Institute of Public Health at Makerere University is the most appropriate and qualified organization for conducting activities under this program, because it is the only public health education facility in Uganda with the resources necessary to adequately train the participants of this fellowship. This unique capability is partly due to its Masters in Public Health (MPH) program, which the University has offered since 1994. This ''Public Health School Without Walls (PHSWOW)'' provides both classroom and field-based experiences for their MPH students during the two-year curriculum. IPH also has previous experience in offering short courses in health program management for middle-level managers as part of its public health curriculum.

Additional important and unique resources include fourteen staff members specializing in relevant fields of public health, on-line access to databases on CD-ROM, a data management center equipped with ten computers that have word processing and statistical programs, and Internet connectivity with unlimited access for students.

A. Availability of Funds

Approximately $700,000 is available in FY 2001 to fund this award. It is expected that the award will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to five years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

All requests for funds, including the budget contained in the application,

shall be stated in U.S. dollars. Once an award is made, the Department of Health and Human Services (DHHS) will not compensate foreign grantees for currency exchange fluctuations through the issuance of supplemental awards.

Use of Funds

Funds awarded through this announcement may be used for salaries, equipment, supplies, travel, and other costs required to run the fellowship and courses.

Funds may not be used for major capital expenditures, such as a large volume purchase of computers and data storage systems. Additionally, funds may not be used for the direct purchase of antiretroviral drugs for treatment of established HIV infection.

Funds received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection, occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

Applicants may contract with other organizations under these cooperative agreements, however, applicants must perform a substantial portion of the activities including program management and operations and delivery of prevention services for which funds are requested.

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

A. *Alterations and Renovations:* Unallowable.

B. *Customs and Import Duties:* Unallowable. This includes consular fees, customs surtax, value added taxes, and other related charges.

C. *Indirect Costs:* With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.

D. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

On or before July 25, 2001, submit an electronic or hard copy of the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement. If you choose to submit your application electronically, you should submit hard copies of your application on or before August 9, 2001.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group.

Late Applications: Applications which do not meet the criteria 1. or 2. above will be returned to the applicant.

E. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—*http://www.cdc.gov* Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To obtain additional information, contact: Dorimar Rosado, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000 MS–15 Atlanta, GA 30341–4146, Telephone: (770) 488–2782 Email: *dpr7@cdc.gov.*

For program technical assistance, contact: Jonathan Mermin, MD, MPH, Global AIDS Program (GAP), Uganda Country Team, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), P.O. Box 49, Entebbe, Uganda, Telephone: 41–320–776, Email: *jhm7@cdc.gov.*

Dated: June 26, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–16534 Filed 6–29–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 01142]

Clinical and Laboratory Training in HIV/AIDS Care in the Republic of Uganda; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2001 funds for a cooperative agreement program for clinical and laboratory training in HIV/AIDS Care in the Republic of Uganda.

The purpose of this program is to improve quality of life for people living with AIDS in Uganda by training health care providers in HIV/AIDS-related care.

The U.S. Government seeks to reduce the impact of HIV/AIDS in specific countries within sub-Saharan Africa, Asia, and the Americas through its Leadership and Investment in Fighting an Epidemic (LIFE) initiative. Through this LIFE program, CDC has initiated its Global AIDS Program (GAP) to strengthen capacity and expand activities in the areas of (1) HIV primary prevention; (2) HIV care, support, and treatment, and capacity and infrastructure development. Targeted countries represent those with the most severe epidemics and the highest number of new infections. They also represent countries where the potential for impact is greatest and where U.S. Government agencies are already active. Uganda is one of these targeted countries.

Uganda has an estimated population of over 21 million, of which 8.3 percent (one out of twelve people) are thought to be HIV-positive. Training in appropriate in-patient, out-patient, and home-based care of people with HIV/AIDS are critical components of holistic health services. However, public and private health units have a notable shortage of clinical staff with the necessary skills and knowledge to provide comprehensive care to adults and children living with HIV/AIDS, particularly in rural areas. There is also a demonstrated need to increase access to effective home-based care, since access to in-patient care facilities is limited and expensive.

A program to offer and expand training is therefore essential in order for care-givers throughout the country to acquire the knowledge necessary to give quality HIV/AIDS care. The aim of improving the quality of life of adults

and children living with AIDS in Uganda can be achieved by making training in HIV/AIDS care accessible to health care providers throughout the country and by building local capacity in order to deal effectively with the health care needs of people living with AIDS.

B. Eligible Applicants

Applications may be submitted by public and private non-profit organizations that meet the following criteria:

1. Have at least three years of documented HIV/AIDS-related clinical training experience in Uganda; and
2. Have existing laboratory and clinical facilities and training programs in Uganda.

C. Availability of Funds

Approximately $1,500,000 is available in FY 2001 to fund one award. It is expected that the award will begin on or about September 30, 2001, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Use of Funds

Funds may be used for:

1. Expenses required to provide training (both at the central facility and at field locations), including salaries, travel for training staff to rural areas, reference materials (periodicals, journals, books, etc.), and renovation or expansion of clinical/training facilities;
2. Acquisition or improvement of services and equipment for the designated purpose of enhancing training of health care providers; this may include laboratory, radiology, and information technology equipment as needed for the central training facility;
3. Development and reproduction of training guidelines, care handbooks, and other materials;
4. Follow-up and evaluation activities.

Funds may not be used for the direct provision of clinical care, to purchase pharmaceuticals, or for activities or facilities unrelated to training in HIV/AIDS care and support.

Funds received from this announcement will not be used for the purchase of antiretroviral drugs for treatment of established HIV infection, occupational exposures, and non-occupational exposures and will not be used for the purchase of machines and reagents to conduct the necessary laboratory monitoring for patient care.

No funds appropriated under this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

Applicants may contract with other organizations under these cooperative agreements, however, applicants must perform a substantial portion of the activities including program management and operations and delivery of prevention services for which funds are requested.

The costs that are generally allowable in grants to domestic organizations are likewise allowable to foreign institutions and international organizations, with the following exceptions:

1. *Customs and Import Duties:* Unallowable. This includes consular fees, customs surtax, value added taxes, and other related charges.
2. *Indirect Costs:* With the exception of the American University, Beirut, the Gorgas Memorial Institute, and the World Health Organization, indirect costs will not be paid (either directly or through a sub-award) to organizations located outside the territorial limits of the United States or to international organizations regardless of their location.
3. *Patient Care:* Patient care costs under foreign grants will be provided only in exceptional circumstances and then only with the prior approval of the PHS awarding office.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for the activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Develop and provide training, based on needs analysis for health care providers in the form of both (1) courses and (2) the provision of supervised clinical care situations (*e.g.,* hospital or HIV/AIDS-focused clinic) for theoretical, experiential, and participatory learning purposes; training should be held at both the central facility and at rural sites.

b. Develop and offer a wide range of relevant courses based on needs analysis; for example, training in the prevention of opportunistic infections; training in diagnosis and treatment of the most common opportunistic infections and those that cause the most morbidity and mortality in Uganda; training in laboratory equipment, consumables, and skills necessary for making basic diagnoses of HIV and opportunistic infections such as cryptococcal meningitis, tuberculosis, and STDs; an advanced course in the appropriate use of antiretrovirals (ARVs), including laboratory monitoring; and training in the provision of social and psychological support for persons with HIV and their families.

c. Collaborate with CDC and the Ministry of Health in developing and maintaining medical record information forms suitable for facilities working in HIV/AIDS care.

d. Collaborate with the Ugandan Ministries of Health and Education and the Uganda AIDS Commission to develop appropriate and approved training packages.

e. Collaborate with The AIDS Support Organization (TASO) in designing and implementing training for its staff.

f. Develop curricula and training materials and guidelines related to HIV/AIDS care for multiple levels of health care providers (*e.g.,* doctors, nurses, community health workers, and/or other care-givers); these materials should meet high standards of technical content and training methodology and should include handbooks, trainer manuals, and training-of-trainer manuals.

g. Train health care providers from district and rural health facilities to become trainers in order to implement standardized, cascading training programs in AIDS care in rural settings throughout Uganda.

h. Conduct follow-up assessment and further training of training alumni at their rural work sites, providing additional focused support as necessary to facilitate implementation of a clinical care program tailored to individual sites.

i. Evaluate the impact of the training on care and develop further appropriate training initiatives.

j. Ensure that the above activities are undertaken in a manner that is integrated with the national HIV/AIDS strategy.

2. CDC Activities

a. Provide technical assistance, as needed, in the development of training curricula, materials, and diagnostic therapeutic guidelines.

b. Collaborate with recipient, as needed, in the development of an information technology system for medical record-keeping and information access and in the analysis of data derived from such records.

c. Assist, as needed, in evaluation of training and in development of further appropriate training initiatives.

d. Assist, as needed, in appropriate analysis and interpretation of data

collected during training sessions as needed.

e. Provide input, as needed, into the criteria for selection of candidates, clinics, and districts involved in training.

f. Provide input, as needed, into the overall program strategy.

g. Collaborate, as needed, with the recipient in the selection of key personnel to be involved in the activities performed under this agreement.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 double-spaced pages, printed on one side, with one-inch margins, and unreduced font. Pages should be numbered, and a complete index to the application and any appendices must be included.

F. Submission and Deadline

Submit the original and two copies of PHS 5161–1 (OMB Number 0920–0428). Forms are available in the application kit and at the following Internet address: *www.cdc.gov/od/pgo/forminfo.htm.*

On or before July 25, 2001, submit an electronic or hard copy of the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement. If you choose to submit your application electronically, you should submit hard copies of your application on or before August 9, 2001.

Deadline: Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group.

Late Applications: Applications which do not meet the criteria 1 or 2 above will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC.

1. Understanding of the Problem (10 points)

The extent to which the applicant demonstrates a clear, concise understanding of the nature of the problem to be addressed; this specifically includes a description of the gaps in current programs and related activities in Uganda, as well as a realistic presentation of proposed objectives

2. Training Opportunities (30 points)

(a) The number, depth, variety, and value of training and learning opportunities that the applicant proposes to offer, as well as the variety of trainees the applicant is prepared to target; (b) the extent to which the training proposed by the applicant includes participatory, experiential learning for the trainees; and (c) the extent to which the applicant specifies the content and structure of the training materials and programs.

3. Strategy (20 points)

The extent to which the applicant has developed a strategic approach to the development of a training program that balances urgency with the time required to develop quality services and materials.

4. Ability To Carry Out the Project (10 points)

The extent to which the applicant documents having the organizational infrastructure and documented experience necessary to achieve the purpose of this project.

5. Program Objective and Plan (15 points)

The extent to which program objectives are specific, measurable, time phased and realistic; and the extent to which the plans for implementing project activity mirror program objectives and will facilitate their achievement.

6. Personnel (15 points)

The extent to which professional personnel involved in this project are qualified, including evidence of experience similar to this project.

7. Budget (not scored)

The extent to which itemized budget for conducting the project, along with justification, is reasonable and consistent with stated objectives and planned program activities.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. quarterly progress reports;

2. financial status report, no more than 90 days after the end of the budget period; and

3. final financial and performance reports, no more than 90 days after the end of the project period.

4. awardee is required to obtain annual audit of these CDC funds (program-specific audit) by a U.S.-based audit firm with international branches and current licensure/authority in-country, and in accordance with International Accounting Standards or equivalent standards(s) approved in writing by CDC.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of the announcement.

AR–6 Patient Care

AR–10 Smoke-Free Workplace Requirements

AR–12 Lobbying Restrictions

AR–14 Accounting System Requirements

AR–15 Proof of Non-Profit Status

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under section 307 of the Public Health Service Act, (42 U.S.C. section 242I), as amended. The Catalog of Federal Domestic Assistance number is 93.941.

J. Where To Obtain Additional Information

This and other CDC announcements can be found on the CDC home page Internet address—http://www.cdc.gov Click on ''Funding'' then ''Grants and Cooperative Agreements.''

To obtain business management technical assistance, contact: Dorimar Rosado, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146, Telephone: (770) 488–2782, Email: *dpr7@cdc.gov.*

For program technical assistance, contact: Jonathan Mermin, MD, MPH, Global AIDS Program (GAP), Uganda Country Team, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention (CDC), P.O. Box 49, Entebbe, Uganda, Telephone: 41–320–776, Email: *jhm7@cdc.gov.*

Dated: June 26, 2001.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–16535 Filed 6–29–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Workshop on Preclinical Testing for Endovascular Grafts

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

This notice announces the forthcoming workshop on preclinical testing for endovascular grafts, sponsored by the Food and Drug Administration (FDA). The meeting will be open to the public.

Date and Time: The meeting will be held on July 31, 2001, 9 a.m. to 6 p.m., and August 1, 2001, 9 a.m. to 5 p.m.

Location: Gaithersburg Holiday Inn, Walker-Whetstone Room, Two Montgomery Village Ave., Gaithersburg, MD.

Contact: The workshop organizers are Megan Moynahan, 301–443–8517, ext. 171, mbm@cdrh.fda.gov, and Dorothy Abel, 301–443–8262, ext. 165, dba@cdrh.fda.gov, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850.

Agenda: The workshop will concern endovascular grafts used in the treatment of abdominal aortic aneurysms. The goal of the workshop is to find ways to improve how these grafts are tested. Participants of the workshop will first be asked to describe the environment to which these grafts are exposed. Then they will identify the failure modes of the grafts and examine how the devices have been tested to date. Finally, the participants will be asked to suggest ways to modify the testing of these devices by taking into consideration the graft environment.

Workshop participation is by invitation only and is therefore limited. However, the public may observe as audience members. Background information for the workshop will be available to the public on the Internet at http://www.fda.gov/cdrh/meetings/073101workshop.html.

Procedure: Members of the public who are interested in attending as audience members should contact the workshop organizers by July 13, 2001.

If you need special accommodations due to a disability, please contact either one of the contact persons listed above at least 7 days in advance.

Dated: June 25, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–16471 Filed 6–29–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99D–0239]

Medical Devices; Guidance on Resolving Scientific Disputes Concerning the Regulation of Medical Devices; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the guidance entitled ''Resolving Scientific Disputes Concerning the Regulation of Medical Devices.'' The guidance describes the role and operation of the Medical Devices Dispute Resolution Panel of the Medical Devices Advisory Committee (the Dispute Resolution Panel), the types of controversies eligible for review by the Dispute Resolution Panel, and recommendations for submitting a request for review.

DATES: Submit written comments at any time.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the guidance document entitled ''Resolving Scientific Disputes Concerning the Regulation of Medical Devices'' 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 labels to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning this guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

FOR FURTHER INFORMATION CONTACT: Les S. Weinstein, Center for Devices and Radiological Health (HFZ–5), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–6220, ext. 119.

SUPPLEMENTARY INFORMATION:

I. Background

Section 404 of the Food and Drug Administration Modernization Act (FDAMA) of 1997 (section 562 of the Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360bbb-1)) requires FDA to establish procedures for the review of scientific controversies where there is not already an existing right of review. Although FDA believes existing procedures, such as internal agency review of decisions under § 10.75 (21 CFR 10.75), provide for an appropriate review of most, if not all, disputes, the Center for Devices and Radiological Health (CDRH) is developing new procedures to ensure effective and timely review of scientific disputes. In fact, CDRH has recently taken significant steps to achieve this objective, including the appointment of its first CDRH Ombudsman and the establishment of an advisory Dispute Resolution Panel. CDRH is now announcing a final guidance document on the use of this new Dispute Resolution Panel to facilitate the fair and rapid resolution of scientific disputes.

This guidance supersedes the April 27, 1999 (64 FR 22617), draft guidance document entitled ''Resolving Scientific Disputes Concerning the Regulation of Medical Devices: An Administrative Procedures Guide to Use of the Medical Devices Dispute Resolution Panel.''

The Dispute Resolution Panel, chartered on August 18, 1999, has five standing members (including a nonvoting industry representative and a nonvoting consumer representative), and three additional temporary voting members appointed for each particular dispute. Standing members will have broad, crosscutting scientific, clinical, analytical, or mediation skills. Temporary members will be chosen based on their experience, expertise, or analytical skills relevant to the review of each particular dispute. FDA published a notice in the **Federal Register** of November 10, 1999 (64 FR 61352), requesting nominations for the Dispute Resolution Panel members. The five standing members have since been appointed, and the first meeting of the Dispute Resolution Panel, an open public session, was held on October 31, 2000; the Dispute Resolution Panel members heard presentations from FDA and the device industry on the role of this panel in dispute resolution.

A. Response to Comments on the Draft Guidance

Three comments were submitted concerning the April 27, 1999, draft guidance, two from medical device industry associations—Health Industry Manufacturers Association (now AdvaMed) and the Medical Device Manufacturers Association, and one from a device firm. CDRH's response to the significant comments follows:

Why a guidance document and not a regulation?

Two comments stated that FDA should issue a regulation instead of a guidance document to establish procedures to resolve scientific disputes.

FDA believes that it is not required to issue a regulation concerning the Dispute Resolution Panel procedures. The relevant section of FDAMA required a regulation only in those cases where no other statutory provision or a codified regulation provided a right of review of the matter in controversy. At the time of FDAMA's enactment, FDA already had a wide range of dispute resolution mechanisms in place, including § 10.75, ''Internal agency review of decisions.'' That regulation permits any interested person to obtain review of any FDA decision. To implement the dispute resolution section of FDAMA, FDA amended § 10.75 to make it clear that a scientific controversy may be brought before an advisory panel or committee in appropriate circumstances. The agency concluded that a new regulation was not required. However, each center prepared guidance setting forth procedures tailored to meet the needs of persons affected by the different processes used by each center. CDRH published a general guidance on dispute resolution within the center, ''Medical Device Appeals and Complaints'' (February, 1998), chartered and staffed the Dispute Resolution Panel in 2000, and is issuing this guidance to facilitate use of that Panel. Furthermore, FDA believes it is important to develop experience under the final guidance before considering whether it might be useful, even though not required, to issue a regulation at some point in the future. The guidance permits both CDRH and industry greater flexibility in resolving a particular controversy than a regulation would.

B. Independence of the Process

One comment argued that the Dispute Resolution Panel should have final authority to reverse FDA decisions rather than just make recommendations to the CDRH Director. Another comment believed a Dispute Resolution Panel recommendation to the CDRH Director should stand unless the decision would be unlawful or pose a significant threat to public health.

The legislative history indicates that the purpose of section 562 of the act is ''to assure that the regulated industry receives a fair and impartial hearing and that the FDA *receives sound recommendations and advice*'' (H. Rept. 105–310 at 373 (October 7, 1997)) (emphasis added). Congress intends and expects any panel that reviews disputes will provide ''recommendations and advice,'' and that FDA must retain the final decisionmaking responsibility. The Dispute Resolution Panel will provide an important independent source of additional analysis and additional views that FDA will then use in making a final decision.

Two comments focused on the independence of the process related to the role of CDRH officials in deciding whether a request for Dispute Resolution Panel review would be granted or denied.

FDA is responding to these comments by strengthening the independence of the CDRH Ombudsman in that process. The Ombudsman will have authority to grant requests for Dispute Resolution Panel reviews, in consultation with the panel chair, without obtaining the approval of the Center Director, a Deputy Center Director, or anyone else in CDRH, although he would not be precluded from discussing the request with them to get background information about the dispute that would be helpful in making the decision to grant or deny review. However, if the Ombudsman wishes to deny a request for Dispute Resolution Panel review, the Ombudsman will consult with, and obtain the concurrence of, the appropriate Deputy Center Director.

C. Thresholds for Review of Scientific Disputes

Two comments objected to statements in the draft guidance to the effect that a request for Dispute Resolution Panel review must primarily concern a scientific controversy regarding an FDA ''decision or action.'' The comments prefer an approach that would permit disagreements to be brought to the Dispute Resolution Panel ''early'' in the product review process, such as disagreements about the reasonableness of FDA data requirements, before there was an actual decision or action by the agency.

FDA agrees that there may be some early disputes that would be appropriate for, and could benefit from, a review by the Dispute Resolution Panel and has revised the guidance to include such examples.

D. Timeliness of the Process

Several comments were concerned that the process described in the draft guidance will not ensure timely review of disputes.

FDA has revised the guidance to streamline the process and tighten some of the timeframes for processing and reviewing disputes. In most cases, CDRH expects matters accepted for Dispute Resolution Panel review to receive a final decision within 90 to 120 days of receipt of the request. Practical and administrative constraints preclude developing a timeframe shorter than this.

II. Significance of Guidance

This guidance document represents the agency's current thinking on the Dispute Resolution Panel procedures for resolving scientific disputes. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute and regulations.

The agency has adopted good guidance practices (GGPs), which set forth the agency's regulations for the development, issuance, and use of guidance documents (21 CFR 10.115; 65 FR 56468, September 19, 2000.) This guidance document is issued as a level 1 guidance in accordance with the GGP regulations.

As the agency gains experience with the Dispute Resolution Panel process, this guidance document may be revised from time to time.

III. Electronic Access

In order to receive ''Resolving Scientific Disputes Concerning The Regulation Of Medical Devices'' 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 (1121) followed by the pound sign (#). 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 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.

IV. Paperwork Reduction Act of 1995

The information collection provisions contained in this guidance have been approved by the Office of Management and Budget (OMB) under OMB control number 0910–0467.

V. Comments

Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this guidance at any time. Two copies of any comments 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. The guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 15, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–16472 Filed 6–29–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4653–N–09]

Notice of Proposed Information Collection for Public Comment: Notice of Funding Availability and Application Kit and Reporting Forms for the Hispanic-Servicing Institutions Work Study Program (HIS–WSP)

AGENCY: Office of the Assistant Secretary for Policy Development and Research, 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 soliciting public comments on the subject proposal.

DATES: *Comments Due Date*: August 31, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name or OMB Control Number and be sent to: Reports Liaison Officer, Office of Policy Development and Research, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Jane Karadbil, Office of University Partnerships—telephone (202) 708–1537. This is not a toll-free number. Copies of the proposed forms and other available documents to be submitted to OMB may be obtained from Ms. Karabil.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction act of 995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected entities concerning the proposed information collection to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of information to be collected; and (4) minimize the burden of collection of information on those who are to respond; including through the use of appropriate technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of the Proposal: Notice of Funding Availability and Application Kit and Reporting Forms for the Hispanic-Serving Institutions Work Study Program (HSI–WSP).

Description of the need for the information and proposed use: The information is being collected to select grantees in this statutorily-created competitive grant program (if it is ever funded again by the Congress). More importantly, the information is being used to monitor the performance of grantees to ensure that they meet statutory and program goals and requirements.

Members of the affected public: Certain Hispanic-serving institutions of higher education: 40 applicants and 30 grantees.

Estimation of the total number of hours needed to prepare the information collection including the number of respondents, frequency of response, and hours of response: Information pursuant to submitting applications will be submitted once. Information pursuant to grantee monitoring requirements will be submitted once a year.

The following chart details the respondent burden on an annual basis:

	Number of respondents	Total annual responses	Hours per response	Total hours
Application	40	40	40	1,600
Annual Reports	30	30	6	180
Final Reports	30	15	8	120
Recordkeeping	30	15	5	75
Total				2,050

Status of proposed information collection: OMB approved an emergency paperwork clearance for this information collection and assigned it OMB Control No. 2528–0182, expiration date March 31, 2000. The information collection was allowed to expire because Congress stopped funding the program. However, there are ongoing monitoring and reporting responsibilities for the existing grants which will require an information collection control number.

Authority: Sec. 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: June 25, 2001.

Lawrence L. Thompson,

General Deputy, Assistant Secretary for Policy Development and Research.

[FR Doc. 01–16596 Filed 6–29–01; 8:45 am]

BILLING CODE 4210–62–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Environmental Assessment/Habitat Conservation Plan and Receipt of Application for an Incidental Take Permit for three karst cave invertebrates from a Residential and Commercial Development on approximately 1,000 acres in Bexar County, Texas

SUMMARY: La Cantera Development Company, Ltd. (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The Applicant has been assigned permit number TE–044512–0. The requested permit, which is for a period of 30 years, would authorize the incidental take of *Cicurina madla* (Madla's Cave spider), *Rhadine exilis* and *Rhadine infernalis* (no common names). The proposed take would occur as a result of the construction of commercial developments on 1,000 acres in an area bounded by I–10 to the east, Loop 1604 to the south, Babcock Road to the west, and Camp Bullis Road to the north in the City of San Antonio, Bexar County, Texas.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made before 60 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: August 31, 2001.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCPs may obtain a copy by contacting Christina Longacre, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0063). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 am to 4:30 pm), U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Field Supervisor, Ecological Field Office, Austin, Texas at the above address. Please refer to permit number TE–044512–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Christina Longacre at the above Austin Ecological Service Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the *Cicurina madla* (Madla's Cave spider), *Rhadine exilis* and *Rhadine infernalis* (no common names). However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant: La Cantera Development Company plans to construct a commercial and residential development on approximately 1,000 acres generally bounded by I–10 to the east, Loop 1604 to the south, Babcock Road to the west, and Camp Bullis Road to the north in the City of San Antonio, Bexar County, Texas. This action will occur on all portions of the property except those designated as necessary to protect on-site karst areas and will impact Caves #1 and #2, which contain the endangered *Rhadine exilis* and Cicurina madla, and Cave #3, which contains only *Cicurina.* No take of any other listed endangered species is expected to result from completion of the Proposed Alternative. However, since *Rhadine infernalis* is known from the general area and it has been adequately mitigated for within the proposed preserves, the Applicant will be covered for this species.

The development will eliminate most of the habitat for these species on site, and will cause deterioration of the cave ecosystem by encouraging fire ants, altering the surface and subsurface moisture and temperature regimes and increasing human impacts. The applicant proposes to compensate for this incidental take of the three listed species by protecting seven karst preserves totaling 181 acres to be protected and managed in perpetuity. The karst preserves include one-acre on-site preserves for La Cantera Caves 1 and 2, and five off-site preserves totaling approximately 179 acres. In addition, undeveloped portions of the property would be monitored and treated for introduced fire ants, use of pesticides and herbicides would be restricted, and use of the premises for businesses that have the potential to contaminate sub-surface karst and/or groundwater (i.e., gas stations and dry cleaners) would be prohibited.

Alternatives to this action were rejected because not developing the subject property with federally listed species present was not economically feasible and alteration of the project design would increase the impacts.

Bryan Arroyo,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 01–16493 Filed 6–29–01; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–929–01–1420–HE]

Montana: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice.

SUMMARY: The plat of the following described land is scheduled to be officially filed in the Montana State Office, Billings, Montana, thirty (30) days from the date of this publication.

T. 20 N., R. 58 E., P.M., MT

The plat, representing the dependent resurvey of portions of the south boundary, subdivisional lines and the adjusted original meanders of the right bank of a channel of the Yellowstone River, downstream, through section 34, the subdivision of section 34, and the survey of the present right bank of a channel of the Yellowstone River, downstream, through section 34 and a certain division of accretion line in section 34, Township 20 North, Range 58 East, Principal Meridian, Montana, was officially accepted May 29, 2001.

The survey was requested by the Miles City Field Office and was necessary to identify accretion and

erosion to original lots 3 and 8 in section 34 of the subject township.

A copy of the preceding described plat will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against this survey, as shown on this plat, is received prior to the date of the official filing, the filing will be stayed pending consideration of the protests.

This particular plat will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5001 Southgate Drive, P.O. Box 36800, Billings, Montana 59107–6800.

Dated: June 12, 2001.

Robert L. Brockie,

Acting Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 01–16576 Filed 6–29–01; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

National Park Service

Anacostia Park General Management Plan; Public Notice

In accordance with section 102(2)(c) of the National Environmental Policy Act of 1969, the National Park Service (NPS) is preparing an Environmental Impact Statement (EIS) to assess the impacts of alternative management strategies for the General Management Plan (GMP) for Anacostia Park, Washington, DC.

The GMP/EIS will evaluate a range of alternatives that address cultural and natural resources protection, socioeconomic concerns, traffic and pedestrian circulation, and visitor use.

Public involvement will be a key component in the preparation of the GMP/EIS.

As part of the Anacostia Waterfront Initiative (AWI), NPS is conducting a GMP for Anacostia Park. This riverine park is composed of a series of 8 areas that are better known by their individual names. They are Kenilworth Aquatic Gardens, Kenilworth Park, River Terrace, Fairlawn/Twining, Boathouse Row, Robert F. Kennedy (RFK) Stadium Shoreline, the Arboretum Shoreline and Langston Golf Course. All of these areas lay along the Anacostia River between the 11th Street Bridges and the Maryland State line. The areas are collectively named and managed as Anacostia Park. The purpose of this GMP/EIS is to give vision and unity of purpose as well as functional specificity these areas.

A separate planning effort is being undertaken for Poplar Point. This is an area of approximately 100 acres that involves lands under the jurisdiction of NPS and the District of Columbia. Sixty acres of this is composed of lands transferred to NPS in 1984 from the Architect of the Capitol and the District of Columbia that had used these properties for plant nursery purposes for 65 years. The Act of Congress which transferred these lands provided for a joint planning process between the Secretary of the Interior and the Mayor of the District of Columbia which was to include transportation facilities related to the Metro stop and other uses to be determined by the planning process. Although this area will become part of the family of parks that are a part of Anacostia Park, its unique circumstance at this point in time requires a separate planning process as part of the AWI. The plan will also be accompanied by an EIS.

The RFK Stadium and its parking lots are on lands under the jurisdiction of NPS but are leased to the District of Columbia for 49 years with another 49-year renewable clause as provided for in Public Law 85–300 as amended (September 7, 1957). This law retained a strip of land, a minimum of 200-feet wide, along the shoreline as parkland that will be addressed as part of the GMP/EIS. The remainder of the RFK Stadium property will be included in the AWI planning.

The responsible official is Terry R. Carlstrom, Regional Director, National Capital Region, NPS. Written comments should be submitted to Superintendent of National Capital Parks—East, 1900 Anacostia Drive, SE., Washington, DC—20020.

Terry R. Carlstrom,

Regional Director, National Capital Region.

[FR Doc. 01–16544 Filed 6–29–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan, Draft Environmental Impact Statement, Devils Tower National Monument, Wyoming

AGENCY: National Park Service, Department of the Interior.

ACTION: Availability of draft environmental impact statement and general management plan for devils tower national monument.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service announces the availability of a Draft Environmental Impact Statement and General Management Plan (DEIS/GMP) for Devils Tower National Monument, Wyoming.

DATE: The DEIS/GMP will remain available for public review until August 31, 2001.

Comments: If you wish to make comments, you may submit them by any one of several methods. You may mail comments to Devils Tower National Monument, Planning Team, P.O. Box 10, Devils Tower, WY, 82714. You may also send comments by email to: deto—planning@nps.gov. If you do not receive a confirmation from the system that we have received your email message, you may contact Chris Moos [(307) 467–5283 ext 15)] at Devils Tower National Monument. Finally, you may hand-deliver comments to Park Headquarters/Administration Office, Devils Tower National Monument. Please include your name and return address regardless of the method you choose to make comments. 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. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

ADDRESSES: Copies of the DEIS/GMP are available from the Superintendent, Devils Tower National Monument, P.O. Box 10, Devils Tower, WY, 82714. Public reading copies of the DEIS/GMP will be available for review at the following locations:

Office of the Superintendent, Park Headquarters (Administration Office), Devils Tower National Monument, P.O. Box 10, Devils Tower, WY, 827124, Telephone: (307) 467–5283.

Planning and Environmental Quality, Intermountain Support Office—Denver, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Denver, CO 80225–0287,

Telephone: (303) 969–2851 [or (303) 969–2377].

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets NW, Washington, D.C. 20240, Telephone: (202) 208–6843.

SUPPLEMENTARY INFORMATION: The DEIS/GMP analyzes a ''no-action'' alternative and 4 ''action'' alternatives:

- *Alternative 1* (the no-action alternative) represents the continuation of existing conditions and management at the monument.
- *Alternative 2* would reduce overall development to improve the monument's natural setting; institute a reservation system during periods of peak visitation; convert the parking area at the base of the Tower to a pedestrian plaza; selectively restore natural vegetation; improve trail accessibility; and reduce the size of the Belle Fourche River campground.
- *Alternative 3* (the NPS preferred alternative) would institute a shuttle system for use during peak visitation periods; construct a shuttle staging area and visitor orientation facilities within the monument; convert the parking area at the base of the Tower to a pedestrian plaza; remove the Belle Fourche River campground and restore/revegetate disturbed areas; construct and reconfigure trails.
- *Alternative 4* would also institute a shuttle system, but would construct/relocate staging and visitor orientation facilities, along with headquarters and maintenance facilities, outside the monument boundaries; convert the parking area at the base of the Tower to a pedestrian plaza; retain camping in a portion of the Belle Fourche River campground; convert another part of the campground to a shuttle stop with visitor facilities; construct and reconfigure trails.
- *Alternative 5* would continue to offer visitor experiences similar to those presently available, but would expand, pave, and upgrade parking areas and roads, and/or add facilities to reduce visitor congestion.

The DEIS/GMP evaluates the environmental consequences of the proposed action and the other alternatives on natural resources (e.g. air quality, soils, vegetation, wildlife, wetlands, floodplains, threatened and endangered species); cultural resources (e.g. ethnographic resources of importance to American Indian tribes, Civilian Conservation Corps-constructed roadway features, etc.); the visitor experience; and socioeconomic resources (e.g. local businesses, construction-related employment, etc.).

FOR FURTHER INFORMATION CONTACT: Contact Superintendent, Devils Tower National Monument, at the above address and telephone number.

Dated: June 14, 2001.

Jack Neckels,

Director, Intermountain Region, National Park Service.

[FR Doc. 01–16497 Filed 6–29–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service, Interior.

Environmental Assessment for Proposal To Address Safety Concerns Along the Mount Vernon Trail in and Around Bridge #12

AGENCY: National Park Service, Interior.

ACTION: Availability of the environmental assessment (EA) for the proposed safety improvements to Bridge #12 located approximately ¼ mile north of the southbound Fort Hunt exit off of the George Washington Memorial Parkway (GWMP) along the Mount Vernon Trail (MVT).

SUMMARY: Pursuant to Council on Environmental Quality regulations and National Park Service (NPS) policy, the NPS announces the availability of an EA for the proposed safety improvements on and around MVT Bridge #12 within GWMP. The EA examines several alternatives aimed to increase safety for trail users while maintaining the integrity of the natural and cultural resources at Bridge #12. The area on and around Bridge #12 has been identified as a safety concern, primarily due to the bridge and trail designs in relationship to the existing terrain and the increased speeds that bicyclists are now able to obtain. As the trail approaches the bridge from both the north and the south, it combines a series of sharp curves with a steep downhill grade which has resulted in serious accidents to bicyclists, especially when the bridge deck is wet or damp. The NPS is soliciting comments on this EA. These comments will be considered in evaluating it and making decisions pursuant to the National Environmental Policy Act.

DATES: The EA will remain available for public comment until August 1, 2001. Written comments should be received no later than this date.

ADDRESSES: Comments on this EA should be submitted in writing to: Ms. Audrey F. Calhoun, Superintendent, George Washington Memorial Parkway, Turkey Run Park, McLean, Virginia, 22101. The EA will be available for public inspection Monday through Friday, 8 a.m. through 4 p.m., at GWMP Headquarters, Turkey Run Park, McLean, Virginia; on the NPS Website, www.nps.gov/gwmp; and at several libraries in Alexandria, Fairfax and Arlington, Virginia.

SUPPLEMENTARY INFORMATION: The NPS proposes to increase safety for trail users while maintaining the integrity of the natural and cultural resources at Bridge #12, located approximately ¼ mile north of the southbound Fort Hunt exit off of the GWMP on the MVT. Approximately nine years ago, both ends of the bridge were widened to allow a greater turning radius for bicyclists to make the turn onto the bridge, a non-slip coating was applied to the bridge deck surface, and warning signs were posted at each end of the bridge. Although these modifications have lessened the existing safety hazards, accidents continue to occur on and around this bridge structure and it requires reconsideration. A 1990 NPS trail study entitled *Paved Recreational Trails of the National Capital Region: Recommendations for Improvements and Coordination to Form a Metropolitan Multi-Use Trail System* identified this area as a priority for safety improvements. The bridge traverses a ravine with a wetland area and small creek running through it. The existing bridge is approximately 165 feet long and is constructed from a combination of pressure treated lumber and creosote piles.

The following primary needs have been identified with this project to address the existing safety issues. There is a need:

1. For design changes to the bridge itself to make it a more sustainable structure and provide for safety on the bridge.
2. To change the steep, sharp curved approaches to the bridge.
3. To protect natural and cultural resources in and around the bridge area.

Incidents that have occurred at this location have been informally documented by observations by park staff and through conversations with visitors who have reported incidents. Physical evidence such as skid marks and bicycle paint and scrape marks on the wood of the bridge have also been observed. Finally, park staff have assisted injured bicyclists on several occasions on and around the bridge.

All interested individuals, agencies, and organizations are urged to provide comments on this EA. The NPS, in making a final decision regarding this matter, will consider all comments received by the closing date.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Sealy (703) 289–2530 or via email at GWMP_IRRM_SECRETARY@NPS.GOV.

Audrey F. Calhoun,

Superintendent, George Washington Memorial Parkway.

[FR Doc. 01–16499 Filed 6–29–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Environmental Assessment for Proposal to Replace the Existing Deteriorated North Arcade Structure and Damaged Portions of the Adjacent Arcade Structure With a New North Arcade Structure in Glen Echo Park, MD

AGENCY: National Park Service, Interior.

ACTION: Availability of the Environmental Assessment (EA) for the proposal to replace the existing deteriorated North Arcade structure, and damaged portions of the adjacent arcade structure with a new North Arcade structure in Glen Echo Park (GLEC). Both structures are listed as contributing elements of the Glen Echo Park Historic District, Maryland.

SUMMARY: Pursuant to Council on Environmental Quality regulations and National Park Service (NPS) policy, the NPS announces the availability of an EA for the proposed replacement of the existing deteriorated North Arcade structure and damaged portions of the adjacent arcade structure with a new North Arcade structure in GLEC, a unit of the George Washington Memorial Parkway (GWMP). The EA examines several alternatives aimed to correct the advanced deterioration and design deficiencies of the North Arcade structure. The building currently provides marginal space for park administrative offices, classrooms, a photography studio, and a police substation. The use of these spaces is severely impacted by this advanced deterioration.

The NPS is soliciting comments on this EA. These comments will be considered in evaluating it and making decisions pursuant to the National Environmental Policy Act.

DATES: The EA will remain available for public comment until August 1, 2001. Written comments should be received no later than this date.

ADDRESSES: Comments on this EA should be submitted in writing to: Ms. Audrey F. Calhoun, Superintendent, George Washington Memorial Parkway, Turkey Run Park, McLean, Virginia, 22101. The EA will be available for public inspection Monday through Friday, 8:00 a.m. through 4:00 p.m. at GWMP Headquarters, Turkey Run Park, McLean, Virginia; on the NPS Website, www.nps.gov/gwmp; at GLEC and at the following Montgomery County libraries: Bethesda Regional Library, Davis Library, and Little Falls.

SUPPLEMENTARY INFORMATION: The NPS proposes to replace the existing deteriorated North Arcade structure and damaged portions of the adjacent arcade structure with a new North Arcade structure in GLEC. The intent of the proposed action is to: provide an interpretive area and classroom space to conduct and possibly expand programs; provide alternative space for the Puppet Company or a similar theatre group so that the main entrance of the Spanish Ballroom can be restored and used again; maintain and upgrade the space currently occupied by Photoworks, a portion of the lower level within the North Arcade; provide useful, efficient office space in place of what currently occupies a portion of the upper level within the North Arcade; address and correct structural deficiencies of the current structure (note that 40% of the current structure is vacant because of deterioration) and make the building accessible; address and correct Life and Safety Code deficiencies, including exit and egress requirements; address and correct Americans with Disabilities Act accessibility deficiencies; replace deteriorating mechanical and electrical systems that have exceeded their expected life cycle; enhance protection of natural and cultural resources within the park, especially those of the Glen Echo Historic District; attract more programs and users to the park to possibly create self-sufficiency; and respond to public requests for better facilities, maintenance and upkeep.

The proposed action is based on the fact that the building and canopy of the North Arcade have not fared well over time. This action aims to address structural deterioration of the outdoor concrete deck which has advanced to a state that does not allow use of the lower level rooftop plaza or the spaces below. It will also address other deficiencies, such as multiple floor level changes and varied construction practices that make the building generally unsafe to use and difficult to rehabilitate. In addition, the mechanical and electrical systems, which have been compromised through alteration and have far exceeded their expected life cycles will be replaced.

All interested individuals, agencies, and organizations are urged to provide comments on this EA. The NPS, in making a final decision regarding this matter, will consider all comments received by the closing date.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Sealy (703) 289–2530 or via email at GWMP__IRRM__SECRETARY@NPS.GOV.

Dottie P. Marshall,

Acting Superintendent, George Washington Memorial Parkway.

[FR Doc. 01–16498 Filed 6–29–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service, Interior

Notice of Availability of a Plan of Operations and Environmental Assessment for a Proposed Three Dimensional Seismic Survey Within the Barataria Preserve Unit of Jean Lafitte National Historical Park and Preserve, Jefferson Parish, LA

SUMMARY: In accordance with § 9.52 of title 36 of the Code of Federal Regulations and the National Environmental Policy Act of 1969, notice is hereby given that the National Park Service has a received a Plan of Operations and Environmental Assessment from Seitel Data, Inc. of Houston, Texas, for a Proposed Three Dimensional Seismic Survey within and near the Barataria Preserve unit of Jean Lafitte National Historical Park and Preserve.

The Plan of Operations and Environmental Assessment are available for public review and comment for a period of 30 days from the publication date of this notice, in the office of the Superintendent, Jean Lafitte National Historical Park and Preserve, 365 Canal Street, Suite 2400, New Orleans, Louisiana and will be sent upon written request.

DATES: The proposed seismic operation will be initiated following the approval of the Plan of Operations and a Finding of No Significant Impact by the National Park Service Regional Director. Field operations will last approximately six weeks within the Preserve.

FOR FURTHER INFORMATION CONTACT: Superintendent, Jean Lafitte National Historical Park and Preserve, 365 Canal Street, Suite 2400, New Orleans, Louisiana, 70130.

SUPPLEMENTARY INFORMATION: Jean Lafitte National Historical Park and Preserve was established by Congress on November 10, 1978 (Public Law 95–625)

in order to ''* * * preserve for the education, inspiration, and benefit of present and future generations significant examples of natural and historical resources of the Mississippi Delta region * * *'' When the park was established, all subsurface mineral interests were retained by private owners, thus the federal government does not own any of the subsurface oil and gas rights within the park boundary.

Seitel Data Incorporated is proposing to conduct a three dimensional seismic survey encompassing approximately 105 square miles in Jefferson and St. Charles Parishes, Louisiana. A portion of the proposed survey area includes the northernmost 1,500 acres of the Barataria Preserve unit of Jean Lafitte National Historical Park and Preserve.

In accordance with the National Park Service Organic Act and section 902(a) of the park's enabling legislation, Congress authorized the Secretary of the Interior to promulgate regulations to control nonfederal oil and gas development in the park. These regulations are published as the NPS Nonfederal Oil and Gas Rights Regulations, in the Code of Federal Regulations, part 9, subpart B (36 CFR 9B), and include the following:

> These regulations control all activities within any unit of the National Park System in the exercise of rights to oil and gas not owned by the United States where access is on, across, or through federally owned or controlled lands or waters * * * These regulations are designed to insure that activities undertaken pursuant to these rights are conducted in a manner consistent with the purposes for which the National Park System and each unit thereof were created, to prevent or minimize damage to the environment and other resource values, and to insure to the extent feasible that all units of the National Park System are left unimpaired for the enjoyment of future generations. These regulations are not intended to result in the taking of a property interest, but rather to impose reasonable regulations on activities which involve and affect federally-owned lands (36 CFR 9.30(a)).

Jean Lafitte National Historical Park and Preserve has a lawful obligation to provide for the exercise of nonfederal oil and gas rights within its boundary. The NPS Nonfederal Oil and Gas Rights Regulations require that a Plan of Operations and Environmental Assessment be submitted and approved by the park Superintendent and Regional Director prior to the initiation of oil and gas exploration activities. A Plan of Operations and Environmental Assessment has been prepared by Seitel Data, which documents the procedures required by the National Park Service to accomplish the three dimensional survey while avoiding and minimizing adverse environmental impacts to park resources.

Dated: June 12, 2001.

W. Thomas Brown,

Acting Regional Director, Southeast Region.

[FR Doc. 01–16495 Filed 6–29–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Draft General Management Plan/ Environmental Impact Statement for Mary McLeod Bethune Council House National Historic Site, Washington, DC; Notice of Availability

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended), the National Park Service has prepared a Draft General Management Plan/Environmental Impact Statement (GMP/EIS) that evaluates four alternatives for Mary McLeod Bethune Council House National Historic Site (Council House). The document describes and analyzes the environmental impacts of a preferred action, two action alternatives and a no-action alternative. When approved, the plan will guide management actions during the next 15–20 years.

Alternatives

Alternative 1, the no-action alternative, would maintain current management direction. The Council House would continue to operate as a visitor center and administrative office area; archival collections and archive staff offices would remain in the carriage house. Conflicts would continue to occur between visitor and administrative functions in the limited space of the Council House resulting in a less than desirable visitor experience and operational inefficiency. Storage space for archival collections would remain inadequate. Alternative 2, the preferred action, would place dual emphasis on the Council House, which would be used as a museum, and on the archives. Under this alternative new space would be acquired to accommodate some visitor services and most administrative offices. The visitor experience would be enhanced with adequate space to provide broad and comprehensive interpretive opportunities and exhibits in the Council House. The primary storage for archival collections would be in an offsite state-of-the-art facility that would provide enhanced preservation and protection of stored items. The carriage house would be renovated and would house a research room, offices for archival staff, an area for some processing of collections, and space for frequently accessed collections. Alternative 3 would commemorate the site through the establishment of the Bethune Center for Human Rights. The Council House would be used for interpretation and also would provide a place for groups to meet and engage in activities, workshops and programs. Materials related to social justice and human rights would be emphasized in the archival collections. Additional property would be leased or acquired for administrative offices and would be the primary space for meetings and workshops. This space would be the main contact point for visitors, and access and programmatic interpretation would be provided for visitors with mobility disabilities at this site. Offsite interpretation would be expanded with traveling exhibits. The carriage house would be renovated and expanded to include the archival collections, archival staff offices, and research space. Under Alternative 4, the Council House would be used as a traditional National Park Service museum commemorating the life and times of Mary McLeod Bethune. The Council House would have expanded exhibit space and an orientation area for visitors. Period furnishings would be in the Council House and archival collections would illustrate the highlights of Mary McLeod Bethune's life and activities. Educational materials would focus on the life contributions and legacy of Mary McLeod Bethune. Space would be leased offsite to accommodate current archival collections that would be managed through a contract with others. The carriage house would be torn down and replaced with a new building that would house a bookstore, visitor restrooms and administrative offices.

Public Review

A 60-day public review period for comment on the draft document will begin after publication of this notice. In order to facilitate the review process, public reading copies of the GMP/EIS will be available for review at the following locations:

Mary McLeod Bethune Council House National Historic Site, 1318 Vermont Avenue, NW., Washington, DC 20005

National Capital Parks—East, 1900 Anacostia Drive, SE., Washington, DC 20020

National Capital Region Office of Lands, Resources and Planning Attention: Gail Cain 1100 Ohio Drive, NW., Washington, DC 20242

Frederick Douglass National Historic Site Visitor Center, 1411 W Street, SE., Washington, DC 20020

In addition, the document will be posted on the National Park Service Planning site under Mary McLeod Bethune Council House National Historic Site, *http://www.nps.gov/mamc/pphtml/facts.html.* A limited number of printed copies will be available on request.

Comments on the draft GMP/EIS should be received (or transmitted by e-mail) no later than 60 days after publication of this **Federal Register** notice. Written comments may be submitted to: Terri Urbanowski, PDS, National Park Service, P.O. Box 25287, Denver, CO 80225–0287 or eMailed to: *MAMC_GMP@nps.gov.*

All comments received will be available for public review at Mary McLeod Bethune Council House National Historic Site. If individuals submitting comments request that their name and/or address be withheld from public disclosure, it will be honored to the extent allowable by law. Such requests must be stated prominently in the beginning of the comments. There also may be circumstances wherein the National Park Service will withhold a respondent's identity as allowable by law. As always, the National Park Service will make available for public inspection all submissions from organizations or businesses and from persons identifying themselves as representatives or officials of organizations and businesses. Anonymous comments may not be considered.

Decision Process

Notice of the availability of the final document will be published in the **Federal Register**. Subsequently, notice of an approved Record of Decision will be published in the **Federal Register** not sooner than 30 days after the final document is distributed. The official responsible for the decision is the Regional Director, National Capital Region, National Park Service; the official responsible for implementation is Superintendent John Hale, National Capital Parks-East at (202) 690–5185.

FOR FURTHER INFORMATION CONTACT: Site Manager Diann Jacox, Mary McLeod Bethune Council House National Historic Site, 1318 Vermont Avenue, NW., Washington, DC 20005, (202) 673–2402, fax (202) 673–2414, eMail *Diann_Jacox@nps.gov.*

Terry R. Carlstrom,

Regional Director, National Capital Region.

[FR Doc. 01–16545 Filed 6–29–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of a Final Supplemental Environmental Impact Statement for Construction of the Natchez Trace Parkway (Section 3P13), Ridgeland, MS

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of a final supplemental environmental impact statement for construction of the Natchez Trace Parkway (Section 3P13), Ridgeland, Mississippi.

SUMMARY: In accordance with section 102(2)(c) of the National Environmental Policy Act of 1969 (Public Law 91–190, as amended), this notice announces the availability of the Final Supplemental Environmental Impact Statement (FSEIS) for the construction of the segment of the Natchez Trace Parkway (Section 3P13) through Ridgeland, Mississippi. The FSEIS evaluates the environmental consequences associated with the proposed action and the other alternatives on local traffic and transportation routes, cultural resources, wetlands, visual quality, visitor experience, economics and land use, and impact on nearby residents, among other topics.

DATES: The Final SEIS will be on public review for 30 days following the date of the Environmental Protection Agency's (EPA) publication of their notice of receipt of the Final Supplemental Environmental Impact Statement in the **Federal Register**. Upon completion of the 30-day review period, a Record of Decision will be prepared and signed by the Regional Director of the Southeast Region of the National Park Service and will be published at a later date.

ADDRESSES: Public reading copies of the Natchez Trace Parkway's (Section 3P13) Final Supplemental Environmental Impact Statement will be available for public review at the following locations:

1. Natchez Trace Parkway Headquarters, 2680 Natchez Trace Parkway, Tupelo, Mississippi 38804, (662) 680–4004.
2. Jackson/Hinds Library System, Eudora Welty Library, 300 North State Street, Jackson, Mississippi 39201, (601) 968–5809

(This is the headquarters or main library in Jackson)

FOR FURTHER INFORMATION CONTACT: For copies of the FSEIS or additional information, please contact: Superintendent Wendell A. Simpson, Natchez Trace Parkway, 2680 Natchez Trace Parkway, Tupelo, Mississippi 38804, Telephone: (662) 680–4004.

SUPPLEMENTARY INFORMATION: The Natchez Trace Parkway was established in 1938 to commemorate the Old Natchez Trace, a primitive network of trails that stretched from Natchez, Mississippi, to Nashville, Tennessee. Designed to follow the alignment of the historic trace as closely as the requirements of modern road construction allows, upon completion the Natchez Trace Parkway will extend diagonally from Natchez to Nashville, a distance of approximately 444 miles.

The completion of a continuous parkway motor road between Natchez and Nashville by the National Park Service has been underway for more than 60 years. A decision on and construction of this short segment of the parkway motor road, combined with other completed, in-progress, and planned NPS construction projects between I–20 and I–55 would permit the opening of the parkway motor road to through visitor vehicular use without the need for a detour through the greater metropolitan area of Jackson, Mississippi. The parkway's 1987 General Management Plan ranks the completion of the parkway motor road as one of its prominent management objectives.

Those listed on the Natchez Trace Parkway's database who have commented on the Draft SEIS or shown interest in the proposed project will receive notification of the 30-day review period along with a copy of the FSEIS personally by letter from the Parkway Superintendent.

Our practice is to make comments, including names and home addresses of respondents, available for public review during business hours. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

Dated: February 13, 2001.

Patricia A. Hooks,

Acting Regional Director, Southeast Region.

[FR Doc. 01–16542 Filed 6–29–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Mary McLeod Bethune Council House National Historic Site Advisory Commission; Notice of Public Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Mary McLeod Bethune Council House National Historic Site Advisory Commission will be held on August 13, 2001 at 1 pm to 5 pm and on August 14, 2001 at 8 am to 1 pm, at the Wyndham Washington, DC located at 1400 M Street, NW., Washington, DC.

The Advisory Commission was authorized on December 11, 1991, by Public Law 102–211 for the purpose of advising the Secretary of the Interior in the development of a General Management Plan for the Mary McLeod Bethune Council House National Historic Site.

The members of the Commission are as follows: Dr. Bettye Collier-Thomas; Ms. Brandi L. Creighton; Dr. Ramona Edelin; Dr. Shelia Flemming; Dr. Bettye J. Gardner; Ms. Brenda Girton-Mitchell; Dr. Janette Hoston Harris; Dr. Dorothy I. Height; Mr. Eugene Morris; Dr. Frederick Stielow; Dr. Rosalyn Terborg-Penn; Mrs. Romaine B. Thomas; Ms. Barbara Van Blake, and Mrs. Bertha S. Waters.

The purpose of the meeting will be to continue planning and development a general management plan for the Mary McLeod Bethune Council House National Historic Site. The meeting will be open to the public. Any person may file with the Commission a written statement concerning the matters to be discussed. Persons who wish further information concerning this meeting or who wish to file a written statement or testify at the meeting may contact Ms. Diann Jacox, the Federal Liaison Officer for the Commission, at (202) 673–2402. Minutes of the meeting will be available for public inspection 4 weeks after the meeting at the Mary McLeod Bethune Council House National Historic Site, located at 1318 Vermont Avenue, NW., Washington, DC 20005.

Dated: June 14, 2001.

John Hale,

Superintendent, National Capital Parks—East.

[FR Doc. 01–16543 Filed 6–29–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before June 16, 2001 Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by July 17, 2001.

Patrick W. Andrus,

Acting Keeper of the National Register of Historic Places.

COLORADO

Gunnison County

Town of Crested Butte (Boundary Increase and Boundary Decrease), Roughly bounded by Gothic Ave., 6th St., White Rock Ave., and First St., Crested Butte, 01000738

FLORIDA

Polk County

Dundee ACL Railroad Depot, Old, 103 Main St., Dundee, 01000739

GEORGIA

Chatham County

Gordonston Historic District, Roughly bounded by Skidaway Rd., Goebel Ave., Gwinnett St., and Pennslyvania Ave., Savannah, 01000741

Clarke County

Winterville Historic District, Roughly center on Main St. and on the abandoned Georgia RR line within the city limits of Winterville, Winterville, 01000742

Greene County

Siloam Historic District, Roughly centered on Main St., Union Point Hwy., and Church St., Siloam, 01000740

KENTUCKY

Carter County

Saltpeter Cave, Carter Caves State Resort Park, Olive Hill, 01000743

MARYLAND

Baltimore Independent city

Guilford Historic District, Rghly bnded by N. Charles St, Warrenton Rd, Linkwood Rd, Cold Spring Ln, York Rd, Southway, University Pky and Bishops Rd., Baltimore (Independent City), 01000745

Frederick County

Tipahato, 17130 Raven Rock Rd., Cascade, 01000744

MASSACHUSETTS

Hampden County

Dewey, Joseph, House, 87 S. Maple St., Westfield, 01000746

MINNESOTA

Becker County

Holmes Block, 710–718 Washington Ave., Detroit Lakes, 01000748

Fillmore County

Commercial House Hotel, 146 S. Broadway, Spring Valley, 01000747

Hennepin County

North East Neighborhood House, 1929 Second St. NE, Minneapolis, 01000749

MISSISSIPPI

Choctaw County

Choctaw Lake Ranger House, Address Restricted, Ackerman, 01000753

Holmes County

Lexington Historic District, Roughly Courthouse Sq., along Yazoo, Vine, Tchula, Boulevard, Springs, Race Sts., and Old Tchula Rd., Lexington, 01000754

MISSOURI

Butler County

Rodgers Theatre Building, 204, 214, 216, 218, 220, 222 and 224 N. Broadway, Poplar Bluff, 01000750

SOUTH CAROLINA

Spartanburg County

Hurricane Tavern, 4101 SC 101, Woodruff, 01000755

TENNESSEE

Montgomery County

Northington—Beach House, (Clarksville MPS) 512 Madison St., Clarksville, 01000758

Sevier County

Headrick's Chapel, Wears Valley Rd., Harchertown, 01000756

Wilson County

Chandler Stone Wall, Old Lebanon Rd., 2 mi. W of Mount Juliet Rd., Mount Juliet, 01000757

[FR Doc. 01–16496 Filed 6–29–01; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the American Museum of Natural History, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American

Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the American Museum of Natural History, New York, NY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the American Museum of Natural History professional staff in consultation with representatives of the Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community of Wisconsin Potawatomi Indians, Wisconsin; Hannahville Indian Community of Wisconsin Potawatomie Indians of Michigan; Huron Potawatomi, Inc., Michigan; Pokagon Band of Potawatomi Indians of Michigan; and Prairie Band of Potawatomi Indians, Kansas.

At an unknown date, human remains representing a minimum of two individuals from the vicinity of Peru, La Salle County, IL, were obtained by the Giffort brothers. The American Museum of Natural History has no information regarding who collected these remains or their collection date. The American Museum of Natural History acquired these remains as a purchase from the Giffort brothers in 1896. No known individuals were identified. No associated funerary objects are present.

These individuals have been identified as Native American based on the American Museum of Natural History's catalog description, which refers to the remains as ''Pottawatomie,'' and on cranial morphology. The remains originate from within the postcontact territory of the Potawatomi Indians.

Based on the above-mentioned information, officials of the American Museum of Natural History have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of two individuals of Native American ancestry. Officials of the American Museum of Natural History also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community of Wisconsin Potawatomi Indians, Wisconsin; Hannahville Indian Community of Wisconsin Potawatomie Indians of Michigan; Huron Potawatomi, Inc., Michigan; Pokagon Band of Potawatomi Indians of Michigan; and Prairie Band of Potawatomi Indians, Kansas.

This notice has been sent to officials of the Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community of Wisconsin Potawatomi Indians, Wisconsin; Hannahville Indian Community of Wisconsin Potawatomie Indians of Michigan; Huron Potawatomi, Inc., Michigan; Pokagon Band of Potawatomi Indians of Michigan; and Prairie Band of Potawatomi Indians, Kansas. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Martha Graham, Director of Cultural Resources, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024-5192, telephone (212) 769-5846, before August 1, 2001. Repatriation of the human remains to the Citizen Potawatomi Nation, Oklahoma; Forest County Potawatomi Community of Wisconsin Potawatomi Indians, Wisconsin; Hannahville Indian Community of Wisconsin Potawatomie Indians of Michigan; Huron Potawatomi, Inc., Michigan; Pokagon Band of Potawatomi Indians of Michigan; and Prairie Band of Potawatomi Indians, Kansas may begin after that date if no additional claimants come forward.

Dated: June 8, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–16548 Filed 6–29–01; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the University of Denver Department of Anthropology and Museum of Anthropology, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the University of Denver Department of Anthropology and Museum of Anthropology, Denver, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the University of Denver Department of Anthropology and Museum of Anthropology professional staff in consultation with representatives of the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; and Kiowa Indian Tribe of Oklahoma.

Some time between the 1920s and the 1950s, human remains representing two individuals were recovered from Mitchell County, TX, by N.J. Vaughn, who subsequently deposited them in the University of Denver Museum of Anthropology. No known individuals were identified. No associated funerary objects are present.

The physical anthropological characteristics of these remains and the manner of collection indicate that these remains are Native American. Collections documentation is nonexistent concerning possible dates, cultural affiliation(s), or the precise circumstances under which these Native American human remains were found.

The ''Indian Land Areas Judicially Established 1978 Map'' indicates the legal claim to land based upon traditional use for the Eastern Apache, Kiowa, and Comanche. The ''Early Indian Tribes, Culture Areas, and Linguistic Stocks Map'' establishes the presence of the Comanche, Kiowa, and Wichita. Representatives of the Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; Fort Sill Apache; and Jicarilla Apache presented oral testimony that confirmed their presence in Mitchell County, TX.

Based on the above-mentioned information, officials of the University of Denver Department of Anthropology

and Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the University of Denver Department of Anthropology and Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kiowa Indian Tribe of Oklahoma; and Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

This notice has been sent to officials of the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kiowa Indian Tribe of Oklahoma; and Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Jan I. Bernstein, Collections Manager and NAGPRA Coordinator, University of Denver Department of Anthropology and Museum of Anthropology, 2000 Asbury, Sturm Hall S-146, Denver, CO 80208-2406, e-mail jbernste@du.edu, telephone (303) 871-2543, before August 1, 2001. Repatriation of the human remains to the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kiowa Indian Tribe of Oklahoma; and Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma may begin after that date if no additional claimants come forward.

Dated: June 8, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–16546 Filed 6–29–01; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the University of Denver Department of Anthropology and Museum of Anthropology, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the University of Denver Department of Anthropology and Museum of Anthropology, Denver, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the University of Denver Department of Anthropology and Museum of Anthropology professional staff in consultation with representatives of the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kiowa Indian Tribe of Oklahoma; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico.

Between the 1920s and the 1950s, human remains representing one individual (catalog number DU6065) were collected by Dr. E.B. Renaud, founder of the University of Denver Department of Anthropology. The remains were collected from an unknown location in the Southwestern United States. No known individual was identified. No associated funerary objects are present.

Dr. Renaud identified this individual as ''Basket Maker.'' Information in the museum's records provides details of Dr. Renaud's expeditions, collecting techniques, and research. This evidence indicates that he designated remains from northern Arizona and New Mexico as being from the ''Southwest.'' It further suggests that he used the term ''Basket Maker'' to designate remains from northeastern New Mexico, which makes it possible that the remains identified as DU6065 are from that area.

In 1929, human remains representing one individual (catalog number DU6067) were recovered from a cave on the T.O. Ranch, near Folsom, Colfax County, NM, by H.B. Roberts and/or Dr. E.B. Renaud of the University of Denver Department of Anthropology. H.B. Roberts and/or Dr. Renaud collected these remains while on an expedition sponsored by the Colorado Museum of Natural History. No known individual was identified. The 198 associated funerary objects are 9 bone awls, 1 antler flaker, 124 bone beads, 1 hammerstone, 2 choppers, 1 stone pounder, 1 metate, and 59 chipped stone tools.

Dr. Renaud identified this individual as ''Basket Maker.'' The remains come from northeastern New Mexico.

Northeastern New Mexico has been identified as the ancestral territory of the Apache, Arapahoe, Cheyenne, Comanche, Kiowa, and Puebloan peoples. The ''Indian Land Areas Judicially Established 1978 Map'' indicates the legal claim to land based upon traditional use for the Eastern Apache, Kiowa, and Comanche. The ''Early Indian Tribes, Culture Areas, and Linguistic Stocks Map'' establishes the presence of the Apache, Comanche, and Kiowa. Oral testimony provided by representatives of the Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne and Arapaho Tribes of Oklahoma; Jicarilla Apache Tribe; and Fort Sill Apache Tribe confirm their presence in northeastern New Mexico. The Lipan Apache and Mescalaro Apache are culturally connected and therefore the Eastern and Western Apache cultural affiliation is strengthened.

The scientific literature provides significant evidence of cultural affiliation between Basketmaker period (200 B.C.-A.D. 700) and the pueblos. Representatives of the Hopi Tribe of Arizona, Pueblo of Acoma, Pueblo of Isleta, Pueblo of Jemez, and Zuni Tribe provided written and oral testimony confirming the cultural affiliation of Puebloan peoples with Basketmaker period.

Based on the above-mentioned information, officials of the University of Denver Department of Anthropology and Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of two individuals of Native American ancestry. Officials of the University of Denver Department of Anthropology and Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 198 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the University of Denver Department of Anthropology and Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort McDowell Mohave-Apache Community of the Fort McDowell Indian Reservation, Arizona; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico.

This notice has been sent to officials of the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort McDowell Mohave-Apache Community of the Fort McDowell Indian Reservation, Arizona; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Jan I. Bernstein, Collections Manager and NAGPRA Coordinator, University of Denver Department of Anthropology and Museum of Anthropology, 2000 Asbury, Sturm Hall S-146, Denver, CO 80208-2406, e-mail jbernste@du.edu, telephone (303) 871-2543, before August 1, 2001. Repatriation of the human remains and associated funerary objects to the Apache Tribe of Oklahoma; Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; Comanche Indian Tribe, Oklahoma; Fort McDowell Mohave-Apache Community of the Fort McDowell Indian Reservation, Arizona; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico; Kiowa Indian Tribe of Oklahoma; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico may begin after that date if no additional claimants come forward.

Dated: June 12, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01–16547 Filed 6–29–01; 8:45 am]

BILLING CODE 4310–70–F

INTERNATIONAL TRADE COMMISSION

Sunshine Act Meeting; Emergency Notice of Time Change

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME: June 29, 2001.

ORIGINAL TIME: 2:00 p.m.

NEW TIME: 1:30 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

In accordance with 19 CFR 201.35(d)(1), the Commission hereby gives notification that the time of the meeting being held June 29, 2001, has changed from 2:00 p.m. to 1:30 p.m. Earlier notice of such change was not possible.

By order of the Commission:

Issued: June 27, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–16646 Filed 6–27–01; 5:01 pm]

BILLING CODE 7020–02–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response Compensation and Liability Act

Notice is hereby given that on May 23, 2001, a proposed Consent Decree (proposed Decree) in *United States* v. *Holmes & Co., Inc.*, Civil Action No. 1:01–CV–198, was lodged with the United States District Court for the Northern District of Indiana (Fort Wayne Division).

In this action the United States seeks relief under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9607, for recovery of response costs relating to releases of hazardous substances at the Wayne Reclamation and Recycling Site (Site), located near Columbia City, Indiana.

The proposed Decree would resolve certain liability of Holmes & Company, Inc., regarding the Site. Holmes & Co. is alleged to be the owner and operator of portions of the property that make up the Site.

Under the proposed Decree Holmes & Co. receives, among other things, certain contribution protection for response costs incurred and to be incurred in cleaning up the Site, as well as covenants not to sue from the United States under sections 106 and 107(a) of CERCLA and under section 7003 of the Resource Conservation Act (RCRA), subject to various reservations and re-openers.

The State of Indiana, which also has filed a complaint against Holmes & Co. in the same Court concerning this same Site, also is party to the proposed Decree. Under the proposed Decree the State would resolve certain claims it may have against Holmes & Co. regarding the Site.

Under the Decree, Holmes & Co. will, among other things, provide access to portions of the Site and also will place certain environmental easements and institutional controls on certain property that is part of the Site. To resolve certain contribution litigation brought against Holmes & Co. by other, potentially responsible parties who settled previously with the United States and the State and who have helped undertake remedial action at the Site, Holmes & Co. will pay those potentially responsible parties about $70,000 under this Decree and thus resolve that contribution litigation.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Decree. Comments should be addressed to the Acting Assistant Attorney General of the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, DC 20044–7611, and should refer to *United States* v. *Holmes & Co., Inc.*, Civil Action No. 1:01–CV–198, D.J. Ref. 90–11–3–603B. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA, 42 U.S.C. 6973(d).

A copy of the proposed Decree may be examined at the Office of the United States Attorney, 3128 Federal Building, 1300 S. Harrison Street, Fort Wayne, Indiana 46802, and at the Office of Regional Counsel, U.S. EPA Region 5, Chicago, Illinois. a copy of the proposed Consent Decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. When requesting a copy please refer to *United States* v. *Holmes & Co., Inc.* (N.D. Ind.) DOJ Ref. No. 90–11–3–603B and enclose a check in the amount of $13.25 (25 cents per page reproduction costs, for the decree and all its appendices), payable to the Consent Decree Library.

Thomas A. Mariani, Jr.,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 01–16593 Filed 6–29–01; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Certificate of Training, MSHA Form 5000–23

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

DATES: Submit comments on or before August 31, 2001.

ADDRESSES: Send comments to Lynnette M. Haywood, Deputy Director, Administration and Management, 4015 Wilson Boulevard, Room 611, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to lhaywood&msha.gov, along with an original printed copy. Ms. Haywood can be reached at (703) 235–1383 (voice), or (703) 235–1563 (facsimile).

FOR FURTHER INFORMATION CONTACT: Lynnette M. Haywood, Deputy Director, Administration and Management, U.S. Department of Labor, Mine Safety and Health Administration, Room 611, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Ms. Haywood can be reached at lhaywood@msha.gov (Internet E-mail), (703) 235–1383 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Section 115(a) of the Mine Act requires that each mine operator have a program approved by the Secretary for training miners in the health and safety aspects of mining. Section 115(c) requires (a) that the mine operator certify on a form approved by the Secretary that the miner has received the specified training in each subject area of the approved health and safety training plan; (b) that the certificates be maintained by the operator and be available for inspection at the mine site; and (c) that the miner is entitled to a copy of the certificate upon completion of the training and when he leaves the operator's employ. Title 30, CFR Part 48 implements Section 115 of the Act by setting forth the requirements for obtaining approval of training programs and specifying the kinds of training, including refresher and hazard training, which must be provided to the miners.

II. Desired Focus of Comments

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Certificate of Training, MSHA Form 5000–23. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

A copy of the proposed information collection request may be viewed on the Internet by accessing the MSHA Home Page (*http://www.msha.gov*) and selecting ''Statutory and Regulatory Information'' then ''Paperwork Reduction Act submission (*http://www.msha. gov/regspwork.htm*)'', or by contacting the employee listed above in the **FOR FURTHER INFORMATION CONTACT** section of this notice for a hard copy.

III. Current Actions

MSHA Form 5000–23, Certificate of Training, is used by mine operators to record mandatory training received by miners. Each form provides the mine operator with a recordkeeping document, the miner with a certificate of training, and MSHA a monitoring tool for determining compliance requirement.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Certificate of Training, MSHA Form 5000–23.

OMB Number: 1219–0070.

Agency Number: MSHA Form 5000–23.

Recordkeeping: Two years or 60 days after termination of employment.

Affected Public: Business or other for-profit institutions

Cite/reference	Total respondents	Frequency	Total responses	Average time per response	Burden hours
48.9 and 48.29	3,730	Annually	105,040	0.08 (hours)	8,393

Estimated Total Burden Cost: $210,074.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 26, 2001.

Lynnette M. Haywood

Deputy Director, Administration and Management.

[FR Doc. 01–16549 Filed 6–29–01; 8:45 am]

BILLING CODE 4510–43–M

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meeting

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of the forthcoming conference call for NCD's Cultural Diversity Advisory Committee. Notice of this conference call is required under section 10(a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

Cultural Diversity Advisory Committee: The purpose of NCD's Cultural Diversity Advisory Committee is to provide advice and recommendations to NCD on issues affecting people with disabilities from culturally diverse backgrounds. Specifically, the committee will help identify issues, expand outreach, infuse participation, and elevate the voices of underserved and unserved segments of this nation's population that will help NCD develop federal policy that will address the needs and advance the civil and human rights of people from diverse cultures.

DATES: July 31, 2001, 2:30 p.m.–3:30 p.m. EDT

FOR FURTHER INFORMATION CONTACT: Gerrie Drake Hawkins, Ph.D., Program Specialist, National Council on Disability, 1331 F Street NW, Suite 1050, Washington, D.C. 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–272–2022 (fax), ghawkins@ncd.gov (e-mail).

Agency Mission: The National Council on Disability is an independent federal composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on disability issues.

We currently have a membership reflecting our nation's diversity and representing a variety of disabling conditions from across the United States.

Open Meeting: This advisory committee meeting/conference call of the National Council on Disability will be open to the public. However, due to fiscal constraints and staff limitations, a limited number of additional lines will be available. Individuals can also participate in the conference call at the NCD office. Those interested in joining this conference call should contact the appropriate staff member listed above.

Records will be kept of all Cultural Diversity Advisory Committee meetings/calls and will be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on June 26, 2001.

Ethel D. Briggs,

Executive Director.

[FR Doc. 01–16474 Filed 6–29–01; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meeting

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of the forthcoming meeting for NCD's Youth Advisory Committee. Notice of this meeting is required under section 10(a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

Youth Advisory Committee: The purpose of NCD's Youth Advisory Committee is to provide input NCD activities consistent with the values and goals of the Americans with Disabilities Act.

DATES: August 6, 2001, 11 a.m.–12 p.m. EDT

Location: Marriott at Metro Center, Montreal II Room, 775 12th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Gerrie Drake Hawkins, Ph.D., Program Specialist, National Council on Disability, 1331 F Street NW., Suite 1050, Washington, DC 20004; 202–272–2004 (voice), 202–272–2074 (TTY), 202–

272–2022 (fax), ghawkins@ncd.gov (e-mail).

Agency Mission: The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

This committee is necessary to provide advice and recommendations to NCD on disability issues.

We currently have a membership reflecting our nation's diversity and representing a variety of disabling conditions from across the United States.

Open Meeting: This advisory committee meeting of the National Council on Disability will be open to the public. Those interested in attending the meeting should contact the appropriate staff member listed above. Space is limited.

Records will be kept of all Youth Advisory Committee meetings calls and will be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on June 26, 2001.

Ethel D. Briggs,

Executive Director.

[FR Doc. 01–16473 Filed 6–29–01; 8:45 am]

BILLING CODE 6820–MA–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50–528, STN 50–529, and STN 50–530]

In the Matter of Public Service Company of New Mexico (Palo Verde Nuclear Generating Station, Units 1, 2, and 3); Superseding Order Approving Modified Application Regarding Proposed Corporate Restructuring

I

Public Service Company of New Mexico (PNM) holds minority ownership interests (both owned and leased) in Palo Verde Nuclear Generating Station (Palo Verde) Units 1, 2, and 3, and in connection therewith is a holder of Facility Operating Licenses Nos. NPF–41, NPF–51, and NPF–74 for Palo Verde. The facility is located in Maricopa County, Arizona. Other co-licensees for Palo Verde are Arizona Public Service Company (APS) (owner or lessee of a 29.1 percent share of each of the three units), Salt River Project Agricultural Improvement and Power District (owner of a 17.49 percent share), El Paso Electric Company (owner of a 15.8 percent share), Southern California Edison Company (owner of a 15.8 percent share), Southern California Public Power Authority (owner of a 5.91 percent share), and Los Angeles Department of Water and Power (owner of a 5.70 percent share). APS is the licensed operator of the Palo Verde units. The remaining licensees hold possession-only licenses.

II

Pursuant to section 184 of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.80, PNM filed an application dated March 3, 2000, requesting approval of the indirect transfer of the Palo Verde licenses, to the extent held by PNM, to a new holding company to be established, then proposed to be named Manzano Corporation (Manzano). Supplemental information on this application was forwarded to the NRC by PNM's outside counsel, Shaw Pittman, in letters dated August 14, August 17, and September 7, 2000. The new holding company was to be established to implement the public utility restructuring requirements of the New Mexico Electric Utility Industry Restructuring Act of 1999. The proposed restructuring of PNM would have encompassed the formation of Manzano and Manzano becoming the holding company for PNM, the transfer by PNM of its electric and gas transmission and distribution businesses to an affiliated company to be named ''Public Service Company of New Mexico'' (with PNM and such affiliated company being under common control by Manzano), and a change in PNM's name to Manzano Energy Corporation (Manzano Energy). By application dated April 26, 2000, APS requested approval, pursuant to 10 CFR 50.90, of proposed conforming amendments to reflect in the Palo Verde licenses the name change of PNM to Manzano Energy Corporation that would have occurred in connection with the planned restructuring. APS would have retained its existing ownership interest in, and would have remained the licensed operator of Palo Verde after the above restructuring of PNM, and otherwise would not have been involved in the restructuring. Similarly, none of the other co-licensees would have been involved in the restructuring of PNM. No physical changes to the facility or operational changes were being proposed in the applications filed by PNM and APS. Notice of the applications and an opportunity for hearing was published in the **Federal Register** on May 26, 2000 (65 FR 34370). No written comments or hearing requests were received.

III

By an Order dated September 29, 2000, the application regarding the proposed restructuring of PNM was approved, subject to certain conditions contained in that Order. To date, the proposed restructuring has not occurred. The application for conforming license amendments was also approved by the Order, but the amendments were to be issued and made effective only at the time the proposed restructuring action was completed, including in particular the name change of PNM.

Subsequently, by letters dated March 20 and May 15, 2001, from counsel for PNM, the Commission was informed that in March of 2001 the State of New Mexico enacted into law Senate Bill 266, ''An Act Relating to Electric Utilities; Delaying Customer Choice Provisions and Implementation of the Electric Utility Industry Restructuring Act of 1999'' (SB 266). With respect to PNM's proposed restructuring that was the subject of the September 29, 2000, Order, SB 266 does not affect PNM's plans to establish a new holding company for PNM. However, it delays until January 1, 2007, the start of customer choice in the retail electricity market, and, therefore, delays PNM's plans to separate its transmission and distribution assets into a new affiliate. Any such plans for separation will now be required to be refiled with the New Mexico Public Regulation Commission (NMPRC) by 2005, and approved by NMPRC by 2006.

According to the March 20 and May 15, 2001, submittals, in light of SB 266, there have been several changes to the information provided in the March 3, 2000, application and supplements thereto. In summary, in contrast to earlier information provided in the March 3, 2000, application and supplements thereto, PNM was an ''electric utility,'' under the definition set forth in 10 CFR 50.2, in the year 2000, and expects to continue to be such until at least 2007, notwithstanding the establishment of a new holding company; the name of the company, which has already been formed, to eventually become the holding company for PNM is ''PNM Resources, Inc.'' and it will keep that name following its establishment as PNM's holding company. PNM will not change its name at this time.

The March 20 and May 15, 2001, submittals state that the establishment of the new holding company will have no effect on current decommissioning funding arrangements for PNM's share of decommissioning costs for the facility, and will not affect the technical qualifications of the licensed operator, APS. Previous information regarding the nationality of the holding company, its directors, principal officers, and shareholders provided in the March 3, 2000, application, and supplement thereto, remains valid, according to PNM. Also, PNM does not now intend to change its name, so the previously approved conforming amendments to the operating licenses to reflect a new name of the licensee are no longer required at this time.

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. Upon review of the information submitted by PNM in its March 20 and May 15, 2001, submittals, and other information before the Commission, the NRC staff has determined that the proposed restructuring of PNM, as modified, described in the March 20 and May 15, 2001, submittals, will not affect the qualifications of PNM to hold the licenses referenced above to the same extent now held by PNM, and that the indirect transfer of the licenses, to the extent effected by the restructuring, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. The NRC staff has further found that license amendments approved by the Order dated September 29, 2000, are no longer appropriate in light of the modified proposed restructuring of PNM. These findings are supported by a Safety Evaluation dated June 25, 2001.

IV

Accordingly, pursuant to sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2201(b), 2201(i), 2201(o) and 2234; and 10 CFR 50.80, *It Is Hereby Ordered* that the Order dated September 29, 2000, is withdrawn and superseded in its entirety by this Order, and that the application regarding the proposed restructuring of PNM and corresponding indirect license transfers, as modified by the March 20 and May 15, 2001, submittals referenced above, is approved, subject to the following conditions:

1. PNM shall provide the Director of the Office of Nuclear Reactor Regulation a copy of any application, at the time it is filed, to transfer (excluding grants of security interests or liens) from PNM to its proposed parent, or to any other affiliated company, facilities for the production, transmission, or distribution of electric energy having a depreciated book value exceeding ten percent (10%) of PNM's consolidated net utility plant, as recorded on PNM's books of account.

2. PNM shall notify the Director of the Office of Nuclear Reactor Regulation in writing within thirty (30) days after PNM undergoes any change in status from an electric utility, as defined in 10 CFR 50.2, to a non-electric utility.

3. Should the restructuring of PNM, as described in the March 20 and May 15, 2001, submittals, not be completed by June 30, 2002, this Order shall become null and void, provided, however, upon application and good cause shown, such date may be extended. Any direct or indirect transfers of the Palo Verde licenses as held by PNM, to the extent effected by any further restructuring of PNM involving the separation of its transmission and distribution assets from its generation assets, are not being approved at this time and must be the subject of a new application for prior written consent.

This Order is effective upon issuance.

For further details with respect to this action, see the initial application dated March 3, 2000, supplemental application and submittals dated April 26, August 14, August 17, and September 7, 2000, the Safety Evaluation dated September 29, 2000, submittals dated March 20 and May 15, 2001, and the Safety Evaluation dated June 25, 2001, which 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, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC Web site (http://www.nrc.gov).

Dated at Rockville, Maryland, this 25th day of June 2001.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 01–16552 Filed 6–29–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–390–CivP, 50–327–CivP, 50–328–CivP, 50–259–CivP, 50–260–CivP, 50–296–CivP (EA 99–234); ASLBP No. 01–791–01–CivP]

Tennessee Valley Authority Nuclear Power Plants; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28,710 (1972), and sections 2.205, 2.700, 2.702, 2.714, 2.714a, 2.717, 2.721, and 2.772(j) of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to preside over the following proceeding:

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

This Board is being established pursuant to the request of the Tennessee Valley Authority (TVA), the licensee for the Watts Bar (Unit 1), Sequoyah (Units 1 & 2), and Browns Ferry (Units 1, 2 & 3) Nuclear Plants, for a hearing regarding an Order issued by the Director, Office of Enforcement, dated May 4, 2001, entitled ''Order Imposing Civil Monetary Penalty'' (65 FR 27,166 (May 4, 2001)).

The Board is comprised of the following administrative judges:

Charles Bechhoefer, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001

Dr. Richard F. Cole, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

Ann Marshall Young, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001

All correspondence, documents and other materials shall be filed with the Panel Judges in accordance with 10 CFR 2.701.

Issued at Rockville, Maryland, this 26th day of June 2001.

G. Paul Bollwerk III,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 01–16551 Filed 6–29–01; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Performance of Commercial Activities

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Proposed change to the OMB circular A–76 revised supplemental handbook.

SUMMARY: . The Office of Management and Budget (OMB) publishes a request for agency and public comments on proposed changes to the OMB Circular A–76, Performance of Commercial Activities, Revised Supplemental Handbook. The proposed changes eliminate the ''grandfather clauses'' at Part 1, Chapter 2, paragraph A.5 and paragraph 5.a., of the Handbook. The Handbook would then be changed to expand public-private competition for all Inter-Service Support Agreements (ISSAs), by requiring competitions on a recurring 3–5 year review cycle, similar to the competitions required for the renewal of service contracts with the private sector. These changes are an important first step in OMB's efforts to expand competition, improve service quality, and enhance agency accountability by integrating budgeting and performance.

OMB is requesting public and agency comment on these revisions. OMB expects that the expanded competition requirements of the Circular will encourage the service requesting or customer agencies to take full account of their support agreements, the alternative levels of service available, and the most efficient and cost effective private sector or other public offeror.

DATES: Agency and public comments on the proposed changes are due to OMB not later than August 16, 2001.

ADDRESSES: Address all comments to the Office of Federal Procurement Policy, NEOB Room 9013, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, FAX Number (202) 395–5105.

Availability: Copies of the OMB Circular A–76, its Revised Supplemental Handbook, currently applicable Transmittal Memoranda and additional information regarding the Federal Activities Inventory Reform Act (FAIR Act) and its implementation may be obtained at the OMB home page. The online address (URL) http://www.whitehouse.gov/OMB/procurement/fair-index.html. Paper copies of this information can also be obtained by contacting the Office of Federal Procurement Policy, NEOB, Room 9013, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Telephone No. (202) 395–7579.

FOR FURTHER INFORMATION CONTACT: Mr. David C. Childs, Office of Federal Procurement Policy, NEOB Room 9013, Office of Management and Budget, 725 17th Street, NW, Washington, DC 20503, Telephone No. (202) 395–6104.

SUPPLEMENTARY INFORMATION:

Background

The activities of most Federal agencies can be divided into two categories, *program activities,* which provide goods and services directly to the agency mission recipients, e.g., Federal transfers of funds, grants, services and credit to the public and *support activities,* which provide administrative, professional and logistical support to an agency itself in meeting its mission requirements.

The number and amount of support activities are wide-ranging. They include personnel services; safety and health services; security; legal services; financial management services; information technology, automated data processing, and communications services; mail and messenger services; public affairs; publications, reproduction, graphics, and video services; library services; scientific facilities; research and analytical services; office and commissary supplies; office and grounds maintenance; procurement and contracting services; services to acquire, maintain, rent, and operate plant and equipment; and more.

Many support activities are financed by their own direct appropriations and provided to the programs, without charge, in their own agency and even to other agencies. Others are provided for a price by agency franchise, working capital, or other revolving funds on a reimbursable basis. Even when a reimbursable rate or price is charged by a providing agency, it may not cover the full cost of the goods and services provided to programs—in part because the support activity agencies themselves are not charged for the full cost of the resources they use or get some financing from direct appropriations, and in part because their prices may include cross-subsidies and other pricing strategies to expand their volume of business.

It is for this reason that the March 1996 A–76 Supplemental Handbook introduced, for the first time, the requirement to compete for new or expanded reimbursable work on the basis of an A–76 cost comparison. A–76 competitions can be a key driver to encourage agencies to understand the real cost of their programs. They also serve to invite private sector and other public offerors into the mix of possible offerors, by competing on a level playing field.

However, the March 1996 A–76 Supplemental Handbook did not require reimbursable support service providers or their customers to undergo competition for this work on a recurring basis. In effect, while competitions for work that is performed by contract are on a recurring 3–5 year review cycle, work performed by a reimbursable support activity provider (ISSA) has not been required to undergo recurring competition once that agency is awarded the work. In addition, a policy decision was made that the March 1996 A–76 Supplemental Handbook would not require recurring competitions for existing reimbursable support activity work—work that was already performed under an ISSA before October 1, 1997. As a result, a large and increasing amount of commercial work is being performed under reimbursable service agreements without the benefits of recurring competition. These reimbursable service agreements are not competing with the private sector or with other public offerors who might be able to provide higher levels of service at less cost.

As a result, OMB hereby proposes to revise the A–76 Supplemental Handbook at Part 1, Chapter 2 paragraph 5 and paragraph 5.a, to delete the ''grandfathering clauses'' that permit reimbursable agreements for commercial services to continue indefinitely and without competition and to replace them with a requirement that all ISSA's be recompeted every 3–5 years or as otherwise permitted by related procurement regulations for comparable types of commercial work (see Competition-in-Contracting Act (CICA) and the Federal Acquisition Regulations). OMB recognizes that the burden of this requirement falls to the customer or consuming agency to conduct these competitions. It also falls to the prospective reimbursable service provider to submit an A–76 comparable offer, in accordance with Part 1, Chapter 2 paragraph B, for the renewal of existing service agreements or for the award of new or expanded work.

The proposed recurring ISSA competition requirement would not apply—at this time—to reimbursable support agreements within a single agency. The head of the agency must maintain flexibility to manage mission resources. The proposed competition requirement would only apply to reimbursable agreements between one department or executive agency and

another non-mission agency, e.g., between the Environmental Protection Agency and the Department of Commerce, between the Agriculture Department's National Finance Center and the Department of Justice or between the Office of Personnel Management and the Department of Housing and Urban Development for the provision of background investigation services. It would not apply to services provided within the reimbursable service providers host agency or any such agreement within the Department of Defense.

OMB also recognizes that the proposed requirement to conduct competitions on a level playing field and on the basis of the full cost of performance to the taxpayer poses other budgetary challenges. The President's FY 2002 Budget includes a proposal to integrate performance and budget data. Three major changes are presently envisioned. They include: (1) identifying high quality outcome measures, accurately monitoring the performance of programs, and integrating this presentation with associated cost, (2) changes to create a market based government, of which this initiative is a part, to open the government's activities to more competition, and to require agencies to budget for costs in a way that will simplify cost comparison for A–76 competition, and (3) full integration of financial (finance, budget, and cost), program, and oversight information, and processes. The government's chief financial officers have endorsed as a long-term goal that program and financial officers work in partnership, to achieve the full integration of financial (finance, budget, and cost), program, and oversight information and processes. The Administration will soon transmit legislative proposals to support changes in the way costs are charged in the budget to permit the consideration of full budget costs in a cost comparison. However, in the interim, while competitions and the decisions to award shall be based upon comparisons conducted in accordance with the A–76 Revised Supplemental Handbook, the reimbursable costs charged to a customer agency, if a public reimbursable service provider wins such a competition, will rely on budget based reimbursable rates, prepared under current law.

OMB requests comment on the proposed revisions.

Sean O'Keefe,

Deputy Director.

Executive Office of the President

Office of Management and Budget

[Circular No. A–76 (Revised) Proposed Transmittal Memorandum No. 24]

June 26, 2001.

To the Heads of Executive Departments and Agencies

From: Sean O'Keefe, Deputy Director

Subject: Performance of Commercial Activities

This Transmittal Memorandum implements changes to the OMB Circular A–76 Revised Supplemental Handbook in furtherance of the President's FY 2002 Budget Blueprint commitment to expand the level of competition for the acquisition of commercial support work required by the Federal Government and to establish a competitive baseline in preparation for the integration of other budgeting, performance and accountability initiatives. The March 1996 Revised Supplemental Handbook was issued through Transmittal Memorandum No. 15 (61 FR 14338). The March 1996 Revised Supplemental Handbook was further revised to implement the requirements of the Federal Activities Inventory Reform Act through Transmittal Memorandum No. 20 (64 FR 33927) and Transmittal Memorandum No. 22 (65 FR 54568). Transmittal Memorandum No. 23 (66 FR 14943) provided updated labor and non-labor related escalation factors for use in A–76 cost comparisons.

OMB is making two changes to the A–76 Revised Supplemental Handbook. First, Part 1, Chapter 2, paragraph 5 and paragraph 5.a. are deleted. Paragraph 5 has permitted agencies to consolidate administrative, logistical and other commercial support activities through the transfer of work to Inter-Service Support Agreements (ISSAs), within and between agencies, without cost comparison if the consolidation was accomplished prior to October 1, 1997, and if the consolidation did not involve the conversion of work to or from in-house or contract performance. Paragraph 5.a., has exempted existing reimbursable support work and the renewal of related ISSAs from the cost comparison requirements of the Circular. However, paragraph 5.a. also established a government-wide requirement that all new and expanded ISSAs shall be justified on the basis of a cost comparison, conducted in accordance with the requirements of the Circular and Supplemental Handbook, unless as otherwise provided by the Supplemental Handbook or by law.

In order to emphasize the need to expand the level of competition required and to establish a consistent baseline for the acquisition of commercial support, OMB is revising Part 1, Chapter 2, paragraph 5, to read as follows:

''5. Reimbursable support service providers within the Federal Government are providing a large and an increasing amount of commercial work to Federal program activities (customers) under reimbursable service agreements and without the benefits of recurring competitions. These ISSAs are not competing with the private sector or with other public offerors who might be able to provide higher levels of service at less cost. Therefore, not later than October 1, 2001, each customer agency shall establish a recurring schedule for all work performed for it on a reimbursable basis by another agency for competition. ISSAs shall be recompeted every 3–5 years or as otherwise permitted by related procurement regulations for comparable types of commercial work (see Competition-in-Contracting Act (CICA) and the Federal Acquisition Regulations). These competitions shall permit offers from the private sector, the current reimbursable service provider and other public offerors, as appropriate. In addition, all new or expanded work required by a customer agency shall be submitted to competition, as provided in this Chapter.''

A conforming change is also hereby made to Part 1, Chapter 2, paragraph B.1, as follows: ''1. The prospective providing agency will furnish the requesting agency a firm price or reimbursable rate for the existing, new or expanded workload * * *.''

This change is effective immediately. Current A–76 and FAIR Act implementation guidance can be accessed at OMB's home page at: http://www.whitehouse.gov/OMB/procurement/fair-index.html.

[FR Doc. 01–16480 Filed 6–29–01; 8:45 am]

BILLING CODE 3110–01–P

OFFICE OF MANAGEMENT AND BUDGET

Draft Report to Congress on the Costs and Benefits of Federal Regulations

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of extension of public comment period.

SUMMARY: On May 2, 2001, OMB published a notice and request for comments for its Draft Report to Congress on the Costs and Benefits of Federal Regulations. The comment period was scheduled to end on July 2, 2001. This notice extends the public

comment period on the draft report to August 15, 2001.

DATES: *Comment Due Date:* August 15, 2001.

ADDRESSES: Comments on this draft report should be addressed to John Morrall, Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB, Room 10235, 725 17th Street, NW., Washington, DC 20503.

You may submit comments by regular mail, by facsimile to (202) 395–6974, or by electronic mail to *jmorrall@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: You can review the Report on the Internet at: *http://www.whitehouse.gov/omb/fedreg/cb_report_notice.pdf.*

You may also request a copy from John Morrall, Office of Information and Regulatory Affairs, Office of Management and Budget, NEOB, Room 10235, 725 17th Street, NW., Washington, DC 20503. Telephone: (202) 395–7316. E-mail: *jmorrall@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: On May 2, 2001, OMB published in the **Federal Register** (66 FR 22041) a notice and request for comment for its Draft Report to Congress on the Costs and Benefits of Federal regulations. The comment period on the draft report was scheduled to end July 2, 2001. Members of the public and Congress have asked for additional time to allow the public a better opportunity to participate in the comment process. Accordingly, OMB has decided to extend the public comment period on the draft report to August 15, 2001.

Donald R. Arbuckle,

Deputy Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 01–16690 Filed 6–29–01; 1:02 pm]

BILLING CODE 3110–01–P

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Pam Shivery, Director, Washington Service Center, Employment Service (202) 606–1015.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established under the Excepted Service provisions of 5 CFR part 213 on April 11, 2001, (66 FR 18824). Individual authorities established under Schedule C during March, April and May 2001, appear in the listing below. There were no Schedule C approvals for February 2001. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule C

The following Schedule C authorities were established during March, April and May 2001:

Department of Agriculture

Special Assistant to the Under Secretary for Farm and Foreign Agricultural Service. Effective May 22, 2001.

Special Assistant to the Under Secretary for Natural Resources and Environment. Effective May 22, 2001.

Confidential Assistant to the Under Secretary for Food, Nutrition and Consumer Services. Effective May 30, 2001.

Confidential Assistant to the Assistant Secretary for Congressional Relations. Effective May 30, 2001.

Confidential Assistant to the Under Secretary for Research, Education and Economics. Effective May 30, 2001.

Commission on Civil Rights

Special Assistant to the Commissioner. Effective March 31, 2001.

Department of Commerce

Legislative Specialist for National Oceanic and Atmospheric

Administration and Environment to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective April 30, 2001.

Intergovernmental Affairs Specialist to the Deputy Assistant Secretary for Intergovernmental Affairs. Effective May 2, 2001.

Legislative Specialist for Technology and Telecommunications to the Assistant Secretary for Legislative and Intergovernmental Affairs. Effective May 2, 2001.

Director, Office of External Affairs to the Secretary of Commerce. Effective May 2, 2001.

Press Secretary to the Director of Public Affairs. Effective May 3, 2001.

Special Assistant to the Assistant Secretary of Commerce, Director General of the U.S. and Foreign Commercial Service. Effective May 8, 2001.

Special Assistant to the Director, Office of White House Liaison. Effective May 9, 2001.

Deputy Director to the Director, Office of Public Affairs. Effective May 9, 2001.

Department of Education

Confidential Assistant to the Chief of Staff. Effective May 21, 2001.

Special Assistant to the Assistant Secretary for Intergovernmental and Interagency Affairs. Effective May 21, 2001.

Confidential Assistant to the Chief of Staff. Effective May 21, 2001.

Confidential Assistant to the Chief of Staff. Effective May 22, 2001.

Confidential Assistant to the Director, Office of Public Affairs. Effective May 24, 2001.

Confidential Assistant to the Director, Scheduling and Briefing Staff. Effective May 24, 2001.

Steward to the Chief of Staff. Effective May 24, 2001.

Special Assistant (White House Liaison) to the Chief of Staff. Effective May 24, 2001.

Department of Energy

Special Assistant to the Secretary of Energy. Effective May 8, 2001.

Staff Assistant to the Director, Office of Scheduling and Advance. Effective May 8, 2001.

Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective May 8, 2001.

Special Assistant to the Director, Civilian Radioactive Waste Management. Effective May 8, 2001.

Special Assistant to the Director, Office of Public Affairs. Effective May 8, 2001.

Special Assistant to the Director, Office of Scheduling and Advance. Effective May 8, 2001.

Special Assistant to the General Counsel. Effective May 8, 2001.

Special Assistant to the Deputy Assistant Secretary for Intergovernmental and External Affairs. Effective May 8, 2001.

Special Assistant to the Director, Office of Public Affairs. Effective May 8, 2001.

Special Assistant to the Assistant Secretary, Office of Congressional and Intergovernmental Affairs. Effective May 9, 2001.

Special Assistant to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective May 9, 2001.

Special Advisor to the Chief of Staff. Effective May 29, 2001. Special

Assistant to the Administrator, Energy Information Administration. Effective May 29, 2001.

Deputy Director to the Director, Office of Public Affairs. Effective May 29, 2001.

Special Assistant to the Director, Office of Scheduling and Advance. Effective May 30, 2001.

Department of Health and Human Services

Special Assistant to the Secretary of Health and Human Services. Effective May 22, 2001.

Special Outreach Coordinator to the Deputy Assistant Secretary for Public Affairs (Policy and Strategy). Effective May 30, 2001.

Department of Housing and Urban Development

Staff Assistant to the Assistant Secretary for Public Affairs. Effective May 22, 2001.

Deputy Chief of Staff for Operations and Intergovernmental Relations to the Chief of Staff. Effective May 22, 2001.

Deputy Chief of Staff for Policy and Programs to the Chief of Staff. Effective May 22, 2001.

Staff Assistant to the Assistant Secretary for Administration. Effective May 22, 2001.

Special Assistant to the Deputy Assistant Secretary for Congressional and Intergovernmental Relations. Effective May 24, 2001.

Department of the Interior

White House Liaison to the Deputy Chief of Staff. Effective April 11, 2001.

Special Executive Assistant to the Secretary of the Interior. Effective May 17, 2001.

Director of Scheduling and Advance to the Deputy Chief of Staff. Effective May 17, 2001.

Department of Justice

Counsel to the Assistant Attorney General, Office of Policy Development. Effective May 18, 2001.

Special Assistant to the Deputy Attorney General. Effective May 29, 2001.

Attorney Advisor to the Assistant Attorney General, Civil Division. Effective May 29, 2001.

Confidential Assistant to the Attorney General. Effective May 30, 2001.

Department of Labor

Director of Communications to the Assistant Secretary for Public Affairs. Effective April 18, 2001.

White House Liaison to the Secretary of Labor. Effective May 8, 2001.

Staff Assistant to the Chief of Staff. Effective May 9, 2001.

Staff Assistant to the Assistant Secretary, Office of Congressional and Intergovernmental Affairs. Effective May 18, 2001.

Staff Assistant to the Executive Secretary. Effective May 30, 2001.

Department of the Navy (DOD)

Special Assistant to the Secretary of the Navy. Effective April 23, 2001.

National Credit Union Administration

Special Assistant for Public Affairs to the Chairman, National Credit Union Administration. Effective April 23, 2001.

Department of Transportation

Congressional Liaison Officer to the Director, Office of Congressional Affairs. Effective May 30, 2001.

Special Assistant for Scheduling and Advance to the Secretary of Transportation. Effective May 30, 2001.

Special Assistant to the Secretary of Transportation. Effective May 30, 2001.

Congressional Liaison Officer to the Director, Office of Congressional Affairs. Effective May 30, 2001.

Department of the Treasury

Deputy Assistant Secretary (Public Liaison) to the Assistant Secretary (Public Affairs). Effective April 18, 2001.

Deputy Director to the Director of Scheduling. Effective April 27, 2001.

Special Assistant to the Assistant Secretary for Public Affairs. Effective May 8, 2001.

Deputy to the Assistant Secretary, Legislative Affairs. Effective May 9, 2001.

Special Assistant to the Director of Scheduling. Effective May 18, 2001.

Environmental Protection Agency

Special Assistant to the Associate Administrator for Congressional and Intergovernmental Relations. Effective May 21, 2001.

Special Assistant to the Administrator. Effective May 22, 2001.

Special Assistant to the Administrator. Effective May 22, 2001.

Special Assistant to the Associate Administrator for Communications, Education and Media Relations. Effective May 22, 2001.

Director, Office of Communications to the Associate Administrator for Communications, Education and Media Relations. Effective May 24, 2001.

Federal Communications Commission

Chief, Consumer Information Bureau to the Chairman, Federal Communications Commission. Effective May 9, 2001.

Office of the United States Trade Representative

Special Assistant to the United States Trade Representative. Effective April 18, 2001.

Confidential Assistant to the United States Trade Representative. Effective May 30, 2001.

Deputy Assistant United States Trade Representative for Congressional Affairs to the Assistant United States Trade Representative. Effective May 30, 2001.

United States Tax Court

Trial Clerk to a Judge. Effective April 3, 2001.

Secretary (Confidential Assistant) to a Judge. Effective April 4, 2001.

Trial Clerk to a Judge. Effective March 12, 2001.

Official Residence of the Vice President

Residence Manager and Social Secretary to the Assistant to the Vice President and Chief of Staff to Mrs. Cheney. Effective May 17, 2001.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

Office of Personnel Management.

Steven R. Cohen,

Acting Director.

[FR Doc. 01–16577 Filed 6–29–01; 8:45 am]

BILLING CODE 6325–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request; Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

[Extension: Rules 17Ad–6 and 17Ad–7; SEC File No. 270–151; OMB Control No. 3235–0291]

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

• Rules 17Ad–6 and 17Ad–7: Recordkeeping requirements for transfer agents Rule 17Ad–6 under the Securities Exchange Act of 1934 (15 U.S.C. 78b *et seq.*) requires every registered transfer agent to make and keep current records about a variety of

information, such as: (1) Specific operational data regarding the time taken to perform transfer agent activities (to ensure compliance with the minimum performance standards in Rule 17Ad–2 (17 CFR 240.17Ad–2)); (2) written inquiries and requests by shareholders and broker-dealers and response time thereto; (3) resolutions, contracts or other supporting documents concerning the appointment or termination of the transfer agent; (4) stop orders or notices of adverse claims to the securities; and (5) all canceled registered securities certificates.

Rule 17Ad–7 under the Securities Exchange Act of 1934 (15 U.S.C. 78b *et seq.*) requires each registered transfer agent to retain the records specified in Rule 17Ad–6 in an easily accessible place for a period of six months to six years, depending on the type of record or document. Rule 17Ad–7 also specifies the manner in which records may be maintained using electronic, microfilm, and microfiche storage methods.

These recordkeeping requirements ensure that all registered transfer agents are maintaining the records necessary to monitor and keep control over their own performance and for the Commission to adequately examine registered transfer agents on an historical basis for compliance with applicable rules.

We estimate that approximately 1,000 registered transfer agents will spend a total of 500,000 hours per year complying with Rules 17Ad–6 and 17Ad–7. Based on average cost per hour of $50, the total cost of compliance with Rule 17Ad–6 is $25,000,000.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: June 22, 2001.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–16555 Filed 6–29–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25050; 813–238]

Community Investment Partners IV, L.P., LLLP and The Jones Financial Companies, L.L.L.P.; Notice of Application

June 26, 2001.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order under sections 6(b) and 6(e) of the Investment Company Act of 1940 (the ''Act'') exempting the applicants from all provisions of the Act, except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (e), (f), (g) and (j)), section 30 (other than certain provisions of paragraphs (a), (b), (e), and (h)), sections 36 through 53, and the rules and regulations under those sections.

SUMMARY OF APPLICATION: Applicants request an order to exempt certain limited liability companies or other entities (''Partnerships'') formed for the benefit of key employees of The Jones Financial Companies L.L.L.P. and its affiliates from certain provisions of the Act. Each Partnership will be an ''employees' securities company'' as defined in section 2(a)(13) of the Act.

Applicants: Community Investment Partners IV, L.P., LLLP (the ''Initial Partnership'') and The Jones Financial Companies, L.L.L.P (''Jones Financial'').

Filing Date: The application was filed on March 1, 2000 and amended on May 21, 2001. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 23, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, 12555 Manchester Road, St. Louis, MO 63131.

FOR FURTHER INFORMATION CONTACT: Sara Crovitz, Senior Counsel, at (202) 942–0667 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0101, (202) 942–8090.

Applicants' Representations

1. Jones Financial is a full-service provider of securities brokerage, insurance brokerage, planning and other financial services and also has a specialized investment banking practice. Jones Financial is a member of the New York, American, Chicago, Toronto, Montreal and London stock exchanges and is a broker-dealer registered under the Securities Exchange Act of 1934 (the ''1934 Act''). Jones Financial and its affiliates, as defined in rule 12b–2 under the 1934 Act, are referred to collectively as the ''Jones Financial Companies.'' Community Investment Partners IV, L.P., LLLP is a limited partnership registered under the laws of the state of Missouri.

2. Applicants intend to establish investment programs for the benefit of certain individual current or former partners of the Jones Financial Companies. The Initial Partnership and other partnerships that may in the future be offered to the same class of investors will be limited liability companies or other entities formed under the laws of the state of Missouri, Delaware or another jurisdiction (such other partnerships or other investment vehicles being referred to as ''Other Partnerships'' and together with the Initial Partnerships, the ''Partnership(s)''). Each Partnership is or will be an ''employees' securities company'' within the meaning of section 2(a)(13) of the Act and will operate as a closed-end management investment company. The goal of the Partnerships is to create investment opportunities that are competitive with those at other brokerage, insurance, investment banking and financial services firms and to facilitate recruitment and retention of high

caliber professionals. Participation in a Partnership will be voluntary.

3. CIP Management L.P., LLLP, which is controlled by Jones Financial, will act as the general partner of the Initial Partnership (together with any Jones Financial Companies entity that acts as the general partner of a Partnership, the ''General Partner''). The General Partner of the Initial Partnership will not be registered under the Investment Advisers Act of 1940 (the ''Advisers Act'') pursuant to an exemption from registration set forth in section 203(b)(3) of the Advisers Act and rule 203(b)(3)–1 under the Advisers Act, but will register as an investment adviser if required under applicable law. The General Partner, or another Jones Financial Companies entity, will manage, operate and control each of the Partnerships. The General Partner will be authorized to delegate to another Jones Financial Companies entity or to a committee of Jones Financial Companies employees such management responsibilities.

4. Limited partner interests in the Partnerships (''Interests'') will be offered without registration in reliance on section 4(2) of the Securities Act of 1933 (the ''1933 Act''), or Regulation D under the 1933 Act and will be sold only to ''Eligible Employees'' and ''Qualified Participants'' (collectively ''Participants,'' in each case as defined below). Prior to offering Interests, the General Partner must reasonably believe that each Eligible Employee or Eligible Family Member, as defined below, is a sophisticated investor capable of understanding and evaluating the risks of participating in such Partnership without the benefit of regulatory safeguards and can afford a complete loss of such investment. An Eligible Employee is an individual who is a former or current partner of Jones Financial Companies and who meets the standards of an ''accredited investor'' under Rules 501(a)(5) or 501(a)(6) of Regulation D, or one of no more than 35 partners who meet certain salary and other requirements (''Other Investor'').

5. An Other Investor will be permitted to invest in a Partnership if each such person (a) is a ''knowledgeable employee,'' as defined in rule 3c–5 under the Act, of such Partnership (with the Partnership treated as though it were a ''covered company'' for purposes of such rule) or (b) has a graduate degree in business, law or accounting; has a minimum of five years of consulting, investment banking or similar business experience; and has a reportable income from all sources in the two calendar years immediately preceding the Other Investor's participation in the Partnership of at least $100,000 and will have a reasonable expectation of reportable income from all sources of at least $140,000 in each year in which the Other Investor will be committed to make investments in a Partnership. In addition, an Other Investor qualifying under (b) in the immediately preceding sentence will not be permitted to invest or commit to invest in any calendar year more than 10% (or such lesser percentage as shall be determined by the General Partner and set forth in the private placement memorandum relating to such Partnership) of such person's income from all sources for the immediately preceding calendar year in the aggregate in a Partnership and in all other Partnerships in which such Other Investor has previously invested.

6. A Qualified Participant is an Eligible Family Member or Qualified Entity (in each case as defined below) of an Eligible Employee. An ''Eligible Family Member'' is a spouse, parent, child, spouse of child, brother, sister, or grandchild of an Eligible Employee. An Eligible Family Member, if such individual or entity is purchasing an Interest from a partner of the Partnership (''Partner'' or ''Participant'') or directly from the Partnership, must be an accredited investor. A ''Qualified Entity'' is (a) a trust of which the trustee, grantor and/or beneficiary is an Eligible Employee; (b) a partnership corporation or other entity controlled by an Eligible employee [1] or (c) a trust or other entity established solely for the benefit of Eligible Family Members of an Eligible Employee. A Qualified Entity must be either an accredited investor or an entity for which an Eligible Employee or Eligible Family Member is a settlor and principal investment decision-maker.

7. The terms of a Partnership will be fully disclosed to each Eligible Employee and, if applicable, to a Qualified Participant of the Eligible Employee, at the time the Eligible Employee is invited to participate in the Partnership. Each Partnership will send annual reports, which will contain audited financial statements, to each Participant within 120 days after the end of the fiscal year of each of the Partnerships or as soon as practicable thereafter. In addition, each Participant will receive a copy of Schedule K–1 showing the Participant's share of income, credits, deductions and other tax items.

8. The specific investment objectives and strategies for a particular Partnership will be set forth in a private placement memorandum relating to the Interests offered by the Partnership and each Eligible Employee and Qualified Participant will receive a copy of the private placement memorandum and the limited partnership agreement (or other constitutive document) of the Partnership.

9. Interests in each Partnership will be non-transferable except with the prior written consent of the General Partner. No person or entity will admitted into a Partnership unless such person is an Eligible Employee, Qualified Participant of an Eligible Employee or a Jones Financial Companies entity. Interests in each Partnership will not be subject to repurchase, cancellation or redemption. No sales load or similar fee of any kind will be charged in connection with the sale of Interests. The General Partner, the Jones Financial Companies or any employees of the General Partner or the Jones Financial Companies will be entitled to receive any compensation from, or a performance-based fee (''carried interest'') [2] based on, the gains and losses of the investment program or the Partnership's investment portfolio.

10. Subject to the terms of the applicable limited partnership agreement (or other constitutive documents), a Partnership will be permitted to enter into transactions involving (a) a Jones Financial Companies entity, (b) a portfolio company, (c) any Partner or person or entity affiliated with a Partner, (d) an investment fund or separate account that is organized for the benefit of investors who are not affiliated with Jones Financial Companies and over which a Jones Financial Companies entity exercises investment discretion (a ''Third-Party Fund''), or (e) any partner

[1] The inclusion of partnerships, corporations or other entities that are controlled by Eligible Employees in the definition of ''Qualified Entity'' is to enable such individuals to make investments in the Partnerships through personal investment vehicles for the purpose of implementing their personal and family investment and estate planning objectives. Eligible Employees will exercise investment discretion or control over these investment vehicles, thereby creating a close nexus between Jones Financial Companies and these investment vehicles.

[2] A ''carried interest in an allocation to the General Partner based on the net gains of an investment program and is in addition to the amount that is allocable to the General Partner in proportion to its capital contributions. With respect to a General Partner that is registered under the Advisers Act, any carried interest may be charged only if it is permitted under Rule 205–3 under the Advisers Act; with respect to a General Partner that is not registered under the Advisers Act, any carried interest charged will comply with section 205(b)(3) of the Advisers Act (with the Partnership treated as though it were a business development company solely for purposes of that section). The General Partner of the Initial Partnership is not eligible to register as an investment adviser under the Advisers Act pursuant to section 203A(1) of the Advisers Act.

or other investor in a Third-Party Fund that is not affiliated with Jones Financial Companies (''Third-Party Investor''). These transactions may include a Partnership's purchase or sale of an investment or an interest from or to any Jones Financial Companies entity or Third-Party Fund, acting as principal. Prior to entering these transactions, the General Partner must determine that the terms are fair to the Partners.

11. A Partnership will not invest more than 15% of its assets in securities issued by registered investment companies (with the exception of temporary investments in money market funds). A Partnership will not acquire any security issued by a registered investment company if immediately after such acquisition, such Partnership will own more than 3% of the outstanding voting stock of the registered investment company.

12. A Jones Financial Companies entity, acting as an agent or broker, may receive placement fees, advisory fees or other compensation from a Partnership in connection with the purchase or sale by the Partnership of securities; provided that such placement fees, advisory fees or other compensation can be deemed ''reasonable and customary'' Fees or other compensation will be deemed ''reasonable and customary'' only if (a) the Partnership is purchasing or selling securities alongside other unaffiliated third parties (including Third-Party Funds), (b) the fees or other compensation that are being charged to the Partnership are also being charged to the unaffiliated third parties (including Third-Party Funds), and (c) the amount of securities being purchased or sold by the Fund does not exceed 50% of the total amount of securities being purchased or sold by the Partnership and the unaffiliated third parties (including Third-Party Funds). Jones Financial Companies entities (including the General Partner) also may be compensated for services to entities in which the Partnerships invest and to entities that are competitors of these entities and may otherwise engage in normal business activities that conflict with the interests of the Partnerships.

Applicants' Legal Analysis

1. Section 6(b) of the Act provides, in part, that the Commission will exempt employee's securities companies from the provisions of the Act to the extent that the exemption is consistent with the production of investors. Section 6(b) provides that the Commission will consider, in determining the provisions of the Act from which the company should be exempt, the company's form of organization and capital structure, the persons owning and controlling its securities, the price of the company's securities and the amount of any sales load, how the company's funds are invested and the relationship between the company and the issuers of the securities in which it invests. Section 2(a)(13) defines an employees' securities company, in relevant part, as any investment company all of whose securities are beneficially owned (a) by current or former employees, or persons on retainer, of one or more affiliated employers, (b) by immediate family members of such persons, or (c) by such employer or employers together with any of the persons in (a) or (b).

2. Section 7 of the Act generally prohibits an investment company that is not registered under section 8 of the Act from selling or redeeming its securities. Section 6(e) provides that, in connection with any order exemptions an investment company from any provision of section 7, certain provisions of the Act, as specified by the Commission, will be applicable to the company and other persons dealing with the company as though the company were registered under the Act. Applicants request an order under sections 6(b) and 6(e) of the Act for an exemption from all provisions of the Act except section 9, section 17 (other than certain provisions of paragraphs (a), (d), (e), (f), (g) and (j), section 30 (other than certain provisions of paragraphs (a), (b), (e), and (h)), sections 36 through 53, and the rules and regulations under those sections.

3. Section 17(a) generally prohibits any affiliated person of a registered investment company, or any affiliated person of an affiliated person, acting as principal, from knowingly selling or purchasing any security or other property to or from the company. Applicants request an exemption from section 17(a) to permit (a) a Jones Financial Companies entity or a Third-Party Fund, acting as principal, to engage in any transaction directly or indirectly with any Partnership or any company controlled by the Partnership; (b) any Partnership to invest in or engage in any transaction with any entity acting as principal, (1) in which the Partnership, any company controlled by the Partnership, or any Jones Financial Companies entity, or a Third-Party Fund has invested or will invest, or (2) with which the Partnership, any company controlled by the Partnership, or any Jones Financial Companies entity, or a Third-Party Fund is or will become affiliated; and (c) a Third Party Investor, acting as principal, to engage in any transaction directly or indirectly with any Partnership or any company controlled by the Partnership.

4. Applicants state that an exemption from section 17(a) is consistent with the protection of investors and the purpose of the Partnerships. Applicants state that the Participants in each Partnership will be fully informed of the extent of the Partnership's dealings with Jones Financial Companies. Applicants also state that, as professionals employed in the securities and insurance brokerage, investment banking, investment management or financial services businesses, or in the administrative, financial, accounting, legal or operational activities related thereto, Participants will be able to understand and evaluate the attendant risks. Applicants assert that the community of interest among the Participants and Jones Financial Companies will provide the best protection against any risk of abuse.

5. Section 17(d) of the Act and rule 17d–1 prohibit any affiliated person or principal underwriter of a registered investment company, or any affiliated person of an affiliated person or principal underwriter, acting as principal, from participating in any joint enterprise or other joint arrangement unless authorized by the Commission. Applicants request approval to permit affiliated persons of each Partnership or affiliated persons of any of these persons, to participate in any joint arrangement in which the Partnership or a company controlled by such Partnership is a participant.

6. Applicants submit that it is likely that suitable investments will be brought to the attention of a Partnership because of its affiliation with Jones Financial Companies or Jones Financial Companies' large geographic scope, capital resources and experience in business. In addition, attractive investment opportunities of the types considered by a Partnership often require each participant in the transaction to make available funds in an amount that may be substantially greater than may be available to such Partnership alone. Applicants contend that, as a result, the only way in which a Partnership may be able to participate in such opportunities may be to co-invest with other persons, including affiliates. Applicant note that each Partnership primarily will be organized for the benefit of the limited partner employee participants, as an incentive for them to remain with Jones Financial Companies and for the generation and maintenance of goodwill. Applicants believe that if co-investments with Jones Financial Companies are prohibited, the appeal of a Partnership for Eligible Employees will be significantly diminished. Applicants assert that

Eligible Employee wish to participate in such co-investment opportunities because they believe that (a) the resources of Jones Financial Companies enable it to analyze investment opportunities to an extent that individual employees would have neither the time nor resources to duplicate, (b) investments made by Jones Financial Companies will not be generally available to investors even of the financial status of the Eligible Employees, and (c) Eligible Employees will be able to pool their investment resources, thus achieving greater diversification of their individual investment portfolios.

7. Applicants assert that the flexibility to structure co-investments and joint investments will not involve abuses of the type section 17(d) and rule 17d–1 were designed to prevent. Applicants state that the concern that permitting co-investments by Jones Financial Companies, on the one hand, and a Partnership on the other, might lead to less advantageous treatment of the Partnership should be mitigated by the fact that Jones Financial Companies, in addition to its stake through the General Partner and its co-investment, will be acutely concerned with its relationship with the personnel who invest in such Partnership and senior officials and directors of Jones Financial Companies entities will be investing in such Partnership. In addition, applicants assert that strict compliance with section 17(d) would cause the Partnerships to forego investment opportunities simply because a Participant or other affiliated person of the Partnership (or any affiliate of the affiliated person) made or may make a similar investment.

8. Co-investments with Third-Party Funds, or by a Jones Financial Companies entity pursuant to a contractual obligation to a Third Party Fund, will not be subject to condition 3 below. Applicants note that it is common for unaffiliated investors in Third-Party Funds to require that Jones Financial Companies invest their own capital in Third-Party Fund investments, and that such Jones Financial Companies investments will be subject to substantially the same terms as those applicable to the Third-Party Fund. Applicants state that it is important that the interests of the Third-Party Funds take priority over the interests of the Partnerships, and that the activities of the Third-Party Funds not be burdened or otherwise affected by activities of the Partnerships. In addition, applicants assert that the relationship of a Partnership to a Third-Party Fund is fundamentally different from such Partnership's relationship with Jones Financial Companies. Applicants contend that the focus of, and the rationale for, the protections contained in the requested relief are to protect the Partnerships from any overreaching by Jones Financial Companies in the employer/employee context, whereas the same concerns are not present with respect to the Partnerships and a Third-Party Fund.

9. Section 17(e) of the Act and rule 17e–1 under the Act limit the compensation an affiliated person may receive when acting as agent or broker for a registered investment company. Applicants request an exemption from section 17(e) to permit a Jones Financial Companies entity (including the General Partner) that acts as an agent or broker, to receive placement fees, advisory fees or other compensation from a Partnership in connection with the purchase or sale by the Partnership of securities, provided that such fees are deemed ''reasonable and customary.'' Applicants state that for the purposes of the application, fees or other compensation that is charged or received by a Jones Financial Companies entity will be deemed ''reasonable and customary'' only if (a) the Partnership is purchasing or selling securities alongside other unaffiliated third parties (including Third-Party Funds) who are also similarly purchasing or selling securities, (b) the fees or other compensation that are being charged to the Partnership are also being charged to the unaffiliated third parties (including Third-Party Funds), and (c) the amount of securities being purchased or sold by the Partnership does not exceed 50% of the total amount of securities being purchased or sold by the Partnership and the unaffiliated third parties (including Third-Party Funds). Applicants assert that because Jones Financial Companies does not wish to appear as if the Partnership is being treated in a more favorable manner, compliance with section 17(e) would prevent a Partnership from participating in a transaction where the Partnership is being charged lower fees than unaffiliated third parties. Applicants assert that the fees or other compensation paid by a Partnership to a Jones Financial Companies entity will be the same as those negotiated at arm's length with unaffiliated third parties.

10. Rule 17e–1(b) requires that a majority of the directors who are not ''interested persons'' (as defined in section 2(a)(19) of the Act) take actions and make approvals regarding commissions, fees or other remuneration. Applicants request an exemption from rule 17e–1 to the extent necessary to permit each Partnership to comply with the rule without having a majority of the directors of the General Partner who are not ''interested persons'' take actions and make approvals as set forth in the rule. Applicants state that because all the directors of the General Partner will be affiliated persons, without the relief requested, a Partnership could not comply with rule 17e–1. Applicants state that each Partnership will comply with rule 17e–1 by having a majority of the directors of the General Partner take such actions and make such approvals as are set forth in rule 17e–1. Applicants state that each Partnership will comply with all other requirements of rule 17e–1.

11. Section 17(f) designates the entities that may act as investment company custodians, and rule 17f–1 imposes certain requirements when the custodian is a member of a national securities exchange. Applicants request an exemption from section 17(f) and rule 17f–1 to the extent necessary to permit a Jones Financial Companies entity to act as custodian without a written contract. Applicants also request an exemption from the rule 17f–1(b)(4) requirement that an independent account conduct periodic verifications. Applicants state that, because of the community of interest between Jones Financial Companies and the Partnerships and the existing requirement of an independent audit, compliance with these requirements would be unnecessarily burdensome and expensive. Applicants will comply with all other requirements of rule 17f–1.

12. Section 17(g) and rule 17g–1 generally require the bonding of officers and employees of a registered investment company who have access to its securities or funds. Rule 17g–1 requires that a majority of directors who are not interested persons take certain actions and give certain approvals relating to fidelity bonding. Applicants requests relief to permit the General Partner's directors, who may be deemed interested persons, to take actions and make determinations as set forth in the rule. Applicants state that, because all of the directors of the General Partner will be affiliated persons, a Partnership could not comply with rule 17g–1 without the requested relief. Specifically, each Partnership will comply with rule 17g–1 by having a majority of the directors of the General Partner take such actions and make such approvals as are set forth in rule 17g–1. Applicants also state that each

Partnership will comply with all other requirements of rule 17g–1.

13. Section 17(j) and rule 17j–1 make it unlawful for certain enumerated persons to engage in fraudulent or deceptive practices in connection with the purchase or sale of a security held or to be acquired by a registered investment company. Rule 17j–1 also requires that every registered investment company adopt a written code of ethics and that every access person of the investment company report personal securities transaction. Applicants request an exemption from the provisions of rule 17j–1, except for the anti-fraud provisions of paragraph (b), because they are unnecessarily burdensome as applied to the Partnerships.

14. Applicants request an exemption from the requirements in sections 30(a), 30(b) and 30(e), and the rules under those sections, that registered investment companies prepare and file with the Commission and mail to their shareholders certain periodic reports and financial statements. Applicants contend that the forms prescribed by the Commission for periodic reports have little relevance to a Partnership and would entail administrative and legal costs that outweigh any benefit to the Participants. Applicants request exemptive relief to the extent necessary to permit each Partnership to report annually to its Participants. Applicants also request an exemption from section 30(h) to the extent necessary to exempt the General Partner of each Partnership or others who may be deemed members of an advisory board of such Partnership from filing Forms 3, 4 and 5 under section 16(a) of the 1934 Act with respect to their ownership of Interests in such Partnership. Applicants assert that, because there will be no trading market and the transfers of Interests are severely restricted, these filings are unnecessary for the protection of investors and burdensome to those required to make them.

Applicant's Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Each proposed transaction otherwise prohibited by section 17(a) or section 17(d) and rule 17d–1 to which a Partnership is a party (the ''Section 17 Transactions'') will be effected only if the General Partner determines that: (a) The terms of the transaction, including the consideration to be paid or received, are fair and reasonable to the Partners of such Partnership and do not involve overreaching of such Partnership or its Partners on the part of any person concerned; and (b) the transaction is consistent with the interests of the Partners of such Partnership, such Partnership's organizational documents and such Partnership's report to its Partners.

In addition, the General Partner of each Partnership will record and preserve a description of Section 17 Transactions, the General Partner's findings, the information or materials upon which the General Partner's findings are based and the basis for the findings. All records relating to an investment program will be maintained until the termination of such investment program and at least two years thereafter, and will be subject to examination by the Commission and its staff.[3]

2. In connection with the Section 17 Transactions, the General Partner of each Partnership will adopt, and periodically review and update, procedures designed to ensure that reasonable inquiry is made, prior to the consummation of any Section 17 Transaction, with respect to the possible involvement in the transaction of any affiliated person or promoter of or principal underwriter for such Partnership, or any affiliated person of such a person, promoter or principal underwriter.

3. The General Partner of each Partnership will not invest the funds of such Partnership in any investment in which a ''Coinvestor'' (as defined below) has acquired or proposes to acquire the same class of securities of the same issuer, if the investment involves a joint enterprise or other joint arrangement within the meaning of rule 17d–1 in which such Partnership and the Coinvestor are participants, unless any such Coinvestor, prior to disposing of all or part of its investment (a) gives such General Partner sufficient, but not less than one day's, notice of its intent to dispose of its investment; and (b) refrains from disposing of its investment unless such Partnership has the opportunity to dispose of such Partnership's investment prior to or concurrently with, and on the same terms as, and pro rata with the Coinvestor. The term ''Coinvestor'' with respect to any Partnership means any person who is: (a) An ''affiliated person'' (as such term is defined in section 2(a)(3) of the Act) of such Partnership (other than a Third-Party Fund); (b) Jones Financial Companies; (c) an officer or director of Jones Financial Companies; or (d) an entity (other than a Third-Party Fund) in which the General Partner acts as a general partner or has a similar capacity to control the sale or other disposition of the entity's securities. The restrictions contained in this condition, however, will not be deemed to limit or prevent the disposition of an investment by a Coinvestor: (a) To its direct or indirect wholly owned subsidiary, to any company (a ''parent'') of which such Coinvestor is a direct or indirect wholly owned subsidiary, or to a direct or indirect wholly owned subsidiary of its parent; (b) to immediate family members of such Coinvestor or a trust or other investment vehicle established for any such family member; (c) when the investment is comprised of securities that are listed on any exchange registered as a national securities exchange under section 6 of the 1934 Act; (d) when the investment is comprised of securities that are national market system securities pursuant to section 11A(a)(2) of the 1934 Act and rule 11Aa2–1 under the 1934 Act; or (e) when the investment is comprised of securities that are listed on or traded on any foreign securities exchange or board of trade that satisfies regulatory requirements under the law of the jurisdiction in which such foreign securities exchange or board of trade is organized similar to those that apply to a national securities exchange or a national market system for securities.

4. Each Partnership and the General Partner will maintain and preserve, for the life of such Partnership and at least two years thereafter, such accounts, books, and other documents as constitute the record forming the basis for the audited financial statements that are to be provided to the Participants in such Partnership, and each annual report of such Partnership required to be sent to such Participants, and agree that all such records will be subject to examination by the Commission and its staff.[4]

5. The General Partner of each Partnership will send to each Participant in such Partnership who had an interest in any capital account of such Partnership, at any time during the fiscal year then ended, Partnership financial statements audited by such Partnership's independent accountants. At the end of each fiscal year, the General Partner will make a valuation or have a valuation made of all of the assets of the Partnership as of such

[3] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

[4] Each Partnership will preserve the accounts, books and other documents required to be maintained in an easily accessible place for the first two years.

fiscal year end in a manner consistent with customary practice with respect to the valuation of assets of the kind held by the Partnership. In addition, within 120 days after the end of each fiscal year of each Partnership or as soon as practicable thereafter, the General Partner of such Partnership will send a report to each person who was a Participant in such Partnership at any time during the fiscal year then ended, setting forth such tax information as shall be necessary for the preparation by the Participant of his or its federal and state income tax forms.

6. In any case where purchases or sales are made by a Partnership from or to an entity affiliated with such Partnership by reason of a 5% or more investment in such entity by a Jones Financial Companies director, officer or employee, such individual will not participate in such Partnership's determination of whether or not to effect such purchase or sale.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–16556 Filed 6–29–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25049; 812–12478]

UBS PaineWebber Inc. et al.; Notice of Application

June 26, 2001.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of an application to amend a prior order under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') exempting applicants from sections 17(a) and 17(e) of the Act, and under section 17(d) of the Act and rule 17d–1 permitting certain joint transactions.

SUMMARY OF THE APPLICATION: Applicants seek an order (''Amended Order'') to amend a prior order that permits certain registered investment companies to use cash collateral from securities lending transactions and uninvested cash to purchase shares of an unregistered investment vehicle formed and advised by UBS PaineWebber Inc. (''UBS PaineWebber'') or Brinson Advisor, Inc. (''Brinson Advisors'') or a person controlling, controlled by, or under common control with UBS-PaineWebber and Brinson Advisors (''New Fund''); UBS Paine Webber and Brinson Advisors to accept fees from certain other registered investment companies; UBS PaineWebber and certain affiliated broker-dealers to borrow portfolio securities from certain affiliated registered investment companies and to receive brokerage commissions from, and engage in principal securities transactions with, the other registered investment companies (''Prior Order'').[1]

APPLICANTS: UBS PaineWebber; Brinson Advisors; UBS PaineWebber Cashfund, Inc., Brinson Managed Investments Trust, UBS PaineWebber Managed Municipal Trust, Brinson Master Series, Inc., Brinson Financial Services Growth Fund Inc., UBS PaineWebber RMA Money Fund, Inc., UBS PaineWebber RMA Tax-Free Fund, Inc., Brinson Securities Trust, Brinson Series Trust, Strategic Global Income Fund, Inc., 2002 Target Term Trust Inc., All-American Term Trust Inc., Global High Income Dollar Fund Inc., Investment Grade Municipal Income Fund Inc., Insured Municipal Income Fund Inc., UBS PaineWebber Municipal Money Market Series, Brinson Investment Trust, Liquid Institutional Reserves, PaineWebber PACE Select Advisors Trust, Brinson Index Trust, Managed High Yield Plus Fund Inc., and Brinson Money Series (collectively, the ''Affiliated Funds'').

FILING DATES: The application was filed on March 15, 2001 and amended on June 13, 2001.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 23, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, 1285 Avenue of the Americas, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 942–0582, or Mary Kay Frech, Branch Chief, at (202) 942–0564, (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 460 Fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. Each Affiliated fund is registered as an open-end or closed-end investment company under the Act. USB PaineWebber, a wholly owned subsidiary of UBS Americas Inc., currently serves as investment adviser and Brinson Advisors, also a wholly owned subsidiary of USB Americas Inc., serves as sub-adviser to USB PaineWebber Cashfund, Inc., UBS PaineWebber RMA Money Fund, Inc., UBS PaineWebber RMA Tax-Free Fund, Inc., UBS PaineWebber Managed Municipal Trust, UBS PaineWebber Municipal Money Market Series and Liquid Institutional Reserves. Brinson Advisors serves as investment adviser to the remaining Affiliated Funds.[2] UBS PaineWebber and Brinson Advisors are broker-dealers registered under the Securities Exchange Act of 1934, and investment advisers registered under the Investment Advisers Act of 1940.

2. On July 21, 1998, the Commission issued the Prior Order under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a) and 17(e) of the Act, and under section 17(d) of the Act and rule 17d-1 under the Act, permitting certain joint transactions. The Prior Order permits: (a) The Affiliated Funds and any other registered investment company or series thereof that may invest in shares of beneficial interest (''Shares'') issued by New Fund (each such other registered investment company, an ''Other Fund'' and collectively, the ''Other Funds'' and, together with the Affiliated Funds, the ''Investing Funds''), to purchase and redeem Shares issued by New Fund

[1] PaineWebber America Fund, Investment Company Act Release Nos. 23284 (June 24, 1998) (notice) and 23322 (July 21, 1998) (order).

[2] Applicants request that the Amended Order also apply to any other registered investment company or series thereof that currently is, or in the future may be, advised by UBS PaineWebber or Brinson Advisors or any other entity controlling, controlled by, or under common control (as defined in section 2(a)(9) of the Act) with, UBS PaineWebber or Brinson Advisors. All registered investment companies advised by UBS PaineWebber or Brinson Advisors or an entity controlling, controlled by, or under common control with UBS PaineWebber or Brinson Advisors that currently intend to rely on the Amended Order have been named as applicants. Any other existing or future registered investment companies that may rely on such relief in the future will do so in accordance with the terms and conditions of the application.

using cash from normal operations (''Uninvested Cash'') or cash received as collateral in connection with portfolio securities lending (''Cash Collateral''), (b) New Fund to sell Shares to the Investing Funds and redeem Shares from the Investing funds, (c) UBS PaineWebber, Brinson Advisors, the Investing Funds, New Fund and the trustee/managing member of New Fund (''Trustee'') to engage in certain transactions incident to the Investing Funds' investment in the Shares, (d) UBS PaineWebber and any other broker-dealer that may be controlled by or under common control with UBS PaineWebber (collectively, the ''Affiliated Broker-Dealers'') to borrow portfolio securities from the Affiliated Funds, (e) UBS PaineWebber and the Affiliated Broker-Dealers to engage in principal transactions in securities with the Other Funds, (f) UBS PaineWebber and the Affiliated Broker-Dealers to borrow securities from the Other Funds, (g) the Other Funds to pay, and UBS PaineWebber and the Affiliated Broker-Dealers to receive, commissions from the Other Funds for acting as brokers in connection with the purchase or sale of securities for the Other Funds, and (h) the Other Funds to pay, and UBS PaineWebber to accept, fees based on a share of the revenue generated from securities lending transactions and Brinson Advisors to accept fees for providing certain services in connection with securities lending transactions.[3]

3. New Fund is an investment vehicle that serves as an investment option for managing Cash Collateral and Uninvested Cash of the Investing Funds. New Fund operates as a private investment company and is not registered under the Act in reliance on section 3(c)(7) of the Act. Brinson Advisors currently serves as New Fund's Trustee and investment adviser. New Fund currently has one series, which operates as a money market portfolio and complies with the requirements of rule2a–7 under the Act.

4. Condition 9 to the Prior Order provides that UBS PaineWebber or Brinson Advisors will reduce its advisory fee charged to an Affiliated Fund that invests in Shares of New Fund in an amount equal to the net asset value of the Affiliated Fund's holdings in New Fund multiplied by the rate at which advisory fees are charged by Brinson Advisors to New Fund. Applicants seek to amend the Prior Order to modify condition 9 so that it would apply only with respect to an Affiliated Fund's investment of Uninvested Cash in New Fund and would not apply with respect to an Affiliated Fund's investment of Cash Collateral in New Fund. Since investment advisory fees are calculated on the net, rather than the total, assets of the Affiliated Funds, and since Cash Collateral does not increase net assets because it is offset by the liability to repay it to the borrower, the Affiliated Funds will pay no additional advisory fees with respect to investments made with Cash Collateral. Applicants will continue to comply with all the other conditions to the Prior Order.

[3] The Prior Order grants relief for the Other Funds to the extent that the Other Funds are affiliated with UBS PaineWebber, Brinson Advisors, Affiliated Broker-Dealers, or New Fund solely by reason of owning 5% or more of the shares of a series of New Fund.

Applicants' Condition

Applicants agree that condition 9 to the Prior Order is revised to read as follows:

9. With respect to any Affiliated Fund that invests Uninvested Cash in Shares of New Fund, UBS PaineWebber or Brinson Advisors will reduce its advisory fee charged to the Affiliated Fund in an amount (the ''Reduction Amount'') equal to the net asset value of the Affiliated Fund's Uninvested Cash invested in the New Fund multiplied by the rate at which advisory fees are charged by Brinson Advisors to the New Fund. Any fees remitted or waived pursuant to this condition will not be subject to recoupment by UBS PaineWebber or Brinson Advisors or their affiliates at a later date.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–16557 Filed 6–29–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44470; File No. SR–DTC–2001–10]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Order Granting Accelerated, Temporary Approval of a Proposed Rule Change to the Admission of Non-U.S. Entities as Direct Depository Participants

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 1, 2001, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared primarily by DTC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated, temporary approval of the proposed rule change through May 31, 2002.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to extend the Commission's temporary approval of DTC's admission criteria for entities that are organized in a country other than the United States (''non-U.S. entities'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to extend the Commission's temporary approval of DTC's admission criteria for non-U.S. entities.[3]

The proposed rule change seeks to extend approval of established admissions criteria that permit a well-qualified foreign entity to obtain direct access to DTC's services without requiring the foreign entity to obtain financial guarantees. The policy was established by DTC in response to requests received from certain participants to consider changes in DTC's admissions policy that would allow foreign affiliates to become direct participants without having to obtain financial guarantees.

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] DTC's admission criteria for non-U.S. entities were first temporarily approved on May 16, 1997. Securities Exchange Act Release No. 38600 (May 16, 1997), 62 FR 27086. Since then, the non-U.S. admission criteria have been temporarily approved several times. Securities Exchange Act Release Nos. 40064 (June 3, 1998), 63 FR 31818; 41466 (May 28, 1999), 64 FR 30077; and 42865 (May 30, 2000), 65 FR 36188.

In November 1999, DTC admitted one non-U.S. entity as a direct participant under the standards for admission of foreign entities. DTC has received several inquiries from other non-U.S. entities and expects to admit several other foreign entities in 2001 under the standards for the admission of foreign entities. DTC is seeking an extension of the temporary approval so DTC can complete the admission of these foreign entities and gain additional experience with the new admission standards for foreign entities and the unique risks posed by the activities of foreign entities as direct DTC participants.

The proposed rule change is consistent with the requirements of section 17A(b)(3)(F) of the Act[4] and the rules and regulations thereunder applicable to DTC because the proposed policy does not unfairly discriminate against foreign entities seeking admission as participants because it appropriately takes into account the unique risks to the depository raised by their admission.

(B) Self-Regulatory Organization's Statement on Burden on Competition

While DTC acknowledges that the proposed additional admissions criteria applicable to foreign entities may impose some additional burden, for the reasons stated above, we believe that any such burden is necessary and 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

DTC has not sought or received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[5] The Commission finds that the rule change is consistent with this obligation because DTC's admission criteria for non-U.S. entities has been designed in a manner that takes into account jurisdiction differences in regulatory structure and in business operations of non-U.S. entities with respect to DTC's risk control and management. Furthermore, DTC admission criteria should bind non-U.S. entities to DTC's rules and procedures in a manner similar to domestic participants and should lessen or eliminate the negative effects that jurisdictional issues could have on DTC's exercise of its rights against non-U.S. entities. Therefore, the Commission finds that the admissions criteria are designed in a manner that will assist DTC in assuring the safeguarding of securities and funds which are in its custody, control, or for which it is responsible.

DTC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after publication of the notice of filing. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day because accelerated approval will permit DTC to continue to use and study the effectiveness of its admission criteria for non-U.S. entities without interruption when the current temporary approval of these criteria expires on May 31, 2001.

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 DTC. All submissions should refer to File No. SR–DTC–2001–10 and should be submitted by July 23, 2001.

It is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–2001–10) be, and hereby is, approved on an accelerated basis through May 31, 2002.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–16558 Filed 6–29–01; 8:45 am]

BILLING CODE 8010–01–M

[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44467; File No. SR–NASD–2001–38]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Listing of Additional Shares

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 May 29, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), 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 by Nasdaq. 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

Nasdaq has filed the proposed rule change to amend Nasdaq Marketplace Rules 4320, 4510, and 4520, regarding the listing of additional shares. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

Rule 4320. Qualification Requirements for Non-Canadian Foreign Securities and American Depositary Receipts

To qualify for inclusion in Nasdaq, a security of a non-Canadian foreign issuer, an American Depositary Receipt (ADR) or similar security issued in respect of a security of a foreign issuer shall satisfy the requirements of paragraphs (a), (b) or (c), and (d) and (e) of this Rule.

(a)–(d) No change

(e) In addition to the requirements contained in paragraphs (a), (b) or (c), and (d), the security shall satisfy the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

following criteria for inclusion in Nasdaq:

(1)–(14) No change

(15) The issuer *of any class of securities included in Nasdaq, except for American Depositary Receipts,* shall be required to notify Nasdaq on the appropriate form no later than 15 calendar days prior to:

(A)–(D) No change

(16)–(25) No change

(f) No change

Rule 4510. The Nasdaq National Market

(a) No change

(b) Additional shares

(1) The issuer of each class of security that is a domestic issue which is listed in [t]*T* he Nasdaq National Market shall pay to The Nasdaq Stock Market, Inc. the fee set forth in subparagraph (2) below in connection with the issuance of additional shares of each class of listed security.

(2) The fee in connection with additional shares shall be $2,000 or $.01 per additional share, whichever is higher, up to a maximum of [$17,500] *$22,000* per quarter and an annual maximum of [$35,000] *$45,000* per issuer. *There shall be no fee, however, for issuances of up to 49,000 additional shares per quarter.*

(3) No change

(4) The Board of Directors of The Nasdaq Stock Market, Inc. or its designee may, in its discretion, defer or waive all or any part of the additional shares fee prescribed herein.

(c)–(d) No change

Rule 4520. The Nasdaq SmallCap Market

(a) No change

(b) Additional Shares

(1) The issuer of each class of security that is a domestic issue which is listed in The Nasdaq SmallCap Market shall pay to The Nasdaq Stock Market, Inc. the fee set forth in subparagraph (2) below in connection with the issuance of additional shares of each class of listed security.

(2) The fee in connection with additional shares shall be $2,000 or $.01 per additional share, whichever is higher, up to a maximum of [$17,500] *$22,000* per quarter and an annual maximum of [$35,000] *$45,000* per issuer. *There shall be no fee, however, for issuances of up to 49,000 additional shares per quarter.*

(3) No change

(4) The Board of Directors of The Nasdaq Stock Market, Inc. or its designee may, in its discretion, defer or waive all or any part of the additional shares fee prescribed herein.

(c)–(d) No change

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq 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

Nasdaq proposes to amend Nasdaq Marketplace Rules 4320, 4510, and 4520, regarding the listing of additional shares (''LAS Program''). These amendments include revising the fees for the listing of additional shares (''LAS''), providing the Board or its designee with the discretion to defer or waive fees relating to the LAS program, and clarifying that American Depositary Receipts are exempt from the LAS notification requirements contained in Nasdaq Marketplace Rule 4320(e)(15).

The LAS program involves notification and fee requirements for the issuance of additional shares. In January 2000, the notification process was simplified so that today issuers must notify Nasdaq only of a transaction that may implicate Nasdaq's corporate governance requirements contained in Nasdaq Marketplace Rules 4310(c)(25) and 4320(e)(21).[3] The LAS fee schedule was also amended last year to provide that the fees for the issuance of additional shares would be $0.01 per share or a minimum of $2,000, whichever is higher, based upon quarterly changes in total shares outstanding, subject to a cap of $17,500 per quarter and $35,000 per year.[4]

Since the LAS fee schedule was amended, Nasdaq has received several complaints from issuers regarding these changes. Specifically, issuers have noted that the $2,000 minimum fee results in a significant per share cost for minor issuances. Issuers have further indicated that many of these minor issuances have resulted from employees exercising stock options, a circumstance over which issuers have no control. As such, several issuers have requested that their LAS fees be waived.

In response to these concerns, Nasdaq proposes to amend Nasdaq Marketplace Rules 4510(b)(2) and 4520(b)(2) to provide a ''carve-out'' for issuances of up to 49,999 shares per quarter. To offset the loss in revenues resulting from this ''carve-out,'' Nasdaq proposes to change the maximum quarterly fee from $17,500 to $22,500 and the maximum annual fee from $35,000 to $45,000. These changes will alleviate issuers' concerns regarding small issuances while maintaining the revenues generated by the current LAS fee schedule.

Nasdaq also proposes to amend Nasdaq Marketplace Rules 4510(b)(4) and 4520(b)(4) to give the Board of Directors, or its designee, the ability to defer or waive all or any part of the fees relating to the LAS program. Nasdaq believes that it is appropriate for its Board to have the ability to defer or waive LAS fees in those situations where such action would be justified to achieve an equitable result, consistent with Nasdaq's current ability to defer or waive entry and annual fees.[5]

Lastly, Nasdaq proposes to clarify the LAS notification requirement for foreign issuers. Originally, Nasdaq Marketplace Rule 4320(e)(15) excluded American Depositary Receipts (ADRs) from the LAS notification requirements for foreign issuers because it is very difficult to track the creation as well as unwinding of ADRs and their creation may not implicate any Nasdaq regulatory requirements. When the notification requirements were amended in January 2000,[6] the exclusion of ADRs was inadvertently omitted from Rule 4320(e)(15). As such, Nasdaq proposes to amend this Rule to add that ADRs are not subject to the LAS notification requirement.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(5) and (6) of the Act.[7] The proposed rule change is consistent with section 15A(b)(5) in that it provides for the equitable allocation of reasonable dues, fees, and other charges among issuers using the Nasdaq system. Specifically, the LAS

[3] *See* Securities Exchange Act Release No. 42351 (January 20, 2000), 65 FR 1210 (January 7, 2000).

[4] *See* Securities Exchange Act Release No. 42300 (December 30, 1999), 65 FR 4457 (January 27, 2000).

[5] *See* Nasdaq Marketplace Rules 4510(a)(3), 4510(c)(2), 4520(a)(2), and 4520(c)(2).

[6] *See* Securities Exchange Act Release No. 42351 (January 20, 2000), 65 FR 4457 (January 27, 2000).

[7] 15 U.S.C. 78*o*–3(b)(5) and (6).

program fees were adopted to fund issuer-related operations that include educational initiatives, issuer service initiatives and NASD surveillance measures.[8] The proposed rule change is also consistent with Section 15A(b)(6) in that it is designed to promote just and equitable principles of trade and does not permit unfair discrimination between customers, issuers, brokers or dealers. As previously mentioned, the LAS program fees are used to fund various operations relating to issuers.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq 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

Written comments were not 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 Nasdaq 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 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 the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the File No. SR–NASD–2001–38 and should be submitted by July 23, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–16559 Filed 6–29–01; 8:45 am]

BILLING CODE 8010–01–M

[8] *See* Securities Exchange Act Release No. 31586, 53 S.E.C. Docket 2 (December 11, 1992).

[9] 17 CFR 200.30–3(a)(12).

TENNESSEE VALLEY AUTHORITY

Public Meeting To Receive Comments on the Draft Environmental Impact Statement for Addition of Electric Generation Baseload Capacity in Franklin County, TN

AGENCIES: Tennessee Valley Authority and U.S. Air Force.

ACTION: Notice of meeting.

SUMMARY: The Tennessee Valley Authority (TVA) with the U.S. Air Force will hold a public meeting to receive comments on the Draft Environmental Impact Statement (DEIS) titled, ''Addition of Electric Generation Baseload Capacity in Franklin County, Tennessee.'' The meeting will be held on July 10, 2001, at the University of Tennessee Space Institute Auditorium near Tullahoma, Tennessee. Registration for the meeting will begin at 5:30 p.m. Central Time and the meeting will begin at 6 p.m. Central Time. TVA staff will be available to answer questions concerning the environmental review process, the project schedule and other details of the proposed power plant. The public will then have an opportunity to provide oral or written comments on the DEIS. Comments may be submitted on comment cards available at the meeting, or subsequently mailed by the date indicated to the address provided below. Comments will also be accepted by mail or e-mail at the addresses listed below.

DATES: The meeting will be held on Tuesday, July 10 at 6 p.m. Central Time. Registration for the meeting will begin at 5:30 p.m. Central Time. Comments on the DEIS must be postmarked or e-mailed no later than July 30, 2001, to ensure consideration. Late comments will receive every consideration possible.

ADDRESSES: The meeting will be held at the Auditorium of the University of Tennessee Space Institute, 411 B. H. Goethert Parkway, Tullahoma, Tennessee. Written comments should be sent to Bruce L. Yeager, Senior Specialist, National Environmental Policy Act, Tennessee Valley Authority, Mail Stop WT 8C, 400 West Summit Hill Drive, Knoxville, Tennessee 37902–1499. Comments may also be e-mailed to blyeager@tva.gov.

FOR FURTHER INFORMATION CONTACT: Bruce L. Yeager, Senior Specialist, National Environmental Policy Act, Tennessee Valley Authority, Mail Stop WT 8C, 400 West Summit Hill Drive, Knoxville, Tennessee 37902–1499.

SUPPLEMENTARY INFORMATION:

Project Description

In accordance with the National Environmental Policy Act (NEPA), regulations specified in Title 40 of the Code of Federal Regulations, parts 1500–1508, and implementing procedures of the TVA and U.S. Air Force, TVA as lead agency, and the U.S. Air Force as a cooperating agency, have prepared a Draft Environmental Impact Statement on TVA's proposal to construct a natural gas-fired combined cycle power plant in Franklin County, Tennessee. TVA and the U.S. Air Force are using the EIS process and meetings, such as that currently announced, to obtain public involvement on this proposal. Public comment is invited concerning the alternatives and environmental issues addressed as a part of this DEIS.

This DEIS tiers from TVA's *Energy Vision 2020:* An Integrated Resource Plan and Final Programmatic Environmental Impact Statement. *Energy Vision 2020* was completed in December 1995 and a Record of Decision issued on February 28, 1996 (61 FR 7572). *Energy Vision 2020* analyzed a full range of supply-side and demand-side options to meet customer energy needs for the period 1995 to 2020. These options were ranked using several criteria including environmental performance. Favorable options were formulated into strategies. A group of options drawn from several effective strategies was chosen as TVA's preferred alternative. The supply-side options selected to meet peaking and baseload capacity needs through the 2005 period included: (1) Addition of simple cycle or combined cycle combustion turbines to TVA's generation system, (2) purchase of call options for peaking or baseload capacity, and (3) market purchases of peaking or baseload capacity. Because

Energy Vision 2020 identified and evaluated alternative supply-side and demand-side energy resources and technologies for meeting peak and baseload capacity needs, the present DEIS does not re-evaluate those alternatives. This DEIS focuses on the site-specific impacts of constructing and operating a combustion turbine combined cycle plant at one of the two candidate sites.

A Notice of Intent for the EIS appeared in the **Federal Register** on March 14, 2001. A locally publicized public scoping meeting was held on March 8, 2001, at the same location as the presently announced meeting. This meeting was publicized through notices in local newspapers, by TVA press releases, and in meetings between TVA officials and local elected officials preceding the public meetings. The period for public scoping comments for the EIS closed April 16, 2001. A Notice of Availability of the DEIS was published in the **Federal Register** on June 15, 2001 and the DEIS has been circulated for comment to agencies, organizations and individuals previously requesting it. Copies of the DEIS have also been placed for public review in the Argie Cooper Public Library in Shelbyville, Tennessee; Franklin County Public Libraries in Fayetteville and Winchester, Tennessee; Moore County Public Library in Lynchburg, Tennessee; the Lannon Memorial Public Library in Tullahoma and the Manchester Public Library in Manchester, Tennessee.

The proposed power plant would provide 510 megawatts (MWs) of intermediate baseload generating capacity as early as June 2003 at one of two sites. In addition to the No Action alternative, two alternative sites, located on the southwestern portion of Arnold Air Force base, are under consideration. Use of either of these sites would require approval by the U.S. Air Force. The proposed sites are currently undeveloped for industrial purposes and are either forested or in pasture. Under the preferred alternative (construct and operate the combined cycle plant at Site 4 in Franklin County, Tennessee), approximately 135 acres of land would be utilized, of which 65 acres would be disturbed during construction. Under the No Action Alternative TVA would not construct the plant at either of the sites. TVA would either undertake no new activities to meet anticipated demands by June 2003 for baseload power, or would rely exclusively on options from the *Energy Vision 2020* portfolio that do not involve construction and operation of new TVA fossil power capacity.

Candidate sites were identified through a detailed screening process that considered: (1) TVA's transmission system capacity at the locale; (2) reliable and economical long-term supply of natural gas; (3) engineering suitability of the site; (4) compatibility with surrounding land use; and (5) environmental factors including wetlands, floodplains, water supply, water quality, air quality, and historic and archaeological resources.

An installed plant would consist of two GE 7FA combustion turbine units, each configured with a heat recovery steam generator (HRSG). Steam produced in the HRSGs would be sent to a GE D11 steam turbine. Electricity would be produced by both the combustion turbines and the steam turbine. Natural gas would be the sole fuel. To control nitrogen oxides (NO_X) emissions, turbines would employ dry low NO_X burners and selective catalytic reduction systems. Excavation would be required to construct foundations for the turbine units, HRSGs, cooling towers, steam turbine, switchyard, and other components. A 500-kV transmission line would be constructed to the existing TVA Franklin Substation located nearby, and a transmission line would be constructed from the local distribution system to obtain construction/emergency power to the site. Water supply and wastewater discharge pipelines would be constructed to Woods Reservoir. Potable water would be obtained by tapping into a local supply line form Estill Springs. A short natural gas pipeline would be constructed to connect with pipelines owned by East Tennessee Natural Gas Company which pass a few miles to the south of the proposed sites. The local access road, Substation Road, would be upgraded from local major highways (Wattendorf Highway and Northshore Road) to the chosen site. Other appurtenances and ancillary equipment could include transformers, demineralized-water supply, parking areas, and support buildings, as well as upgrades to the main supply line of East Tennessee Natural Gas Company.

The DEIS describes the existing environmental and socioeconomic resources at and in the vicinity of each candidate site that would be affected by construction and operation of a power plant. TVA's and the U.S. Air Force's evaluation of environmental impacts to these resources include the potential impacts on air quality, water quality of surface and groundwaters, floodplains and flood risk, aquatic and terrestrial ecology, endangered and threatened species, wetlands, aesthetics and visual resources, noise, safety and health, land use, seismology, recreation, historic and archaeological resources, and socioeconomic resources.

After consideration of agency and public comments on the DEIS, including those received at the public meeting on July 10, 2001, TVA and the U.S. Air Force will prepare a Final EIS by September 2001.

Dated: June 26, 2001.

Jon M. Loney,

Manager, NEPA Administration, Environmental Policy & Planning.

[FR Doc. 01–16550 Filed 6–29–01; 8:45 am]

BILLING CODE 8120–08–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), this notice announces the Department of Transportation's (DOT) intention to request the extension of a previously approved collection.

DATES: Comments on this notice must be received by August 31, 2001.

ADDRESSES: Policy and Information Team (HEPR), Federal Highway Administration, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: *James E. Ware,* Policy and Information Team, Office of Real Estate Services (HEPR), Federal Highway Administration, U.S. Department of Transportation, Room 3221, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2019

SUPPLEMENTARY INFORMATION:

Title: Relocation Assistance and Real Property Acquisition Regulations For Federal and Federally Assisted Programs.

OMB Number: 2105–0508.

Expiration Date: September 30, 2001.

Type of Request: Extension of a previously approved collection.

Affected Public: Federal Government, State, Local or Tribal Government, individuals, business, farms and not-for-profit institutions.

Abstract: This regulation implements amendments to 42 U.S.C. 4601 et. seq. concerning acquisition of real property and relocation assistance for displaced

persons for Federal and federally-assisted programs. It prohibits the provision of relocation assistance and payments to persons not legally in the United States (with certain exceptions).

Respondents: State highway agencies, local government highway agencies, and airport sponsors receiving financial assistance for expenditures of Federal funds on acquisition and relocation payments and required services to displaced persons.

Estimated Number of Respondents: 1,443 for file maintenance and 52 state highway agencies for statistical reports.

Average Annual Burden Per Respondent: 8.5 hours.

Estimated Total Burden on Respondents: 29,043 hours.

These information collections are available for inspection at the Office of Real Estate services, Federal Highway Administration, Department of Transportation, at the address above.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

All responses to this notice, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Issued in Washington, DC on June 26, 2001.

Randall Bennett,

Director, Office of Aviation Analysis.

[FR Doc. 01–16601 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2001–9977]

Recreational Boating Safety Projects, Programs and Activities Funded Under Provisions of the Transportation Equity Act for the 21st Century; Accounting of

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: Subsection (c) of section 7405 of the Transportation Equity Act for the 21st Century makes $5,000,000 available each of five fiscal years to the Secretary of Transportation for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program. The Act requires that the Secretary publish annually in the **Federal Register** a detailed accounting of the projects, programs, and activities under this subsection.

ADDRESSES: You may obtain a copy of this notice by calling the U. S. Coast Guard Infoline at 1–800–368–5647. This notice is available on the Internet at *http://dms.dot.gov* and at *http://www.uscgboating.org.*

FOR FURTHER INFORMATION CONTACT: Captain Scott Evans, USCG, Chief, Office of Boating Safety, telephone 202–267–1077, fax 202–267–4285, or Mr. Albert J. Marmo, Chief, Program Management Division, telephone 202–267–0950, fax 202–267–4285.

SUPPLEMENTARY INFORMATION: The Transportation Equity Act for the 21st Century became law on June 9, 1998. The Act requires that of the $5 million made available to carry out the national recreational boating safety program, each year, $2,000,000 shall be available only to ensure compliance with Chapter 43 of title 46, U.S. Code—Recreational Vessels. The responsibility to administer these funds is delegated to the Commandant of the United States Coast Guard. The statute directs that no funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized; namely, for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program. Amounts made available each fiscal year, 1999–2003, shall remain available until expended. Use of these funds requires compliance with standard Federal contracting rules with associated lead and processing times resulting in a lag time between available funds and spending. The following activities have been initiated using fiscal year 1999–2001 funds transferred to the Coast Guard from the Aquatic Resources (Wallop-Breaux) Trust Fund. The total amount of fiscal year 1999, 2000 and 2001 funding committed, obligated and/or expended for each activity is shown.

Factory Visit Program: An initial contract was awarded to establish a national recreational boat factory visit program using contractor personnel. The contract included the development of a plan of action and an eighteen-month pilot program to validate the elements of the plan and the concept of the program. The pilot program commenced in the summer of 2000. ''Compliance associates'' (inspectors) were trained and formal factory visits were initiated in January 2001. The factory visit program allows contractor personnel, acting on behalf of the Coast Guard, to visit approximately 2,000 recreational boat manufacturers each year to inspect for compliance with the Federal regulations, communicate with the manufacturers as to why they need to comply with the Federal regulations, and educate them, as necessary, on how to comply with the Federal regulations. ($2,981,840)

Boat Compliance Testing: Funding is providing for expansion of the boat compliance testing program whereby new manually propelled and outboard recreational boats are purchased in the open market and tested for compliance with the Federal flotation standards. The expanded program will include inboard/sterndrive boats and used boats. ($244,000)

Associated Equipment Compliance Testing: A contract was awarded to buy recreational boat ''associated equipment,'' e.g., starters, alternators, fuel pumps, bilge pumps, etc., and test this equipment for compliance with Federal safety regulations. This new initiative complements the boat compliance testing program. ($182,446)

Compliance Associated Travel: Travel by employees of the Office of Boating Safety is being performed to carry out additional compliance actions and to gather background and planning information for new compliance initiatives. ($27,568)

New Boat Manufacturer Outreach Package: A contract was awarded to design and develop a comprehensive and user-friendly outreach package for distribution to new recreational boat manufacturers. Included are a brochure and video that outline the many facets of the recreational boat manufacturing business, including, Federal regulations, voluntary standards, self-certification, financial aspects, insurance concerns, liability issues, points of contact and the steps necessary to become a new recreational boat manufacturer. The package also includes plain language guidelines that help clarify Federal requirements. The new outreach package is aimed at increasing the level of new recreational boat manufacturer compliance with applicable Federal regulations. ($357,582)

National Boating Survey: A contract has been awarded for a comprehensive major national recreational boating survey scheduled to be conducted during the fall of 2001. The purpose of this project is to obtain up-to-date

statistical estimates of recreational boats, boating households, boaters, boating exposures, practices and activities for the 2001 boating season. This data will be extrapolated to produce national, regional and state estimates of boat use as well as the characteristics of boat operators, passengers, boats and the operating environment ($1,528,514). Additionally, $800,000 has been set aside for a subsequent national survey.

Boating Accident Report Database (BARD): A contract has been awarded to enhance the capability of all States and the Coast Guard for the successful electronic exchange, management, and reporting of recreational boating accident report data using the BARD software application. This contract provides for software module development, software module testing, applicable rework, implementation, maintenance, and technical support for the user community in the 50 States, five Territories, and the District of Columbia. ($765,697)

State Incident Notification: The Coast Guard Search and Rescue Management Information System (SARMIS) software has been modified to electronically notify the relevant State boating law administrators regarding any fatal recreational boating incident cases to which the Coast Guard responds. The intent of this notification is to ensure that these cases are captured in the accident report data submitted by the State boating law administrators to the Boating Accident Report Database (BARD). ($12,678)

Articulated Mannequins/Computer Simulation Model: The objective of this contracted program is to improve the safety of recreational boaters by fostering developmental technology for improved personal flotation devices (PFDs). This program is furthering development of flotation mannequins and a water forces computer simulation program to promote the rapid, objective evaluation of different PFD designs on various body types that are representative of the recreational boating population. The computer simulation program will be validated through the use of a family of anthropomorphic, articulated mannequins. Under the contract to develop the articulated mannequins and computer simulation model, a male model has been built and is almost perfected. Next, female and child mannequins will be built. The development of a computer simulation program will facilitate evaluation of the effectiveness of new and unique PFD designs. ($270,723)

Risk-Based Personal Flotation Device Approval Process: This contracted effort will improve the approval process for personal flotation devices (PFDs) by developing a risk-based compliance system that is based on an objective Life Saving Index. This index will provide a formal structure and consistency to the process for accepting new approaches to designing devices for drowning prevention. The risk-based process identifies critical factors for evaluating PFD lifesaving potential and defines the minimum level of performance necessary for approval. ($211,086)

Carbon Monoxide Research: The Office of Boating Safety has entered into a Memorandum of Agreement with the Department of Health and Human Services, U.S. Public Health Service, Federal Occupational Health Program to continue investigation into identifying and classifying additional recreational boating carbon monoxide related deaths and injuries. ($238,025)

Houseboat Manufacturers Workshop/ Conference Support: Funding provided support services for a Coast Guard-sponsored gathering of the houseboat industry to explore potential design solutions to the carbon monoxide poisonings that have occurred on recreational houseboats. ($17,030)

Hull Identification Number (HIN) Economic Analysis: The objective of this contracted effort is to provide the Coast Guard with a cost/benefit analysis on the effects of expanding the current 12-character HIN to a 17-character HIN for all newly constructed recreational boats. ($47,626)

Virtual Reality Personal Watercraft (PWC): A virtual reality PWC was developed under contract to provide a platform to gather objective data on operator reactions to various scenarios. This information would otherwise be unobtainable or would require more costly methods and sources, due to the risk of injury to the operator as well as due to the difficulty of accurately replicating conditions for all operators. The virtual reality PWC will be used in various test scenarios to collect human factors data including the measurement of reactive movements and reaction time that will assist in making decisions or taking action to improve personal watercraft safety. The data from this effort will give greater insight into the human/machine interface related to PWC operation and will assist in the effort to attempt to reduce PWC accidents. ($133,628)

Knowledge Management System: The first phase of this three-phase contracted effort entailed the development of a comprehensive Knowledge Management plan for automating office processes in the Office of Boating Safety. The second phase, when implemented, will install document imaging software to capture and fully automate product assurance and consumer files and provide support that will ultimately enhance efficiency in supporting customers, partners and stakeholders. The third phase, if implemented, would provide quicker, more effective and efficient program oversight while providing customers with the ability to do business with the Coast Guard via web-based technology, thus enabling the Coast Guard to reduce the amount of paper transactions involved in servicing external customers. This system will assist in the electronic monitoring, storage and daily use of information and materials within the Office of Boating Safety. ($380,787)

Coast Guard Infoline/Office of Boating Safety Website: Funding has been provided for both technological and educational enhancements to the toll free Coast Guard Infoline and the Office of Boating Safety Website to create a ''one-stop'' customer service center. The Infoline provides information about safety, regulations, communications, Coast Guard policy, and available material related to boating safety issues. Additionally, this effort provides a complete interactive recreational boating safety website that offers the public and boating safety agencies and organizations real-time information on every aspect of recreational boating safety. One of the goals of this program is to create a ''one-stop'' customer service center for all users. ($387,628)

Federal Requirements Publication: A customer-friendly ''Federal Requirements and Safety Tips for Recreational Boats'' publication was developed based on easy-to-read, high visibility graphics, and with subject-specific safety tips that promote high retention by the reader. Both hard copy and electronic interactive versions have been created for the public. The enhanced Federal Requirements brochure is being widely distributed, and in addition, can be downloaded from the Office of Boating Safety Website (http://www.uscgboating.org). ($254,429)

Emergency Radio Call Procedures Decal: An emergency radio call procedures decal was produced and disseminated that provides the recreational boater with the proper procedures to use in making an emergency or distress call via VHF-FM Channel 16. This decal will be distributed via the Coast Guard Auxiliary, U.S. Power Squadrons, and State boating offices, as well as U.S. Army Corps of Engineers, Tennessee Valley Authority, and the Bureau of

Land Management. This item also supports the Vessel Safety Check (VSC) program provided by the Coast Guard Auxiliary, U.S. Power Squadrons and States. The VSC program is a free service provided by these organizations offering a safety check of recreational boats 65' or less in length. ($25,810)

Aids to Navigation Booklet: A full-color booklet, ''U.S. Aids to Navigation System,'' was produced to assist recreational boaters in better understanding the use and identification of navigational aids. This booklet is now used as an educational adjunct to the safe boating classes taught by the Coast Guard Auxiliary, U. S. Power Squadrons, and many of the States. It is also distributed in conjunction with the Vessel Safety Check program. ($80,000)

''Operation BoatSmart'' Support: Funding is providing support to ''Operation BoatSmart.'' This new multi-year initiative undertaken by the Coast Guard and other boating safety organizations aims to energize recreational boating safety programs by strengthening and extending partnerships at the national, State and local levels. Through combined and coordinated efforts, the BoatSmart partners are targeting those activities and behaviors that entail the greatest risk for the recreational boater. ''Operation BoatSmart'' is bringing together these organizations to work in tandem to promote a positive change in boater awareness and behavior, with special emphasis on inland waters where most recreational boating takes place. Special emphasis is focused on encouraging life jacket wear, boater education, and scrupulous enforcement of boating under the influence laws by appropriate authorities. ($112,055)

Recreational Boating Safety Program Marketing Support: A national marketing, awareness and education campaign in support of ''Operation BoatSmart,'' as well as America's Boating Course, Boating Under the Influence Campaign, and the Vessel Safety Check (VSC) Program has been funded. America's Boating Course is a joint boating safety education course developed by the U.S. Coast Guard Auxiliary and the U.S. Power Squadrons, supported by the Coast Guard. This course, available via CD-Rom or Internet will set the standard for recreational boating safety in our country. The Boating Under the Influence (BUI) campaign, ''It's a Different World on the Water,'' is a multi-year effort to educate the recreational boater about the hazards of boating under the influence of alcohol or drugs. The marketing plan will utilize nationally recognized cartoon characters, Popeye and Olive Oyl, to advertise the VSC program to the boating public at marinas, yacht clubs, boat storage facilities, retail outlets and other recreational outlets. ($98,935)

Seventeenth Coast Guard District Boating Safety Detachment: Funding was provided on a one-time, non-recurring basis to the Seventeenth Coast Guard District in support of a Coast Guard Boating Safety Detachment to assist in the transition of the State of Alaska's assumption of Recreational Boating Safety Program responsibilities. ($25,000)

National Boating Registration System: As a service for States/Territories that currently have inadequate (or no) computer software program to maintain their vessel numbering system information, funding was provided to the U.S. Coast Guard Operations Systems Center (OSC) to develop a National Boating Registration System software program that can easily be adapted by any State/Territory for their own use. The software that has been provided to States/Territories at no cost includes a function to automatically generate the annual report on numbered vessels that must be submitted to the Coast Guard each year. ($25,000)

Marine Dealer Literature Display Racks: Display racks for U.S. Coast Guard and U.S. Coast Guard Auxiliary literature were purchased to improve distribution of boating safety literature. These display racks are intended to be used at retail outlets and marine dealers. ($23,725)

Personnel Support: Funding is providing for personnel to support the development of new regulations, to support new contracting activities associated with the additional funding, and to monitor and manage the contracts awarded. ($281,428)

A total of $8,713,240 of the $15,000,000 made available to the Coast Guard through annual transfers of $5 million in fiscal years 1999, 2000 and 2001, has been committed, obligated or expended as of June 15, 2001, and $800,000 is being held for a national boating survey.

Dated: June 20, 2001.

Kenneth T. Venuto,

Rear Admiral, U.S. Coast Guard, Director of Operations Policy.

[FR Doc. 01–16585 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request to Release Airport Property at the Snohomish County Airport/Paine Field, Everett, WA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of request to release airport property.

SUMMARY: The FAA proposes to rule and invite public comment on the release of land at Snohomish County Airport/Paine Field under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before August 13, 2001.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. J. Wade Bryant, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington 98055–4056.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Dave Waggoner, Airport Director, 3220–100th Street, SW., Everett, Washington 98204–1390.

FOR FURTHER INFORMATION CONTACT: Ms. Cayla Morgan, Project Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Seattle Airports District Office, 1601 Lind Avenue, SW., Suite 250, Renton, Washington 98055–4056.

The request to release property may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release property at the Snohomish County Airport/Paine Field under the provisions of the AIR 21.

On June 26, 2001, the FAA determined that the request to release property at Snohomish County Airport/Paine Field submitted by the county met the procedural requirements of the Federal Aviation Regulations, Part 155. The FAA may approve the request, in whole or in part, no later than August 13, 2001.

The following is a brief overview of the request:

The Snohomish County Airport/Paine Field requests the release of 10.60 acres of non-aeronautical airport property to the Snohomish County Public Works Department. The purpose of this release

is to transfer ownership to the Public Works Department for expansion of existing Airport Road, the major arterial running northwest from State Route 99 to State Route 526. Snohomish County, a political subdivision of the State of Washington, on behalf of the Snohomish County Airport at Paine Field requests the release from the terms, conditions, reservations, and restrictions imposed upon the property deeded to the Airport by the United States of America, and the release of the subject property from any assurances of the County as sponsor as contained in the Surplus Property Act of 1944 and any FAAP, ADAP, or AIP grant agreement. The release of the property will benefit the users of the airport as it will allow expansion of Airport Road and provide transportation and pedestrian improvements along Airport Road, thereby reducing traffic congestion to and from the airport and the Airport's Terminal entrance. In addition, revenues generated from the sale of the property will be applied to offset Airport funds used to acquire two parcels of real estate in 1996 and 1997. Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Snohomish County Airport, 3220–100th Street, SW., Everett, Washington 98204–1390.

Issued in Renton, Washington on June 26, 2001.

J. Wade Bryant,

Manager, Seattle Airports District Office.

[FR Doc. 01–16607 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Availability of Final Environmental (EA) and Draft Finding of No Significant Impact (FONSI)/Record of Decision (ROD) For Toledo Express Airport, Toledo, OH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of documents and soliciting comments.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public of the availability of a Final EA and a Draft FONSI/ROD. This EA contains a scaled-back version of a portion of projects from an earlier Draft Environmental Impact Statement (DEIS). The DEIS was initiated in 1996/1997 to assess air traffic noise abatement measures from the 1998 FAR Part 150 Study Update, the development and operation of a second air cargo hub, and aviation-related industrial development.

Interested parties are invited to submit comments on the Final EA and the Draft FONSI/ROD. Based on the information received, the FAA will make a determination whether to approve the Draft FONSI/ROD for the proposed development at Toledo Express Airport or prepare a new Environmental Impact Statement (EIS) on the proposed development.

FOR FURTHER INFORMATION CONTACT: Ernest P. Gubry, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, Michigan 48111, 734–487–7280.

SUPPLEMENTARY INFORMATION: The FAA accepted a Final EA for the development depicted on the Airport Layout Plan (ALP) for Toledo Express Airport on June 26, 2001.

The development included:

1. Construction of a 1,159,365 square foot cargo aircraft-parking apron.
2. Construction of two buildings totaling 400,000 square feet housing the Perishable Preparation Center and Dry Freight Sort Facility.
3. Construction of an entrance road.
4. Construction of out buildings
5. Construction of a vehicle parking lot.

This EA contains a scaled-back version of a portion of projects from an earlier Draft Environmental Impact Statement (DEIS). The DEIS assessed air traffic noise abatement measures from the 1998 FAR Part 150 Study Update, the development and operation of a second air cargo hub, and aviation-related industrial development.

The FAA issued a **Federal Register** notice on June 27, 1996 announcing its intent to prepare an Environmental Impact Statement and to hold a public scoping meeting on August 6, 1996. The FAA issued a subsequent **Federal Register** notice on February 2, 1999, announcing the availability of a DEIS for public review and comment and that a Public Hearing would be held on March 10, 1999 to receive public comments concerning the social, economic, and environmental effects of the proposed actions.

The DEIS public hearing raised concerns about the need for cargo related development and the fact that at the time, the Toledo-Lucas County Port Authority (TLCPA) did not have a tenant. However, TLCPA has identified a tenant for a portion of the Southwest Quadrant as proposed in this EA. Questions were also raised about purpose and need and alternatives; and impacts to threatened and endangered species, air quality, Section 4(f) resources, archaeological resources and wetlands. For the development proposed in the EA these issues have been addressed. A subsequent Ohio Environmental Protection Agency Section 401 Public Hearing was held on March 28, 2000.

The Draft Environmental Assessment was distributed to the agencies and the FAA was involved with agency consultation and coordination at the federal and state levels. Comments on the Proposed Project included concerns about impacts to threatened and endangered species, streams, and wetlands. The Section 404 permit was issued. These issues have been addressed in the EA were appropriate and in addition, a response to comments has been prepared.

Because the second air cargo hub and other aviation-related industrial developments proposed in the earlier DEIS are neither reasonably foreseeable nor ripe for review at this time, an Environmental Assessment was initiated by TLCPA to independently assess the potential impacts associated with construction and operation of a proposed Perishable Preparation Center and Dry Freight Sort Facility, aircraft parking apron, entrance road and related airport improvements in the southwest quadrant of the airport. The site of this proposed facility (73 acres) was included in a portion of the land identified for the larger development projects proposed in the earlier Draft Environmental Impact Statement (DEIS) prepared by the FAA.

For purposes of disclosure it should be noted that the remainder of the Southwest Quadrant site might be developed in the future for other aviation-related industrial uses. However, to date no other future development plans have been prepared for this site and no other tenants have been identified. Any development plans for the possible development in the remainder of the Southwest Quadrant site in the future are not discussed in this EA. All future development would require an additional environmental review that would include a discussion of cumulative impacts of the project assessed under this EA. Any other actions considered in the 1999 DEIS also would be subject to separate environmental review if they become ripe for decision at a later date.

The Proposed Project assessed in this EA has independent utility from the air

traffic noise abatement measures, the development and operation of a second air cargo hub, and other aviation-related industrial development assessed in the earlier DEIS. No further development of the Southwest Quadrant would be needed to support the development project proposed in this EA. Likewise the proposed Perishables Preparation Center and Dry Freight Sort Facility would not prevent any other future airport development at this site.

Additionally for purposes of disclosure it should also be noted that the air traffic noise abatement measures may also be considered for implementation at a future date. However, they are not assessed in the EA and are not considered for approval in the FONSI/ROD. Prior to their being considered for approval, they would be subject to environmental reevaluation. The reevaluation would include a discussion of the cumulative impacts of the projects assessed in this EA.

The EA includes an assessment of cumulative noise impacts for these projects. The noise impacts from this EA and air traffic noise abatement measures assessed in the 1999 Draft EIS were used to determine if significant increases in noise were likely to occur with the implementation of both projects. It was determined that there would be no significant cumulative noise impacts with the implementation of these projects. This finding is based on the determination that the incremental growth in cargo operations forecast in the 1999 EIS noise analysis sufficiently encompassed the addition of 18 operations per week proposed by the Project in this EA. This is further bolstered by the fact that existing cargo operations are not meeting forecast levels (down 22 percent in 2001 from 2000 levels). The EA also disclosed the cumulative impacts for the other NEPA categories.

Based on the analysis presented in the Environmental Assessment, it is determined that there is no practicable alternative to the proposed construction in wetlands and that the proposed action included all practicable measures to minimize harm to wetland which may result from such uses. TLCPA has developed and will implement a wetland mitigation plan that was found to be acceptable to the State of Ohio and the United States Army Corps of Engineers.

The Draft Environmental Assessment was distributed and the FAA was involved with agency consultation and coordination at the federal and state levels. Additionally, on March 28, 2000, the State of Ohio, Environmental Protection Agency held a public hearing for the issuance of a 401 wetland permit that was need for construction of the project. On August 28, 2000 the OEPA issued the Section 401 Water Quality Certification, conditional upon approval of the wetlands mitigation plan. The U.S. Army Corps of Engineers issued a validated Section 404 permit on September 11, 2000, The required mitigation plan has been approved.

The Section 404 validated permit stipulates that wetland mitigation must include on-site creation of appropriate wetland habitat to support state threatened and endangered plant species that would be lost through the construction of the Proposed Project. The on-site mitigation must include a wild lupine (*Lupinus perennie*) that is part of the life cycle for the Karner blue butterfly (*Lycacides melissa*). No other Federally listed species would be impacted by the Proposed Project.

The TLCPA will be required to implement the mitigation measures identified in the Draft FONSI/ROD as a condition of environmental approval for the proposed development/action items listed above to support existing and proposed aeronautical activities at the airport.

The purpose of this notice is to provide the public an opportunity to submit information to the FAA prior to its reaching a decision on this matter.

In accordance with 40 CFR 1501.4(c) of the Council on Environmental Quality, there will be a thirty (30) day comment period before the FAA makes its final determination on the FONSI/ROD. Interested individuals, government agencies, and private organizations are invited to send comments on the Draft FONSI/ROD to the address set forth above. Absent receipt of additional substantive information on environmental impacts the FAA anticipates that it will sign the Draft FONSI/ROD thirty days after this notice appears in the **Federal Register**.

The Final EA and supporting documents and the Draft FONSI/ROD may be viewed duing normal business hours at the following locations:

Airport Manager's Office, Toledo Express Airport, 11013 Airport Highway Swanton, Ohio 43558.

Toledo-Lucas County Public Library, 1032 South McCord Road Holland, Ohio 43528.

Swanton Public Library, 305 Chestnut Street, Swanton, Ohio 43558.

Federal Aviation Administration, Detroit Airports, District Office, Willow Run Airport, east, 8820 Beck Road, Belleville, Michigan 48111.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Des Plaines, Illinois, on June 26, 2001.

Barry D. Cooper,

Acting Manager, Airports Division, FAA, Great Lakes Region.

[FR Doc. 01–16606 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice; Correction

ACTION: Notice; correction.

SUMMARY: The Federal Aviation Administration (FAA) published a Notice of Intent to prepare an Environmental Impact Statement for proposed master plan development at San Diego International Airport—Lindbergh Field in the **Federal Register** on Thursday, June 21, 2001. The published Notice of Intent omitted two work items that should have been identified under Alternative One.

FOR FURTHER INFORMATION CONTACT: David B. Kessler, AICP, Environmental Protection Specialist, AWP–611.2, Planning Section, Airports Division, Federal Aviation Administration, Western-Pacific Region, PO Box 92007, Los Angeles, California 90009–2007, Telephone: 310/725–3615.

Correction

In the **Federal Register** issue of Thursday, June 21, 2001, Volume 66, page 33294–33295, make the following specific corrections which are underlined to facilitate the changes: In the second paragraph under the heading **SUPPLEMENTARY INFORMATION** replace the second sentence with the following: ''FAA anticipates that the Port of San Diego will publish their Draft EIR during the summer *or fall* of 2001.'' Under the heading ''Alternative One—Construct New North Terminal and Cargo Area,'' replace the first work item with ''Construct new 10–*14.* Gate North Terminal (approximately 255,000–303,000 square feet).'' At the end of the listing of work items for Alternative One, add the following work item: *''Construct area for aircraft remaining overnight.''*

These changes in the Notice of Intent do not require any changes to the dates and times of the public and governmental agency scoping meetings as published in the **Federal Register** on June 21, 2001.

Issued in Hawthorne, California on Thursday, June 21, 2001.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region, AWP–600.

[FR Doc. 01–16608 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Executive Committee of the Aviation Relemaking Advisory Committee; Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the Executive Committee of the Federal Aviation Administration Aviation Rulemaking Advisory Committee.

DATES: The meeting will be held August 8, 2001, at 10 a.m.

ADDRESSES: The meeting will be held at the Federal Aviation Administration, 800 Independence Ave., SW., Room 1014, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Gerri Robinson, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9678; fax (202) 267–5075; e-mail Gerri.Robinson@faa.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. II), notice is hereby given of a meeting of the Executive Committee to be held on August 8, 2001, at the Federal Aviation Administration, 800 Independence Ave., SW., Room 1014, Washington, DC 20591. The agenda will include:

- Fuel Tank Inerting Working Group report
- Nominations for Vice Chair
- Status reports from Assistant Chairs

The Fuel Tank Inerting Working Group plans to request ARAC approval of its report on recommended regulatory text for new rulemaking and the data needed to evaluate the options for implementing new regulations that would require eliminating or significantly reducing the development of flammable vapors in fuel tanks on in-service, new production, and new type design transport category airplanes.

Attendance is open to the interested public but will be limited to the space available. The FAA will arrange teleconference capability for individuals wishing to participate by teleconference if we receive that notification by July 27, 2001. Arrangements to participate by teleconference can be made by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Callers outside the Washington metropolitan area will be responsible for paying long distance charges.

The public must make arrangements by July 27 to present oral statements at the meeting. The public may present written statements to the executive committee at any time by providing 25 copies to the Executive Director, or by bringing the copies to the meeting.

If you are in need of assistance or require a reasonable accommodation for this meeting, please contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on June 21, 2001.

Anthony F. Fazio,

Executive Director, Aviation Rulemaking Advisory Committee.

[FR Doc. 01–16476 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Dane County Regional Airport, Madison, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Dane County Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before August 1, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Minneapolis Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Peter L. Drahn, Airport Director of Dane County Regional Airport, Madison, Wisconsin at the following address: 4000 International Lane, Madison, Wisconsin 53704–3120.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Dane under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Sandra E. DePottey, Program Manager, Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, Minnesota 55450, 612–713–4363. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Dane County Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 31, 2001 the FAA determined that the application to impose and use the revenue from a PFC submitted by the County of Dane was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 4, 2001.

The following is a brief overview of the application.

PFC application number: 01–05–C–00–MSN.

Level of the proposed PFC: $4.50.

Proposed charge effective date: December 1, 2006.

Proposed charge expiration date: March 1, 2014.

Total estimated PFC revenue: $46,656,115.00.

Brief description of proposed projects: Realignment of taxiway ''E'' at east ramp, terminal apron expansion, terminal building expansion, airfield storm water study and improvements.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators filing FAA form 1800–31. Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Dane County Regional Airport.

Issued in Des Plaines, Illinois on June 21, 2001.

Robert Benko,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 01–16610 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Hector International Airport, Fargo, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Hector International under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before August 1, 2001.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Bismarck Airports District Office, 2301 University Drive, Building 23B, Bismarck, North Dakota 58504. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Shawn A. Dobberstein, Executive Director of Hector International Airport at the following address: P.O. Box 2845, Fargo, North Dakota 58108.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Fargo Municipal Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Tom Schauer, Acting Manager, Bismarck Airports District Office, 2301 University Drive, Building 23B, Bismarck, North Dakota 58504 (701–323–7380). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Hector International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On June 11, 2001 the FAA determined that the application to impose and use the revenue from a PFC submitted by City of Fargo Municipal Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 14, 2001.

The following is a brief overview of the application.

PFC application number: 01–05–C–00–FAR.

Level of the proposed PFC: $4.50.

Proposed charge effective date: September 1, 2002.

Proposed charge expiration date: January 1, 2004.

Total estimated PFC revenue: $1,942,080.00.

Brief description of proposed projects: Emergency electrical generator for the passenger terminal facility, jet bridge conversion equipment, UHF frequency airport radio system, security announcement system, automated passenger boarding bridges, rehabilitate passenger terminal exterior and upgrade heating, ventilating and air conditioner system, emergency generator in snow removal equipment maintenance facility, airport signage, PFC development costs, purchase snow removal equipment, security system modifications, passenger lift and stairs, PFC audit fees and administrative reimbursement for years 1997, 1998 and 1999, flight information and display system, forward looking infrared system for aircraft rescue and fire fighting vehicle, rehabilitate runway 17 threshold lights, purchase runway pavement friction measuring device, terminal apron rehabilitation, taxiway B3 reconstruction, eastside general aviation apron improvements, eastside general aviation storm sewer rehabilitation, eastside commercial apron improvements, year 2000 upgrade of security access control and runway surface sensor systems, rehabilitate runway 13/31, improve drainage along taxiway A, install runway threshold lights on runway 8/26, construct county drain 10, construct perimeter road, prepare plans and specifications for runway 8/26 extension and perimeter road, master plan update.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air taxi/commercial operators filing FAA form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Hector International Airport.

Issued in Des Plaines, Illinois on June 21, 2001.

Robert Benko,

Acting Manager, Planning and Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 01–16609 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Policy Statement Number ANM–01–04; System Wiring Policy for Certification of Part 25 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of policy statement; request for comments.

SUMMARY: This notice announces the FAA's policy with respect to the type design data needed for the certification of wiring installed on transport category airplanes. The policy is necessary to correct deficiencies associated with the submittal of design data and instructions for continuing airworthiness involving airplane system wiring for type design, amended design, and supplemental design changes. This notice advises the public, in particular applicants for type certificates, amended type certificates, supplemental type certificates, or type design changes, of the range and quality of type design data that the FAA will expect applicants to submit as part of any certification project. This notice is necessary to advise the public of FAA policy and give all interested persons an opportunity to present their views on the policy statement.

DATES: Send your comments on or before August 1, 2001.

ADDRESSES: Address your comments to the individual identified under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Gregory Dunn, Federal Aviation Administration, Transport Airplane Directorate, Transport Standards Staff, Airplane and Flight Crew Interface Branch, ANM–111, 1601 Lind Avenue SW., Renton, WA 98055–4056; telephone (425) 227–2799; fax (425)

227–1320; e-mail: gregory.dunn@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–01–04.''

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.

Background

The safety standards for civil transport category airplanes are specified in Title 14, Code of Federal Regulations (CFR), part 25. If an applicant demonstrates that a particular design (i.e., a particular model) complies with these standards, the FAA issues it a design approval. The drawings and other data that describe that design are known as the ''type design.'' When an applicant submits the necessary documents required for type certification to the FAA for approval, the compilation of those documents is known as the ''type design data package.''

Certification projects submitted to the FAA for approval generally fall into two different categories:

1. *Multiple Approvals:* Multiple approvals are approvals for modifications that may be installed on any airplane of a specific type. These approvals require a data package that defines the installation so that it may be duplicated on another airplane by an installer. It is FAA's policy to require that type design data packages for multiple approvals include the following:

- A drawing package that completely defines the configuration, material, and production processes necessary to produce each part in accordance with the certification basis of the product.
- Any specifications referenced by the required drawings.
- Drawings that completely define the location, installation, and routing, as appropriate, of all equipment in accordance with the certification basis of the product. If the modification being approved is a change to a type certificated product, the modification must be equivalent to and compatible with the previously approved type design standards.

In addition, any applicant for a type certificate (TC), supplemental type certificate (STC), or type design change must submit Instructions for Continued Airworthiness in accordance with § 21.50 (''Instructions for continued airworthiness and manufacturer's maintenance manuals having airworthiness limitations sections'').

2. *One-Only Approvals:* Some modification approvals are specific to only one airplane by serial number. These modifications are often referred to as ''one-only approvals.'' For one-only approvals, duplication of the installation is not necessary and different (i.e., lesser) data standards may apply. The certification regulations for one-only approvals permit the use of photographs and other similar data to document the modification. The degree of compliance of the policy statement herein for one-only design approvals is left to discretion of the certification engineer.

Based on certification projects submitted to the FAA for review in recent years, the FAA has become aware that there is some confusion among applicants as to the definition of ''type design,'' especially with respect to the inclusion of drawings and specifications necessary to define the wiring configuration associated with equipment installation. In a number of recent certification projects, type design data packages that were submitted did not include wiring diagrams showing the source and destination of all wire associated with the installation. Also, wire installation drawings showing airplane wire routing, grounding, shielding, clamping, conduits, etc., either were missing or lacked sufficient detail. The wiring diagrams and installation drawings did not contain the necessary information intended by the relevant regulations. These drawing packages did not adequately and clearly define the configuration of the model to be certificated. In addition, Instructions for Continued Airworthiness, as required by the regulations, were not defined.

Current Regulatory Requirements

The type and quality of data required for type design data packages and requirements for Instructions for Continuing Airworthiness are indicated in the regulations. The pertinent sections of 14 CFR are as follows:

§ 21.31 (''Type design''): This section defines and describes ''type design.''

§ 21.33 (''Inspection and tests''): This section, specifically § 21.33(b), provides additional insight as to the contents of the type design data package.

§ 21.21 (''Issue of type certificate: normal, utility, acrobatic, commuter, and transport category aircraft; manned free balloons, special classes of aircraft, aircraft engines; propellers''): This section lists pertinent requirements for a type certificate.

§ 21.50 (''Instructions for continued airworthiness and manufacturer's maintenance manuals having airworthiness limitations sections''): This section requires applicants to submit instructions for continued airworthiness as part of their type design data package. Paragraph 21.50(b) is relevant to this policy statement.

§ 21.101 (''Designation of applicable regulations'') and *§ 21.115* (''Applicable requirements''): These sections make it clear that these data requirements apply to changes to type certificates.

Procedures for accomplishing the evaluation and approval of airplane type design data can be found in FAA Order 8110.4B, ''Type Certification,'' dated April 24, 2000. This document gives comprehensive guidance on what constitutes a design package and what is necessary to make acceptable findings of compliance.

Identified Problems

Ambiguous Definition of Configuration: As mentioned above, the FAA has identified a number of recently submitted type design data packages that did not meet the intent of § 21.31(a). Specifically, these packages did not completely define the certification configuration. For example, these packages did not completely define specific routing and installation of wiring on the airplane, which then left an inordinate portion of the installation to the discretion of the installer.

The routing of wiring is an important aspect not only to the system being modified, but also to other systems that can be affected by that wiring. It is important that the routing of wiring strictly follow the criteria established by the FAA in the certification basis, as reflected in the holder's original or subsequently approved type design. This requires installation drawings and instructions that completely define the required routing and installation with sufficient detail to allow repeatability of the installation.

System Safety Assessment: A system safety assessment is done as part of the installation of any equipment on the airplane. This typically consists of a functional hazard analysis, failure mode and effects analysis, zonal analysis, or other safety analyses appropriate to the system being installed. In the past, insufficient emphasis has been placed on an examination of failures of wiring external to the actual line replaceable units being installed. Failure of wiring in bundles due to chaffing, contamination, or other causes may affect the continued safe operation of the airplane.

References to General Guidance: Problems occur when applicants over rely on ''standard practices'' or other general guidance for installation details. Often, type design data packages make references to FAA Advisory Circular (AC) 43–13, ''Acceptable Methods, Techniques, and Practices—Aircraft Inspection and Repair,'' for installation instructions. That guidance is general in nature and offers applicants multiple options for compliance. Because the installer can choose from a number of options for installation details, it is difficult for the FAA to find that the configuration complies with the criteria established by the FAA in the certification basis for a previously approved type design. An installer could make inappropriate choices of method, depending upon his or her previous experience and training.

The practice of referencing general guidance, on those occasions when safety assurances and certification criteria necessitate strict adherence to specified certification standards, could result in an incomplete definition of the installation configuration.

Omission of Manufacturing Process Specifications: There also have been cases where crucial manufacturing process specifications were omitted in the type design data packages pertaining to wiring installation details. This has led to insufficient control of the production of parts, and consequent airworthiness problems related to faulty parts manufacturing. This omission error frequently occurs when the type design approval holder routinely uses a complex process, but has not carefully defined the process in the type design data. As a consequence, it can result in approval of replacement parts that may not comply with necessary but undefined processing requirements.

Modifications Not Compatible With Original Type Design Standards: Another common problem occurs when a modifier is unaware of, or does not specify, installation and routing practices that are compatible with the certification standards established for the original type design.

Some manufacturers provide an abbreviated version of their installation and routing specifications in the maintenance manual that they prepare for their products. These specifications may not be readily available to modifiers. This can result in ''inadvertent non-compliance'' with certification requirements. One example of this kind of inadvertent non-compliance would be the installation of a power wire for a modification in a wire bundle containing critical wiring that the original manufacturer was required to isolate from other systems. This type of situation can be prevented by the applicant using experienced design engineers, doing physical inspections of the airplanes to be modified to ensure compatibility, and using the original airplane manufacturer's wiring installation guidelines.

Instructions for Continued Airworthiness: A review of past certification projects indicates that the maintenance aspects of system wire external to the installed equipment is not being adequately addressed. The integrity of the wiring is typically left to those doing general airplane maintenance that relies on visual inspections. However, visual inspections may not be adequate for wiring routed in metal or opaque conduits, wire in high vibration areas, or wire located in difficult to inspect areas. Equipment installers need to address any special maintenance requirements for the airplane wiring associated with equipment installation.

Statement of FAA Policy

Unambiguous Definition of Configurations: Type design data packages should meet the intent of § 21.31(a). These packages should completely define the certification configuration. Specifically, routing and installation of wiring on the airplane should be addressed. It is important that the routing of wiring strictly follow the intent of the criteria established by the FAA in the certification basis as reflected in the original or subsequently approved type design approval holder's design. The installer should provide with each application for design approval the following:

- Wiring diagrams showing source and destination of all airplane wiring associated with equipment installation;
- Installation drawings.

Installation drawings that completely defines the configuration typically will identify:

- Equipment locations,
- Wiring routings,
- Mounting and support details, and
- Other such details of features.

System Safety Assessment: Certain airworthiness criteria require failure analyses (i.e., failure mode and effect analysis, zonal analysis, or other safety analysis) to demonstrate that a failure of the system under consideration:

- Does not, in itself, constitute an unacceptable hazard, and
- Does not result in damage to other systems that are essential to safety.

The system safety assessment should include an assessment of the effects of failures of the airplane wire and its associated wire bundle for equipment installed on the airplane. The analysis should consider the possible effects wire system failures would have on systems required for safe flight and landing due to damage in collocated wiring bundles and the possibility of smoke and/or fire events.

Failure of other systems must not damage a system being modified if the modified system is essential to safety. Such analysis requires that any possible interaction between systems be examined. This, in turn, requires definitive knowledge of the configuration through design control and an understanding of the airplane manufacturer's wire installation rules, especially any requirements that pertain to wire separation.

Specific Installation Drawings Instead of General References: The FAA expects the applicant to provide definitive drawings instead of merely statements such as ''install in accordance with industry standard practices,'' or ''install in accordance with AC 43.13.'' The FAA considers such statements inadequate because the standard practices cannot define the precise location or routing of the wiring.

Process Specifications and Modifications Compatible with Original Standards: As noted in § 21.21, certain of the airworthiness requirements require analysis or tests to define the strength, durability, and life of components associated with the installation of wiring in the airplane (i.e., connectors, brackets, wire constraints, grommets, ground terminations, etc.). These tests and analyses require complete definition of the parts so that:

- Conformity of the parts to the type design may be verified, and
- The characteristics of the parts important for test or analysis may be determined.

The airplane wiring parts specification provides the basis for necessary stress, durability, and life analysis. A complete definition of the

parts, including wiring and wire installation hardware, requires a drawing package that clearly and completely identifies:

- Shape,
- Material,
- Production processes,
- Any other properties affecting strength or functionality of each part, and
- The arrangement of each part in the final assembly.

As an example, the FAA expects drawings to identify the material specification, heat treat, corrosion protection or other finish, and any other important characteristic of each part subject to test or analysis for showing compliance with the airworthiness requirements. Much of this information can be provided by reference on the drawings to material or process specifications; the references then become part of the drawing and, consequently, part of the type design data package.

Modifiers of aeronautical products should use practices that reflect the certification criteria applicable to the original airplane manufacturer (OAM). The applicant should demonstrate that installation specifications and routing practices for the wiring used by modifiers is either the same as, or compatible with, those that are used presently for showing compliance to the type design certification requirements. Specifically, wire separation, wire types, wire bundle sizes, brackets, and clamping should be consistent with the approved standards. This may require the applicant and/or modifier to:

- Obtain or determine the applicable OAM design standards and/or practices for a given installation,
- Do a physical inspection of the airplanes to be modified to ensure compatibility, and
- Develop processes and procedures to address compatibility between the original installation and the modification.

Modifiers and installers should use the airplane manufacture's maintenance manuals, such as Maintenance Manual Chapter 20 (''Standard Practices Airframe''), Maintenance Manual Chapter 70 (''Standard Practices Engines''), or Chapter 20 (''Standard Practices Wiring'') as the primary source of wiring installation information.

Instructions for Continued Airworthiness: Paragraph 21.50(b) of the regulations requires that Instructions for Continued Airworthiness (ICA) be supplied by the modifier for modifications to aircraft and related products. The ICA for any specific wiring maintenance should be addressed where § 25.1529 is included in the certification basis.

Assessment of wire condition relies heavily on visual inspection. Consequently, the ICA should address inspectability of wire in conduits and difficult to inspect areas of the airplane. Where wire cannot be inspected visually, the ICA should address wire removal for inspection, when necessary, and the use of inspection techniques that do not rely on visual inspection alone. For example, wire in metal conduits may require repeated inspections for wear.

The FAA expects applicants for modifications to provide airworthiness instructions for the proposed changes in a format compatible with other maintenance instructions for the aircraft involved.

Effect of This Statement of Policy

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 not apply or rely upon it as a regulation. Those tasked with the responsibility of airplane certification should generally attempt to follow this policy, when appropriate. In determining compliance with certification standards, each certification office has the discretion not to apply these guidelines where it determines that they are inappropriate. However, the certification office should strive to implement this guidance to the fullest extent possible to facilitate standardization and ensure that wiring installation details are adequately addressed during certification. Applicants should expect that the certificating officials will consider this information when making findings of compliance relevant to certification actions. Applicants also may consider the material contained in this policy statement as supplemental to that currently contained in 14 CFR part 21 when developing a means of compliance with the relevant certification standards.

Finally, as with all advisory material, this statement of policy identifies one means, but not the only means, of compliance.

Issued in Renton, Washington, on June 25, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–16602 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 188: Minimum Aviation System Performance Standards for High Frequency Data Link

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 188 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 188: Minimum Aviation System Performance Standards for High Frequency Data Link.

DATES: The meeting will be held July 10, 2001 starting at 1 pm.

ADDRESSES: The meeting will be held at RTCA, 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 (Pub.L. 92–463, 5 U.S.C. appendix 2), notice is hereby given for a Special Committee 188 meeting. The agenda will include:

July 10, 2001

- Opening Plenary Session (Chairman's Introductory Remarks, Approval of Previous Meeting Summary, Review of Agenda and Work Plan)
- Working Group 1, Review of High Frequency Data Link (HFDL) Minimum Aviation System Performance Standard (MASPS) Status and Draft Report
- Closing Plenary Session (Review Actions Items, Make Assignments, 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 chairman, 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 June 21, 2001.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–16477 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10011]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *Balboa Clipper.*

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR Part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before August 1, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10011. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement:

(1) Name of vessel and owner for which waiver is requested. Name of vessel: *Balboa Clipper.* Owner: Christopher L. Crowell.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''Size (length) 41 ft, Beam 12 ft 2 inches, Capacity 6 persons maximum, Tonnage 12.6.''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''Northeast New England Coast (Martha's Vineyard), Charters.''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1974. Place of construction: Taiwan, China.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''The granting of this waiver would have little impact on existing passenger vessels in this area, specifically there are currently only 8 similar small vessels operating around the waters off Martha's Vineyard, and only one out of the harbor of Oak Bluffs which my vessel would operate.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''Only one shipyard for building vessels currently exists in this area of the U.S. and it only builds wooden vessels. Therefore adverse impact locally would be non-existent. Since the boat requires yearly hauling and maintenance, operation of this vessel for commercial passenger use (charters) would bring further business to the local shipyards.''

Dated: June 26, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–16514 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD–2001–10012]

Requested Administrative Waiver of the Coastwise Trade Laws

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel *Jule III.*

SUMMARY: As authorized by Pub. L. 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Pub. L. 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

DATES: Submit comments on or before August 1, 2001.

ADDRESSES: Comments should refer to docket number MARAD–2001–10012. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at http://dmses.dot.gov/submit/. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket

is available on the World Wide Web at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

SUPPLEMENTARY INFORMATION: Title V of Pub. L. 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR Part 388.

Vessel Proposed for Waiver of the U.S.-Build Requirement:

(1) Name of vessel and owner for which waiver is requested.

Name of vessel: *Jule III.* Owner: Robert E. Todd.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''The sailing vessel Jule III is a 38 foot length overall ketch. Passenger capacity is limited to 5 passengers given the cockpit and berthing constraints. Net tonnage is 11 tons (determined by Atlantic Boat Document Inc, 58 Leeland Rd, Edgewater MD, 21037).''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''Non bareboat charter; multi-mast sail training; onboard maritime electronics and communications training; Chesapeake Bay (concentration below West River); Florida East Coast (training only.''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1978. Place of construction: Arnis/Schlei, Germany.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''The applicant believes that the intended commercial operations of the sailing vessel Jule III will have no adverse effect on other commercial operations for the following reasons:

a. Our major regions (please refer to (8) above) do not have significant commercial operations relative to Jule III's intended use. Non-bareboat Charter (i.e., charter with licensed master) is very uncommon below Annapolis in Maryland and above Norfolk in Virginia.

b. Training specializing in multi-masted sailing vessels of Jule III's size (38 foot ketch) is not routinely conducted in the section 8 regions. Onboard electronics and communications training by a licensed FCC operator is not routinely conducted in the section 8 regions.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''The applicant believes that approval of the requested waiver will have no impact on United States vessel builders for the following reason: United States vessel builders no longer routinely build or advertise multi masted sailing vessels in the size category of the Jule III (38 feet). Multi masted sailing vessels below 50 feet have not been common since the early 1990's.''

Dated: June 26, 2001.

By Order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 01–16513 Filed 6–29–01; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Ex Parte No. 558 (Sub–No. 4)]

Railroad Cost of Capital—2000

AGENCY: Surface Transportation Board.

ACTION: Notice of decision.

SUMMARY: On July 2, 2001 the Board served a decision to update its computation of the railroad industry's cost of capital for 2000. The composite after-tax cost of capital rate for 2000 is found to be 11.0%, based on a current cost of debt of 8.0%; a cost of common equity capital of 13.9%; a cost of preferred equity capital of 6.3%; and a capital structure mix comprised of 45.4% debt, 52.1% common equity, and 2.5% preferred equity. The cost of capital finding made in this proceeding will be used in a variety of Board proceedings.

EFFECTIVE DATE: This action is effective July 2, 2001.

FOR FURTHER INFORMATION CONTACT: Leonard J. Blistein, (202) 565–1529. [TDD for the hearing impaired: (800) 877–8339.]

SUPPLEMENTARY INFORMATION: The cost of capital finding in this decision may be used for a variety of regulatory purposes. To obtain a copy of the full decision, write to, call, or pick up in person from: Da-To-Da Office Solutions., Room 405, 1925 K Street, N.W., Washington, DC 20423. Telephone: 202 293–7776, Fax 202 293–0770. Assistance for the hearing impaired is available through TDD services 1–800–877–8339. The decision is also available on the Board's internet site at www.stb.dot.gov.

Environmental and Energy Considerations

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. 605(b), we conclude that our action in this proceeding will not have a significant economic impact on a substantial number of small entities. The purpose and effect of this action are to update the annual railroad industry cost of capital finding by the Board. No new reporting or other regulatory requirements are imposed, directly or indirectly, on small entities.

Authority: 49 U.S.C. 10704(a).

Decided: June 26, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–16592 Filed 6–29–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of Customs duties. For the quarter beginning July 1, 2001, the interest rates for overpayments will be 6 percent for corporations and 7 percent

for non-corporations, and the interest rate for underpayments will be 7 percent. This notice is published for the convenience of the importing public and Customs personnel.

EFFECTIVE DATE: July 1, 2001.

FOR FURTHER INFORMATION CONTACT: Ronald Wyman, Accounting Services Division, Accounts Receivable Group, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278, (317) 298–1200, extension 1349.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of Customs duties shall be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Pub. L. 105–206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the short-term Federal rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2001–32 (*see,* 2001–26 IRB 1, dated June 25, 2001), the IRS determined the rates of interest for the fourth quarter of fiscal year (FY) 2001 (the period of July 1–September 30, 2001). The interest rate paid to the Treasury for underpayments will be the short-term Federal rate (4%) plus three percentage points (3%) for a total of seven percent (7%). For corporate overpayments, the rate is the Federal short-term rate (4%) plus two percentage points (2%) for a total of six percent (6%). For overpayments made by non-corporations, the rate is the Federal short-term rate (4%) plus three percentage points (3%) for a total of seven percent (7%). These interest rates are subject to change the first quarter of FY–2002 (the period of October 1–December 31, 2001).

For the convenience of the importing public and Customs personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of Customs duties, is published in summary format.

Beginning date	Ending date	(In percent)		Corporate Overpayments (Eff. 1–1–99)
		Under-payments	Over-payments	
Prior to:				
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	093001	7	7	6

Dated: June 27, 2001.

Charles W. Winwood,

Acting Commissioner of Customs.

[FR Doc. 01–16541 Filed 6–29–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Renegotiation Board Interest Rate; Prompt Payment Interest Rate; Contract Disputes Act

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: For the period beginning July 1, 2001 and ending on December 31, 2001 the prompt payment interest rate is 5.875 per centum per annum.

ADDRESSES: Comments or inquiries may be mailed to Eleanor Farrar, Team Leader, Debt Accounting Branch, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia, 26106–1328. A copy of this Notice will be available to download from http://www.publicdebt.treas.gov.

DATES: This notice announces the applicable interest rate for the July 1, 2001 to December 31, 2001 period.

FOR FURTHER INFORMATION CONTACT: Frank Dunn, Manager, Debt Accounting Branch, Office of Public Debt Accounting, Bureau of the Public Debt, Parkersburg, West Virginia, 26106–1328, (304) 480–5170; Eleanor Farrar, Team Leader, Borrowings Accounting Team, Office of Public Debt Accounting, Bureau of the Public Debt, (304) 480–5166; Edward C. Gronseth, Deputy Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, (304) 480–3692; or Mary C. Schaffer, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, (304) 480–3682.

SUPPLEMENTARY INFORMATION: Although the Renegotiation Board is no longer in existence, other Federal Agencies are required to use interest rates computed under the criteria established by the Renegotiation Act of 1971 Sec. 2, Pub. L. 92–41, 85 Stat. 97. For example, the Contract Disputes Act of 1978 Sec. 12, Pub. L. 95–563, 92 Stat. 2389 and the Prompt Payment Act of 1982 Sec. 2, Pub. L. 97–177, 96 Stat. 85, provide for the calculation of interest due on claims at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. 3902(a).

Therefore, notice is given that the Secretary of the Treasury has determined that the rate of interest applicable, for the period beginning July 1, 2001 and ending on December 31, 2001, is 5.875 per centum per annum. This rate is determined pursuant to the above-mentioned sections for the purpose of said sections.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 01–16691 Filed 6–29–01; 8:45 am]

BILLING CODE 4810–39–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 709–A

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 709–A, United States Short Form Gift Tax Return.

DATES: Written comments should be received on or before August 31, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack, (202) 622–3179, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: United States Short Form Gift Tax Return.

OMB Number: 1545–0021.

Form Number: Form 709–A.

Abstract: Form 709–A is an annual short form gift tax return that certain married couples may use instead of Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, to report nontaxable gifts that they elect to split. The IRS uses the information on the form to assure that gift-splitting was properly elected.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 45,000.

Estimated Time Per Respondent: 59 minutes.

Estimated Total Annual Burden Hours: 44,100.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 26, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–16613 Filed 6–29–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–NA

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 706–NA, United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States.

DATES: Written comments should be received on or before August 31, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States.

OMB Number: 1545–0531.

Form Number: 706–NA.

Abstract: Form 706–NA is used to compute estate and generation-skipping transfer tax liability for nonresident alien decedents in accordance with section 6018 of the Internal Revenue Code. IRS uses the information on the form to determine the correct amount of tax and credits.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 4 hours, 36 minutes.

Estimated Total Annual Burden Hours: 4,607.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 26, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–16614 Filed 6–29–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Forms 8804, 8805 and 8813

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8804, Annual Return for Partnership Withholding Tax (Section 1446), Form 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax and Form 8813, Partnership Withholding Tax Payment Voucher (Section 1446).

DATES: Written comments should be received on or before August 31, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms and instructions should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, Room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 8804, Annual Return for Partnership Withholding Tax (Section 1446); Form 8805, Foreign Partner's Information Statement of Section 1446 Withholding Tax; and Form 8813, Partnership Withholding Tax Payment Voucher (Section 1446).

OMB Number: 1545–1119.

Form Number: 8804, 8805 and 8813.

Abstract: Internal Revenue Code section 1446 requires partnerships that are engaged in the conduct of a trade or business in the United States to pay a withholding tax if they have effectively connected taxable income that is allocable to foreign partners. The partnerships use Form 8813 to make payments of withholding tax to the IRS. They use Forms 8804 and 8805 to make annual reports to provide the IRS and affected partners with information to assure proper withholding, crediting to partners' accounts and compliance.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 24 hr., 14 min.

Estimated Total Annual Burden Hours: 121,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or

included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 26, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–16615 Filed 6–29–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 2848

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 2848, Power of Attorney and Declaration of Representative.

DATES: Written comments should be received on or before August 31, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Power of Attorney and Declaration of Representative.

OMB Number: 1545–0150.

Form Number: 2848.

Abstract: Form 2848 issued to authorize someone to act for the taxpayer in tax matters. It grants all powers that the taxpayer has except signing a return and cashing refund checks. The information on the form is used to identify representatives and to ensure that confidential information is not divulged to unauthorized persons.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, and farms.

Estimated Number of Respondents: 800,000.

Estimated Time Per Respondent: 1 hour, 53 minutes.

Estimated Total Annual Burden Hours: 1,504,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 26, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–16616 Filed 6–29–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8826

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8826, Disabled Access Credit.

DATES: Written comments should be received on or before August 31, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, Room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Disabled Access Credit.

OMB Number: 1545–1205.

Form Number: 8826.

Abstract: Internal Revenue Code section 44 allows eligible small businesses to claim a nonrefundable income tax credit of 50% of the amount of eligible access expenditures for any tax year that exceed $250 but do not exceed $10,250. Form 8826 figures the credit and the tax liability limit.

Current Actions: There are no changes being made to Form 8826 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, farms and individuals.

Estimated Number of Respondents: 26,133.

Estimated Time Per Respondent: 9 hr., 12 min.

Estimated Total Annual Burden Hours: 240,424.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 26, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–16617 Filed 6–29–01; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 66, No. 127

Monday, July 2, 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 81

[CO–001–0058a, CO–001–0059a; FRL–6989–3]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Designation of Areas for Air Quality Planning Purposes, Telluride and Pagosa Springs

Correction

In rule document 01–15029 beginning on page 32556 in the issue of Friday, June 15, 2001, make the following corrections:

§81.306 [Corrected]

1. On page 32563, in §81.306, in the first column of the table, under ''San Miguel County: Telluride'', in the first paragraph, the first sentence, ''The Telluride attainment/maintenance area begins 28 at the intersection ofColorado State Highway 145 and the Telluride service area boundary, existed in 1991.'' should read ''The Telluride attainment/maintenance area begins at the intersection of Colorado State Highway 145 and the Telluride service area boundary, as it existed in 1991. ''.

2. On the same page, in the same section, in the same table column, in the same paragraph, in the fourth line, remove the numeral ''2'' between ''the'' and ''nonattainment''.

[FR Doc. C1–15029 Filed 6–29–01; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

29 CFR Part 2520

RIN 1210–AA69; 1210–AA55

Amendments to Summary Plan Description Regulations

Correction

In rule document 00–29765 beginning on page 70226 in the issue of Tuesday, November 21, 2000 make the following corrections

§2520.102 [Corrected]

1. On page 70241, in the second column, in §2520.102-3(d), in the second line, ''i.e. for pension plans-'' should read ''e.g. ''.

2. On the same page, in the third column, in §2520.102-3(j)(3), in the fifth line, ''a description of any cost sharing provisions'' should read ''a description of: any cost sharing provisions''.

§2520.104b-3 [Corrected]

3. On page 70244, in the third column, in §2520.104b-3(d)(3)(ii), in the sixteenth line, ''new conditions or requirements (i.e.,'' should read ''new conditions or requirements (e.g.,''.

[FR Doc. C0–29765 Filed 6–29–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
July 2, 2001

Part II

Department of Health and Human Services

Administration for Children and Families

Fiscal Year 2001 Training, Technical Assistance and Capacity-Building Program; Availability of Funds and Request for Applications; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS 2001–08]

Fiscal Year 2001 Training, Technical Assistance and Capacity-Building Program; Availability of Funds and Request for Applications

AGENCY: Office of Community Services (OCS), Administration for Children and Families (ACF), Department of Health and Human Services (DHHS).

ACTION: Request for Applications under the Office of Community Services' Training, Technical Assistance and Capacity-Building Program.

SUMMARY: The Office of Community Services announces that competing applications will be accepted for new grants pursuant to the Secretary's authority under section 674(b) of the Community Services Block Grant (CSBG) Act, as amended, by the Community Opportunities, Accountability, and Training, and Educational Services (Coats) Human Services Reauthorization Act of 1998, (Pub.L. 105–285). This program announcement consists of seven parts. Part A provides information on the legislative authority and defines terms used in the program announcement. Part B describes the purposes of the program, the priority areas that will be considered for funding, and which organizations are eligible to apply in each priority area. Part C provides details on application prerequisites, anticipated amounts of funds available in each priority area, estimated number of grants to be awarded, and other grant-related information. Part D provides information on application procedures including the availability of forms, where to submit an application, criteria for initial screening of applications, and project evaluation criteria. Part E provides guidance on the content of an application package. Part F provides instructions for completing an application. Part G details post-award requirements.

DATES: Closing Date: The closing date for submission of applications is August 16, 2001. Mailed applications shall be considered as meeting the announced deadline if they are received on or before deadline date or are postmarked on or before the deadline date. Applications received after the closing date will be classified as late and not considered for funding. Applications that are handcarried will be classified as late if they are received after 4:30 p.m., EST, on the deadline date. Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U. S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing. Detailed application submission instructions, including addresses where applications must be sent are found in Part D of this program announcement.

FOR FURTHER INFORMATION CONTACT: Margaret Washnitzer, Director, Division of State Assistance, Office of Community Services, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447 (202) 401–9343. This program announcement is accessible on the OCS web site for reading or downloading at: http://www/acf/dhhs/gov/programs/ocs.

Additional copies of this program announcement can be obtained by calling (202) 401–9343.

(The Catalog of Federal Domestic Assistance number is ''93.570.'' This Program announcement title is ''Training, Technical Assistance, and Capacity-Building Program.'')

Part A—Preamble

1. Legislative Authority

Sections 674(b)(2) and 678E(b) of the Community Services Block Grant (CSBG) Act of 1981, (Pub. L. 97–35) as amended by the Coats Human Services Reauthorization Act of 1998, (Pub. L. 105–285) authorizes the Secretary of Health and Human Services to utilize a percentage of appropriated funds for: training, technical assistance, planning, evaluation, performance measurement, monitoring, to assist States in carrying out corrective actions and to correct programmatic deficiencies of eligible entities, and for reporting and data collection activities related to programs or projects carried out under the CSBG Act. The Secretary may carry out these activities through grants, contracts, or cooperative agreements. To address program quality in financial management practices, management information and reporting systems, and measurement of program results and to ensure responsiveness to identified local needs, the Secretary is required to distribute funds directly to eligible entities, or statewide or local organizations or associations with demonstrated expertise in providing training to individuals and organizations on methods of effectively addressing the needs of low-income families and communities. The Secretary may carry out the remaining activities through appropriate entities.

The process for determining the technical assistance, training and capacity-building activities to be carried out must (a) ensure that the needs of eligible entities and programs relating to improving program quality, including financial management practices, are addressed to the maximum extent feasible; and (b) incorporate mechanisms to ensure responsiveness to local needs, including an on-going procedure for obtaining input from State and national networks of eligible entities. Thus, the CSBG Monitoring and Assessment Task Force (MATF) continues to focus on implementation of the Results-Oriented Management and Accountability (ROMA) system to address the challenges and unmet needs of States and Community Action Agencies and to increase program quality and management within the Community Services Network. The Task Force has taken a comprehensive approach to monitoring, including establishing national goals and outcome measures, and established target dates for nation-wide implementation; reviewing data needs relevant to these outcome measures; and assessing technical assistance and training provided toward capacity building within the Community Services Network.

2. Definitions of Terms

For purposes of the FY 2001 CSBG Training, Technical Assistance and Capacity-Building Program, the following definitions apply:

At-Risk Agencies refers to CSBG eligible entities in crises. The problem(s) to be addressed must be of a complex or pervasive nature that cannot be adequately addressed through existing local or State resources.

Capacity-building refers to activities that assist Community Action Agencies (CAAs) and other eligible entities to improve or enhance their overall or specific capability to plan, deliver, manage and evaluate programs efficiently and effectively to produce intended results for low-income individuals. This may include upgrading internal financial management or computer systems, establishing new external linkages with other organizations, improving board functioning, adding or refining a program component or replicating techniques or programs piloted in another local community, or making other cost effective improvements.

Community in relationship to broad representation refers to any group of individuals who share common

distinguishing characteristics including residency, for example, the ''low-income'' community, or the ''religious'' community or the ''professional'' community. The individual members of these ''communities'' may or may not reside in a specific neighborhood, county or school district but the local service provider may be implementing programs and strategies that will have a measurable affect on them. Community in this context is viewed within the framework of both community conditions and systems, i.e., (1) public policies, formal written and unstated norms adhered to by the general population; (2) service and support systems, economic opportunity in the labor market and capital stakeholders; (3) civic participation; and (4) an equity as it relates to the economic and social distribution of power.

Community Services Network (CSN) refers to the various organizations involved in planning and implementing programs funded through the Community Services Block Grant or providing training, technical assistance or support to them. The network includes local Community Action Agencies and other eligible entities; State CSBG offices and their national association; CAA State, regional and national associations; and related organizations which collaborate and participate with Community Action Agencies and other eligible entities in their efforts on behalf of low-income people.

Cooperative Agreement is an award instrument of financial assistance where ''substantial involvement'' is anticipated between the awarding agency and the recipient during the performance of the contemplated project or activity. ''Substantial involvement'' means that the recipient can expect Federal programmatic collaboration or participation in managing the award.

Eligible entity means any organization that was officially designated as a Community Action Agency (CAA) or a community action program under section 673(1) of the Community Services Block Grant Act, as amended by the Human Services Amendments of 1994 (Pub. L. 103–252), and meets all the requirements under Sections 673(1)(A)(I), and 676A of the CSBG Act, as amended by the Coats Human Services Reauthorization Act of 1998. All eligible entities are current recipients of Community Services Block Grant funds, including migrant and seasonal farmworker organizations that received CSBG funding in the previous fiscal year. In cases where eligible entity status is unclear, a final determination will be made by OCS/ACF.

Hub is a Department of Health and Human Services designation for multiple regional locations.

Local service providers are local public or private non-profit agencies that receive Community Services Block Grant funds from States to provide services to, or undertake activities on behalf of, low-income people.

Nationwide refers to the scope of the technical assistance, training, data collection, or other capacity-building projects to be undertaken with grant funds. Nationwide projects must provide for the implementation of technical assistance, training or data collection for all or a significant number of States, and the local service providers who administer CSBG funds.

Outcome Measures are indicators that focus on the direct results one wants to have on customers.

Performance Measurement is a tool used to objectively assess how a program is accomplishing its mission through the delivery of products, services, and activities.

Program technology exchange refers to the process of sharing expert technical and programmatic information, models, strategies and approaches among the various partners in the Community Services Network. This may be done through written case studies, guides, seminars, technical assistance, and other mechanisms.

Regional Networks refers to CAA State Associations within a region.

Results-Oriented Management and Accountability (ROMA) System: ROMA is a system, which provides a framework for focusing on results for local agencies funded by the Community Services Block Grant Program. It involves setting goals and strategies for developing plans and techniques that focus on a result-oriented performance based model for management.

State means all of the 50 States and the District of Columbia. Except where specifically noted, for purposes of this program announcement, it also includes specified Territories.

State CSBG Lead Agency (SCLA) is the lead agency designated by the Governor of the State to develop the State CSBG application and to administer the CSBG Program.

Statewide refers to training and technical assistance activities and other capacity building activities undertaken with grant funds that will have significant impact, i.e. activities should impact at least 50 percent of the eligible entities in a State.

Technical assistance is an activity, generally utilizing the services of an expert (often a peer), aimed at enhancing capacity, improving programs and systems, or solving specific problems. Such services may be provided proactively to improve systems or as an intervention to solve specific problems.

Territories refer to the Commonwealth of Puerto Rico, and American Samoa for the purpose of this announcement.

Training is an educational activity or event which is designed to impart knowledge, understanding, or increase the development of skills. Such training activities may be in the form of assembled events such as workshops, seminars, conferences or programs of self-instructional activities.

Part B—Purposes/Program Priority Areas

The principal purpose of this Training, Technical Assistance and Capacity funding is to stimulate and support planning, training, technical assistance and data collection activities that strengthen the Community Services Network. New and revised techniques and tools are needed to fundamentally change the way the Network does business on a daily basis.

In addition, there are specific changes in sections 676(b)(12) and 678(E) of the CSBG Act, as amended in 1998, that mandate data collection and performance measurement systems by Fiscal Year 2001. The system developed under the leadership of OCS is called the Results-Oriented Management and Accountability system (ROMA). Technical assistance and training activities described in this program announcement are also impacted by the Government Performance and Results Act of 1993 (Pub L. 103–62). This Act requires Federal programs describe expected program ''outcomes'' and the Monitoring and Assessment Task Force (MATF) develop and implement a process (ROMA) to assist the Community Services Network in managing the results. Thus, strong training, technical assistance, planning and data collections are essential to the continued results-oriented strategy to strengthen the management and delivery of services to low-income people.

Subject to the availability of funds, OCS is soliciting applications that implement these legislative mandates in a comprehensive and systematic manner on a nationwide or statewide basis, as appropriate to the priority area. OCS believes that identifying training and technical assistance needs requires substantial involvement of eligible entities working in partnership at local, State and national levels. Funds will be

awarded in the form of both grants and cooperative agreements.

Priority areas of the Office of Community Services' Fiscal Year 2001 Training, Technical Assistance and Capacity-Building Program are as follows:

Priority Area 1.0: Training and Technical Assistance for ROMA Implementation

Sub-Priority Areas

1.1 National Academy (NA)
2.1 Leadership Development (LD)
2.2 Train-the-Trainers (TT)
2.3 Best Practices (BP)
2.4 Impact Information (IF)
2.5 Special ROMA Technical Assistance (RM)

Priority Area 2.0: CAA Capacity Building

Sub-Priority Areas

2.1 National Training (CB)
1.2 Collection, Analysis and Dissemination of Information On the CSBG Activities (IS)
2.3 Local Capacity Building (CP)
1.3 Strengthening CAA Capacity to Address Legal Issues (LF)
1.4 Addressing Urban Needs (UI)
1.5 State CAA Association Capacity Building (EQ)

Priority Area 3.0: Strengthening At-Risk Agencies

2.1 Special State Technical Assistance
2.2 National Peer-to-Peer Assistance

Priority Area 4.0: Information Sharing

3.1 Information Sharing Tools

Activities under Sub-Priority Areas 2.1, National Training and Technical Assistance (CB); 2.2 Data Collection, Analysis and Dissemination (CP); 2.4, Strengthening CAA Capacity on Legal Issues Toward Problem Solving (LF); and 2.5 Technical Assistance to Address Urban Issues (UI) will be carried out under a continuation grant in FY 2001 without further competition and are included in the Availability of Funds section of this Announcement. Under Sub-Priority 1.2, Leadership Development (LD), OCS will provide continuation funding to an existing grantee and fund on additional new two-year project.

In order to ensure that OCS meets its compliance and technical assistance responsibilities for the CSBG Program continues its effective partnership with the Community Services Network; several of these continuation grants will be funded in the form of Cooperative Agreements.

Also, applications from States for funds under Sub-Priority 3.1, (ST) Special State Technical Assistance Activities, are being supported under a separate non-competitive grant application process. These State awards will address fiscal and program deficiencies.

Priority Area 1.0: Training and Technical Assistance for ROMA Implementation

This Priority Area addresses the development and implementation of coordinated, comprehensive, nationwide or statewide training and/or technical assistance programs to assist State CSBG Lead Agency (SCLA) staff, staff of State and regional organizations representing eligible entities, and staff of local service providers which receive funding under the CSBG Act to acquire the skills and knowledge needed to achieve universal ROMA implementation by Fiscal Year 2003. Priority Area 1.10 also aims to reduce the number of ''at risk'' agencies through timely and effective management and program interventions, including planning, monitoring and evaluation of programs designed to ameliorate the causes of poverty in local communities. Proposals should include a description of how the applicant will collaborate with State CSBG staff and local service providers.

Sub-Priority Area 1.1: National Academy (NA)

OCS intends to fund one national ''academy'' to provide training in program administration and financial management. Through such support, OCS will provide the Community Services Network (CSN) with a national resource to address ROMA Goal #5: ''Agencies increase their capacity to achieve results.'' The applicant under this Sub-Priority must be able to demonstrate a strong and effective history of providing basic program administration and fiscal management training on a local, regional, or national basis to new CAA officials or those in ''at risk'' CAAs. Applicants must demonstrate an understanding of the unique role of CAAs in coordinating a variety or programs, funding sources, and activities both within and outside the agency to achieve client and community outcomes. The application must document proposed course content, logistics, and means to evaluate the effectiveness of ''academy'' training based on a performance based model (ROMA) in such areas as, but not limited to: (1) Long-range and annual planning, (including needs assessment, board participation and governance, resource acquisition, relationship to other programs/services in the community); (2) Program administration (including resource allocation, oversight, record keeping, and reporting); (3) Human resource management (staff recruitment, training, retention); (4) Facilities management; (5) Information systems (design, implementation, control and support); and (6) Program evaluation (including design implementation, reporting and board participation).

The successful applicant for the grant in this priority area will make available intensive, i.e., weeklong, training opportunities to CAA officials throughout the CSN based on needs identified by State CSBG Lead Agency officials (SCLAs). Some of these needs will be identified during the summer 2001 Regional Implementation Planning Meetings. The successful applicant must have the capacity to train a minimum of 200 participants a year at reasonable unit costs per participant. OCS intends to fund one project at a funding level of $250,000 annually. The project period will be 36 months, and the funding will be awarded under a cooperative agreement.

Eligible Applicants: Community Action Agencies, and/or State CAA Associations.

Sub-Priority Area 1.2: Leadership Development (LD)

OCS intends to fund two national training initiatives focused specifically on helping States and local CSBG leaders understand and embrace the program renewal concepts embodied in the ROMA. One project will be funded under a continuation award to ''Move the Mountain Leadership Center, Inc., Iowa; a second project will be a new three-year project under this competition.

The successful applicant under this sub-priority must demonstrate in its application experience in using ROMA to change the fundamental approach of CAAs from managing discrete programs and services to organizing efforts to achieve client and community outcomes. Applicants are asked to describe a proposed leadership training curriculum that focuses on but is not limited to:

(1) The use of ROMA as a strategic planning tool (including the creation of an overall mission for community action at the State, or local level which addresses relationships to other service providers and programs at the State or local level with broad participation);

(2) The use of ROMA to set specific performance measures related to client and community outcomes across all agency programs and services;

(3) Organizing programs and services to achieve client/community results;

(4) Measuring and reporting client/community outcomes; and

(5) Using ROMA generated data to advocate for additional resources with the community or State.

Successful applicants will be expected to address the needs of States and CSBG eligible entities. Each applicant must have the capacity to train 200 applicants in 2–4 day training sessions at a reasonable cost per participant.

OCS intends to fund one new three-year project at a level of $138,000 annually and one continuation project at a funding level of $136,000. The continuation grantee is Move the Mountain Leadership Center, Inc.

Eligible Applicants: Private non-profit organizations, eligible entities, State CSBG Agencies and State CAA Associations.

Sub-Priority Area 1.3: Train-the-Trainers

OCS intends to support the expansion of a ''training-the-trainers'' approach to implementing ROMA. By spreading the training capacity and making available a group of trained trainers in each of the DHHS Regional hubs, more community action agencies will have access to ROMA training. Applicants under this project must provide intensive training to participants who will be recruited from nominations made by the SCLAs and State Community Action Agency Associations. The training should be comprehensive and extensive, such that those completing the course will be certified as competent to train individually, or in groups, and all CAA staff levels on ROMA concepts and implementation. Applicants must provide for follow-up assistance to trainers, including consultation and sharing of new and updated information on training techniques and content.

This project will be funded for 36 months. The goal for the first year will be to train teams of five participants in each hub. The second year goal will be a shared training capacity between SCLAs and CAA State Associations in 25 States. The third year goal will establish a shared training capacity in an additional 25 States. Applicants must have a demonstrated capacity both in content knowledge and in this specific type of training. Applicants must base their training on the standards and goals for ROMA implementation as described in OCS Information Memorandum No. 49 (IM #49) dated February 21, 2001. IM #49 can be down-loaded from the OCS web site *http://www.acf.gov/programs/ocs/csbg/documents/im49.htm.* The training costs per participants under this project are to be included in this funding. The number of participants to be trained each year should be 30. The funding level is $300,000 annually and the project will be funded under a cooperative agreement.

Eligible Applicants: Private Non-profit Organizations, CAA State Associations and Eligible Entities

Sub-Priority Area 1.4: Best Practices

Six years of pioneering work in performance-based management has provided the Community Services Network with an abundance of best practices and model programs. While this knowledge base of successful ROMA implementers is known and available to some in the CSN, OCS believes that best practices and performers ought to be available to a broader audience of State and local agencies.

OCS intends to support up to 20 ROMA best practice implementers through grants under this Sub-Priority. Grants are to be used to subsidize the costs of having, ''best practice consultants'' provide training and technical assistance at regional, State or local community action meetings, as well as national association training and technical assistance conferences supported by the Office of Community Services. OCS seeks models for grants under this Sub-Priority from all agencies in the CSN. We are particularly interested in models and practitioners/consultants who have demonstrated successes in the following areas of ROMA implementation at the State or local levels:

(1) Leadership Training and the Use of ROMA for Program Renewal;

(2) ROMA-based Needs Assessment and Strategic Planning;

(3) Development and Use of Client, Community, or Organizational Outcome Measures;

(4) Board Involvement in Agency Goal Setting and Results-Oriented Oversight;

(5) Client and/or Community-Focused Programming and Service Delivery;

(6) ROMA-Focused Staffing (training, linkage to client/community outcomes);

(7) ROMA Compatible Information Systems (collection, analysis and report of client, community and/or organizational outcomes);

(8) Use of ROMA to Expand Program Linkages within and outside of Agency;

(9) Results-Oriented Financial Management;

(10) Ways of Using ROMA to ''Tell Our Story'' Better to State legislatures, local governing authorities, or the public; and

(11) Other.

Applicants should include in the work program narrative of their application the following information: (1) A general agency program description; (2) Goals of ROMA implementation based on the categories above; (3) Strategies adopted; (4) Problems encountered and addressed; (5) Program results; (6) Lessons learned; (7) Names of individuals responsible for best practices; and (8) Estimate of the availability of the individual(s) responsible for the lesson learned to participant on site visits, conference training, interactions by mail, electronic communication, etc. (up to 35 days).

OCS will publish a series of ''Best Practices Papers'' based on successful applications, which will be posted on the ROMA web sites and disseminated throughout the network. A panel of ROMA experts chosen by the OCS will review applications. Up to 20 grants will be awarded under cooperative agreements out of a total of $100,000. The project period is 12 months.

Eligible Applicants: State CSBG Agencies, State CAA Associations, eligible entities, and private non-profit organizations in collaboration with a State CSBG Agency or local CSBG eligible entity.

Sub-Priority 1.5: ROMA Impact Information

OCS will fund a maximum of five (5) projects, (one State, two urban, and two rural grants) which demonstrate the use of ROMA-generated results information about results (changes in the lives of clients and communities) that can be used to advocate for additional State funding resources, local government resources and other private funds.

OCS believes that one of the most important elements of effective ROMA implementation lies in the creative use of outcome and impact information, which demonstrates that community action works. By demonstrating measurable outcomes in communities, the CSN can affect the growth and expansion of efforts to assist the low-income population more effectively. OCS wishes, therefore, to further encourage experimentation in targeting and using ROMA generated information by seeking model approaches to ''Tell Our Story.''

Applicants for grants under this Sub-Priority Area must provide examples that describe the kinds of information being generated by ROMA in their State community. They must also document the potential audiences with which they plan to share the information and for what purpose. Finally, the application should contain a plan which describes how the information will be presented, i.e., written, oral, electronically or multi-media; whether assistance in preparing such presentations is required; and how they plan to evaluate

the success of their advocacy. Examples of previous successful efforts should also be included.

Applicants must indicate a willingness to report on their activities, provide data sets, and work with the OCS selected experts to produce model program information. Models produced through this effort will be widely disseminated to the CSN.

Approximately five (5) cooperative agreements will be awarded for a total of $100,000. Subject to the availability of funds, the project period is two years.

Eligible Applicants: State CSBG Agencies, State CAA Associations, and Eligible Entities.

Sub-Priority 1.6: State Specific Special ROMA Technical Assistance

OCS will work with each State at regional meetings during the summer of 2001 to develop State ROMA Implementation Plans through Fiscal Year 2003. As a result of these regional meetings, OCS will make available to individual States or to regional consortiums of States organized around common issues, additional training and technical assistance funds to complete ROMA Implementation Plans. OCS plans to hold funds in reserve for project applications submitted in response to State specific ROMA Implementation Plans and timetables developed in concert with OCS at the summer 2001 Regional Meetings. OCS envisions that grants made under this Sub-Priority will be used for needs outside the scope or capacity of the training and technical assistance initiatives described under Sub-Priorities 1.1 through 1.5 above. Up to 30 grants will be awarded out of total of $375,000. The project period will be 24 months.

Eligible Applicants: State CSBG Agencies in concert with State CAA Associations.

Priority Area 2.0: CAA Capacity Building

This priority area addresses activities to: assist states and eligible entities to acquire skills; improve the collection, analysis, dissemination and utilization of data and information on CSBG activities; promote management efficiency and program productivity by sharing effective management and program techniques; further understand legal frameworks; address urban needs; and build the expertise of State CAA associations to assistance eligible entities to better achieve the goals of the CSBG Program. Only projects under Sub-Priority Area 2.3, Local Capacity Building Projects are being competed under this program announcement. Grants under Sub-Priority Areas 2.1, 2.2, 2.4, and 2.5 are included as a part of the OCS comprehensive training and technical assistance strategy. However, they are being funded as continuation grants and cooperative agreements and; therefore, they are not being competed under this program announcement. Grantees awarded continuation under this Priority Area include:

—National Association of Community Action Agencies, Wash., D.C.—$500,000; Sub-Priority Area 2.1—National Training (CB)
—National Association for State Community Services Programs—$516,000; Sub-Priority 2.2—Collection, Analysis and Dissemination of Information on CSBG Activities (IS)
—Community Action Program Legal Services, Wash., D.C.—$250,000; Sub-Priority 2.4—Legal Capacity Building (CP)
—The African American Community Action Leaders, Wash., D.C.—$100,000; Sub-Priority 2.5—Addressing Urban Needs (UI)
—State CAA Association Capacity-Building (EQ)—50 CAA State Associations—$2,500,000; Sub-Priority 2.6

Sub-Priority Area 2.3: Local Capacity Building

Project descriptions for continuation grants can be found on the Office of Community Services web site at *http://www.acf.gov/programs/ocs/csbg*.

The purpose of this sub-priority area is to promote management efficiency and program productivity. It is essential that local CAAs and other partners in the Community Services Network share effective program/management techniques and information systems technology being used and/or developed by eligible entities to address various aspects of poverty and the implementation of ROMA by the Community Services Network. Grants under this sub-priority will be made to Community Action Agencies to promote local CAA capacity building. Activities may include sharing of model needs assessment tools; sharing of effective data processing innovations; development of effective community organizing techniques; demonstration of scaling techniques; use of tracking systems; internal and external communication networks; effective integration of information systems; and sharing successful leveraging strategies. Applicants must include a plan that describes how the results achieved under this project will be shared with the larger Community Services Network.

OCS intends to fund approximately ten projects with a 12-months duration at a funding level of approximately $200,000.

Eligible Applicants: Eligible Entities.

Priority Area 3.0: Strengthening at-Risk Agencies

The purpose of this Priority Area is to strengthen the fiscal and management capacity of eligible entities. The CSBG Act requires a State to offer appropriate technical assistance, if appropriate, to an eligible entity in crisis prior to instituting termination proceedings to stabilize such an entity. Projects funded under this priority area provide resources to assist eligible entities in addressing structural, financial and program deficiencies of at-risk agencies.

Sub-Priority Area 3.1: Special State Technical Assistance (ST)

A separate non-competitive awarded process has been established to carry out projects under Sub-Priority Area 3.1, Special State Technical Assistance. The goal of this sub-priority is to prevent the disruption of services to clients by stabilizing an eligible entity through the correction and improvement of identified programmatic deficiencies. Funds will be used to support comprehensive interventions in cases where an eligible entity is in a crisis situation. The CSBG legislation requires that States provide training and technical assistance prior to any termination procedures. Applications under this sub-priority must be submitted prior to June 29, 2001. Because this sub-priority is a part of the overall training and technical assistance strategy of the Office of Community Services, it is included for information purposes only.

OCS intends to fund approximately 20 projects with duration of 12 months at a funding level of approximately $375,000.

Sub-Priority Area 3.2: National Peer-to-Peer Assistance (PP)

The purpose of this Sub-Priority area is to strengthen the fiscal and management capacity of eligible entities. OCS will fund one project which will provide coordinated, timely peer-to-peer technical assistance and crisis aversion intervention strategies for CAAs which have identified themselves as experiencing programmatic, administrative, board, and/or fiscal management problems. Also continuation funding in the amount of $177,000 will be provided to the Mid-Iowa Community Action, Inc. Such technical assistance should be designed to prevent fiscal and management

problems from deteriorating into crisis situations that could threaten the capacity of the CAA to provide quality services to their communities or give rise to possible termination of funding. Based on written agreements with selected CAAs, the successful applicant will coordinate and deploy the technical assistance resources of experienced individuals within the CSN, or other agencies which administer similar programs in the identification and resolution of problems through necessary actions, including training, to ensure that relevant and timely assistance is provided. Such assistance may be requested to help an agency resolve adverse program monitoring or audit findings, improve or upgrade financial management systems, prevent losses of funds, avert serious deterioration of the board of directors, or other immediate assistance as requested. To the extent feasible, the applicant will be expected to develop an expert technical assistance resource bank of experienced individuals from the CSN who may be deployed to provide peer technical assistance. Approximately two new projects will be funded at a funding level of $350,000 for duration of 12 months.

Eligible Applicants: Community Action Agencies and other eligible entities and statewide organizations or associations of Community Action Agencies.

Priority Area 4.0: Information Sharing

Web sites have proven to be an effective information-sharing tool and have become an integral part of the OCS CSBG training and technical assistance strategy. There is an official agency OCS/CSBG web site that contains basic program information as well as official regulations and communications to States and Community Action Agencies. Many of the State CAA Associations have web sites including the National Association of State Community Services Programs and the National Association of Community Action Agencies. These web sites contain valuable information and provide access to training and technical assistance resources and materials.

Under the leadership of the Office of Community Services, the Community Services Network is now entering an intense effort to ensure that the implementation of a major performance outcome system as mandated by the CSBG legislation and referred to as Results Oriented Management Accountability (ROMA) is operational. The CSN is fortunate to have initiated its own performance based ROMA system six years ago. As a voluntary effort, ROMA built a strong foundation to ensure continuous program improvement and accountability among State agencies and local CSBG-service providers. As a part of this effort, six national goals for community action that both respect the diversity of the CSN network and provide clear expectations of results from efforts were identified. A number of performance measurement tools were developed and disseminated. A ROMA Guide was published and distributed to States and local CSBG entities. A pilot web site devoted to advancing ROMA knowledge, experience and success was designed and pilot tested.

Pursuant to the legislative mandate, the CSN network continues to work together to achieve universal acceptance and adoption of ROMA. There is an even greater need for effective exchange of information, and maximum access to materials, training and technical assistance resources.

Sub-Priority Area 4.1: Information Sharing Tools

As an important part of meeting this need, the OCS will fund under Priority Area 4.0 a fully operational, specialized ROMA web site. The website will be built upon the current web site model but provide enhancements such as an increased capacity to handle a larger volume of materials, and easier access and downloading capacity. Sections of the web site should relate to the core activities as outlined in the OCS Information Memorandum #49 and the areas contained in the Sub-Priority Areas under Priority #1 of this Program Announcement. The application narrative should also address the web site evaluation findings that indicate which topic areas are most useful and which areas should be eliminated. Copies of Information Memorandum #49 and the evaluation of the current model ROMA web site are available on the CSBG web site at *http://www.acf.gov/programs/ocs/csbg/index*.

To be eligible for funding under this priority, an applicant must first demonstrate a thorough understanding of ROMA and the CSBG Program. Second, an interested applicant must be prepared to assure that the latest computer technology will be utilized which make for efficient, quick access and downloading capabilities. The applicant must also assure that it will have a database capable of handling large volumes of resource materials and best practice documentation. Finally, in order to be successful, the applicant must document the knowledge and capacity to:

- Check and print traffic reports. Harvest submitted forms, i.e., update new Subscribers, schedule training sessions;
- Recalculate hyperlinks to keep search functions operational;
- Perform ENG library update categorizing and updating topical archives by adding new messages from weekly digests;
- Send out ROMA web weekly updates;
- Maintain a subscriber database that currently totals 800 e-mail addresses with an expected 25 percent increase;
- Post new materials as they become available and delete time sensitive materials;
- Adjust organizational and categorization of existing pages to best fit evolving content;
- Establish a database to manage a substantial increase in the volume of new and/or updated materials generated;
- Conduct reviews and analysis of e-mail discussion groups. To be useful, this will require the investment of a considerable amount of time. Work with the OCS to develop additional discussion groups related to training and technical assistance resources being developed under this Program Announcement and elsewhere by the OCS. OCS will establish an advisory group on content to work with the ROMA web site to facilitate these efforts.
- Work with the OCS to develop an evaluation of the web site which will be linked to the overall goals of the ROMA implementation plan; and
- Provide demonstrations and promotional materials on the use of the web site at a minimum of two national CSN conferences and video-link demonstrations to selected OCS regional meetings and conferences and State CAA Association Meetings.

OCS plans to fund one 36-month cooperative agreement (subject to the availability of funds) under this Sub-Priority Area at a funding level of $40,000 annually.

Eligible Applicants: State CSBG Agency, CAA State Associations, eligible entities or partnerships thereof.

Part C—Application Prerequisites

1. Eligible Applicants

See individual sub-priority areas in Part B.

2. Forms of Awards

The Office of Community Services intends to support new projects under Sub-Priority Areas: 1.1: National Academy, 1.3: Train-the-Trainers, 1.4:

Best Practices, and 4.1: Information-Sharing Tools under Cooperative Agreements. A cooperative agreement is an award instrument of financial assistance when substantial involvement is anticipated between the awarding office and the recipient organization during performance of the contemplated project. The Office of Community Services will outline plans of interaction with grantees for the implementation of Cooperative Agreements during pre-award negotiations. It is anticipated that OCS responsibilities will not change the requirements for project identified in this Announcement. Plans under cooperative agreements will describe the general and specific responsibilities of the grantee and the grantor as well as foreseeable joint responsibilities. A schedule of tasks will be developed and agreed upon in addition to any special conditions relating to the implementation of such projects.

Availability of Funds

The total amount of funds currently available for new grant awards in FY 2001 under this Program Announcement is $1,853,000. Subject to the availability of funds, an additional $4,986,573 will be committed for continuation grants and cooperative agreements. For multi-year projects, continued funding is dependent upon proof of satisfactory performance and the availability of Federal funds. Amounts expected to be available and numbers of grants under each sub-priority area stated in Part B are as follows:

Sub-priority area	Approx. funds available for new projects	Estimated number of new grants
1.1 National Academy (NA)	$ 250,000	1
1.2 Leadership Development (LD)	138,000	1([2])
1.3 Train-the -Trainers (TT)	300,000	Up to 2
1.4 Best Practices (BP)	100,000	Up to 20
1.5 ROMA Impact Information (IF)	100,000	1
1.6 State Special ROMA Technical Assistance (RM)	375,000	Up to 30
2.1 National Training (CB)	*([2])	*([2])
2.2 Collection, Analysis, and Dissemination of Information on CSBG Activities Nationwide (IS)	*([2])	*([2])
2.3 Local Capacity-Building (CP)	200,000	Up to 10
2.4 Strengthening CAA Capacity to Address Legal Issues (LF)	*([2])	*([2])
2.5 Addressing Urban Needs (UI)	*([2])	*([2])
2.6 State CAA Association Capacity Building (EQ)	*([2])	*([2])
3.1 Special Technical Assistance (ST)	375,000	*([3])
3.2 National Peer-to-Peer Technical Assistance (PP)	350,000	Up to 2
4.1 Information Sharing Tools (WB)	40,000	
Total	1,853,000	Up to 68 New Grants

[1] This does not include the continuation grant in amount of $136,753.
[2] Represent continuation grant awards in the amount of $4,986,573.
[3] Projects under this Sub-priority area are being handled under a separate application process.

Project and Budget Periods

For projects included in the FY 2001 CSBG T&TA Program Announcement, the budget periods are 12 months and the project periods vary depending on the Sub-Priority Area. All continuation grants under Sub-Priority Areas 1.2 and 2.1, 2.2, 2.4, 2.5 and 3.2 will be made for 12-month budget periods (subject to the availability of funds).

Project Beneficiaries

The overall intended beneficiaries of the projects to be funded under the FY 2001 CSBG T&TA Program Announcement are the various ''partners'' in the Community Services Network. Specific beneficiaries are indicated under each sub-priority area in Part B. It is the intent of OCS, through funding provided under this program announcement, to significantly strengthen the capacity of State and regional CAA associations to provide technical assistance and support to local service providers; to strengthen the capacity of State CSBG offices to collect and disseminate accurate and reliable data and to provide support for local service providers; and to enhance the capacities of local service providers themselves. The ultimate beneficiaries of improved program management, data and information collection and dissemination, and service quality of local service providers are low-income individuals, families, and communities.

Sub-Contracting or Delegating Projects

OCS will not fund any project where the role of the applicant is primarily to serve as a conduit for funds to organizations other than the applicant. This prohibition does not bar the making of subgrants or subcontracting for specific services or activities needed to conduct the project. However, the applicant must have a substantive role in the implementation of the project for which funding is requested.

Separate Multiple Applications

Separate applications must be made for each sub-priority area. An applicant will receive only one grant in a sub-priority area and no more than two grants under this FY 2001 CSBG T&TA Program Announcement. Applicants that receive more than one grant for a common budget and project period must be mindful that salaries and wages claimed for the same persons cannot collectively exceed 100 percent of the total annual salary. The sub-priority area must be clearly identified by title and number.

Project Evaluations

Each application must include an assessment or self-evaluation to determine the degree to which the goals and objectives of the project are met, such as client satisfaction surveys, administration of simple before/after tests of knowledge with comparison of scores to show grasp of teaching points, simple measures of the results of service delivery, and others as appropriate. Goal setting and goal measurement should be the framework for evaluation. Goals, to the extent suitable, should be impact-oriented.

Part D—Application Procedures

1. Availability of Forms

Applications for awards under the FY 2001 CSBG T&TA Program must be

submitted on Standard Forms (SF) 424, 424A, and 424B. Part F and the attachments to this program announcement contain all the instructions and forms required for submission of an application. These forms may be photocopied for use in developing the application.

Part F also contains instructions for the project narrative. The project narrative must be submitted on plain bond paper along with the SF–424 and related forms.

A copy of this program announcement is available on the Internet through the OCS web site at: http://www.acf.dhhs.gov/programs/ocs.

If the program announcement cannot be accessed through the OCS web site, it can be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION** at the beginning of this program announcement.

2. Deadlines

Refer to the section entitled ''Closing Date'' at the beginning of this program announcement for the last day on which applications should be submitted.

Mailed applications shall be considered as meeting the announced deadline if they are received on or before deadline date or postmarked on or before the deadline date and received by ACF in time for the independent review. Mailed applications must be sent to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center 901 D Street, SW., Washington, DC 20024, Attn: CSBG Training, Technical Assistance, and Capacity-Building Program.

Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

Applications hand-carried by applicants, applicant couriers, or by other representatives of the applicant shall be considered meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:30 p.m. EST, Monday through Friday, excluding Federal holidays, at the: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center 901 D Street, SW., Washington, DC 20024, Attn: CSBG Training, Technical Assistance, and Capacity-Building Program.

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt. Applications, once submitted, are considered final and no additional materials will be accepted.

Late applications. Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines. ACF may extend the deadline for all applicants affected by acts of God such as floods and hurricanes, when there is widespread disruption of the mail service. A determination to extend or waive deadline requirements rest with the Chief Grants Management Officer.

3. Number of Copies Required

One signed original application and two copies should be submitted at the time of initial submission (OMB 0970–0062). Two additional copies would be appreciated to facilitate the processing of applications.

4. Designation of Sub-Priority Area

The first page of the SF–424 must contain in the lower right-hand corner a designation indicating under which sub-priority are funds are being requested. For example, if you are applying for Sub-Priority Area 2.6—Local Capacity Building, you must have a designation of 2.6 in the lower right-hand corner. Without this clear designation, your proposal may not be reviewed correctly.

5. Paperwork Reduction Act of 1995 (P.L. 104–13)

Public reporting burden for this collection of information is estimated to average 10 hours per response, including time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection of information.

The project description is approved under OMB Control Number 0970–0062 which expires 12/31/2003.

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.

6. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

The following States and Territories have elected to participate under the Executive Order process and have established a Single Point of Contact (SPOC): Arkansas, California, Delaware, District of Columbia, Florida, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Michigan, Mississippi, Missouri, Nevada, New Hampshire, New Mexico, North Carolina, North Dakota, Rhode Island, South Carolina, Texas, Utah, West Virginia, Wisconsin, American Samoa, Guam, Puerto Rico, the Commonwealth of Northern Mariana Islands, and the United States Virgin Islands.

Applicants for projects to be administered by Federally recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that OCS can obtain and review SPOC comments as a part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424A, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline date to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those Official State process recommendations which they intend to trigger the ''accommodate or explain'' rule under 45 CFR 100.10.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Grants Management/OCSE, 4th Floor, Aerospace Center, 370 L'Enfant Promenade, SW., Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as Attachment I to this program announcement.

7. Application Consideration

Applications that meet the screening requirements in Sections 8.a. and 8.b. below will be reviewed competitively. Such applications will be referred to reviewers for a numerical score and explanatory comments based solely on responsiveness to program guidelines and evaluation criteria published in this announcement.

Qualified panelist not directly responsible for programmatic management of the grant will review applications. The results of these reviews will assist OCS in considering competing applications. Reviewers' scores will weigh heavily in funding decisions but will not be the only factors considered. Applications will be ranked and generally considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since other factors deemed relevant may be considered including, but not limited to, the timely and proper completion of projects funded with OCS funds granted in the past five years; comments of reviewers and government officials; staff evaluation and input; geographic distribution; previous program performance of applicants; compliance with grant terms under previous DHHS grants; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowance on OCS or other Federal agency grants.

OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to ascertain the applicant's performance record.

8. Criteria for Screening Applications

a. Initial Screening

All applicants will receive a written acknowledgment with an assigned identification number. This number, along with any other identifying codes, must be referenced in all subsequent communications concerning the application. If an acknowledgment is not received within three weeks after the deadline date, please notify ACF by telephone at (202) 401–5103.

All applications that meet the published deadline for submission will be screened to determine completeness and conformity to the requirements of this Announcement. Only those applications meeting the following requirements will be reviewed and evaluated competitively. Others will be returned to the applicants with a notation that they were unacceptable.

(1) The application must contain a Standard Form 424 ''Application for Federal Assistance'' (SF–424), a budget (SF–424A), and signed ''Assurances'' (SF–424B) completed according to instructions published in Part F and Attachments A, B, and C of this program announcement.

(2) A budget narrative, which corresponds to the object class categories in the SF 424A for the use of Federal funds, must be included in the application.

(3) The SF–424 and the SF–424B must be signed by an official of the applicant organization who has authority to obligate the organization legally.

(4) A project narrative must also accompany the standard forms.

b. Pre-Rating Review

Applications, which pass the initial screening, will be forwarded to reviewers and/or OCS staff to verify, prior to the programmatic review, that the applications comply with this program announcement in the following areas:

(1) Eligibility: Applicant meets the eligibility requirements found in Part B. Applicant also must be aware that the applicant's legal name as required on the SF 424 (item 5) *must match* that listed as corresponding to the Employer Identification Number (Item 6).

(2) Duration of Project: The application contains a project that can be successfully implemented in the project period.

(3) Target Populations: The application clearly targets the specific outcomes and benefits of the project to State staff administering CSBG funds, CAA State or regional associations, and/or local providers of CSBG-funded services and activities. Benefits to low-income consumers of CSBG services also must be identified.

(4) Program Focus: The application must address the purpose of the sub-priority area under which funding is being requested.

An application may be disqualified from the competition and returned to the applicant if it does not conform to one or more of the above requirements.

e. Evaluation Criteria

Applications that pass the pre-rating review will be assessed and scored by reviewers. Each reviewer will give a numerical score to each application reviewed. These numerical scores will be supported by explanatory statements on a formal rating form describing major strengths and weaknesses under each applicable criterion published in this announcement.

The in-depth evaluation and review process will use the following criteria coupled with the specific requirements contained in Part B.

Criteria for Review and Evaluation of Applications Submitted Under This Program Announcement

(1) Criterion I: Need for Assistance (Maximum: 20 Points)

(a) The application documents that the project addresses vital needs related to the purposes stated under the appropriate sub-priority area discussed in this program announcement (Part B) and provides statistics and other data and information in support of its contention. (0–10 points).

(b) The application provides current supporting documentation or other testimonies regarding needs from State CSBG Directors, local service providers and/or State and Regional organizations of local service providers. (0–10 points)

(2) Criterion II: Work Program (Maximum: 30 Points)

The work program is results-oriented, appropriately related to the legislative mandate and specifically related to the sub-priority area under which funds are being requested.

Applicant addresses the following: Specific outcomes to be achieved; performance targets that the project is committed to achieving, including reasons for not setting lower or higher target levels and how the project will verify the achievement of these targets; critical milestones which must be achieved if results are to be gained; organizational support, including priority this project has for the agency; past performance in similar work; and specific resources contributed to the project that are critical to success.

Applicant defines the comprehensive nature of the project and methods that will be used to ensure that the results can be used to address a statewide or nationwide project as defined by the priority area.

(3) Criterion III: Significant and Beneficial Impact: (Maximum: 15 Points)

Applicant adequately describes how the project will assure long-term program and management improvements and have advantages over other products offered to achieve the same outcomes for State CSBG offices, CAA State and/or regional associations, and/or local providers of CSBG services and activities.

The applicant indicates the types and amounts of public and/or private resources it will mobilize, how those resources will directly benefit the project, and how the project will ultimately benefit low-income individuals and families.

If proposing a project with a training and technical assistance focus, applicant indicates the number of organizations and/or staff it will impact.

If proposing a project with a data collection focus, applicant provides a description of the mechanism it will use to collect data, how it can assure collections from a significant number of States, and the number of States willing to submit data to the applicant.

If proposing to develop a symposium series or other policy-related project(s), the applicant identifies the number and types of beneficiaries.

Methods of securing participant feedback and evaluations of activities are described in the application.

(4) Criterion IV: Evidence of Significant Collaborations (Maximum 10 Points)

Applicant describes how it will involve partners in the Community Services Network in its activities. Where appropriate, applicant describes how it will interface with other related organizations.

If subcontracts are proposed, documentation of the willingness and capacity for the subcontracting organization(s) to participate is described.

(5) Criterion V: Ability of Applicant to Perform (Maximum: 20 Points)

(a) The applicant demonstrates that it has experience and a successful track record relevant to the specific activities and program area that it proposes to undertake.

If applicant is proposing to provide training and technical assistance, it details its competence in the specific program priority area and as a deliverer with expertise in the specific fields of training and technical assistance on a nationwide basis.

If applicable, information provided by the applicant also addresses related achievements and competence of each cooperating or sponsoring organization. (0–10 points)

(b) Applicant fully describes, for example in a resume, the experience and skills of the proposed project director and primary staff showing specific qualifications and professional experiences relevant to the successful implementation of the proposed project. (0–10 points)

(6) Criterion VI: Adequacy of Budget (Maximum: 5 Points)

(a) The resources requested are reasonable and adequate to accomplish the project. (0–3 points)

(b) Total costs are reasonable and consistent with anticipated results. (0–2 points)

Part E—Contents of Application and Receipt Process

1. Contents of Application

A cover letter containing an e-mail address and a facsimile (FAX) number, if available, should accompany the application. This will facilitate receipt of an acknowledgment from ACF that the application has been received. (See Part D., 8.a.)

Each application should include one original and three additional copies of the following:

a. A completed Standard Form 424 which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally. The applicant must be aware that, in signing and submitting the application for this award, it is certifying that it will comply with the Federal requirements concerning the drug-free workplace and debarment regulations set forth in Attachments D and E.

b. ''Budget Information-Non-Construction Programs'' (SF–424A). (Attachment B)

c. A completed, signed and dated ''Assurances—Non-Construction Programs'' (SF–424B). (Attachment C)

d. Drug-free Certification. (The applicant is certifying that it will comply with this requirement by signing and submitting the SF–424.) (Attachment D)

e. Debarment Certification. (Attachment E)

f. Certification Regarding Environmental Tobacco Smoke. (The applicant is certifying that it will comply with this requirement by signing and submitting the SF–424.) (Attachment F)

g. Disclosure of Lobbying Activities, SF–LLL. Complete, sign and date form, as appropriate. (Attachment G)

h. A Project Abstract of 500 words or less. The abstract should provide a succinct description of the need, project goals, and a summary of work plan and the proposed impact. Abstract will be maintained as part of the Grantee Administration Tracking System (GATES).

i. A Project Narrative consisting of the following elements preceded by a consecutively numbered table of contents that will describe the project in the following order:

(i) Need for Assistance.

(ii) Work Program.

(iii) Significant and Beneficial Impact.

(iv) Evidence of Significant Collaborations.

(v) Ability of Applicant to Perform.

(vi) Appendices including proof of non-profit status, such as IRS determination of non-profit status, where applicable; relevant sections of by-laws, articles of incorporation, and/or statement from appropriate State CSBG office which confirms eligibility; resumes; Single Point of Contact comments, where applicable; and any partnership/collaboration agreements.

The original must bear the signature of the authorizing official representing the applicant organization.

The total number of pages for the entire application package should not exceed 35 pages, including appendices. Pages should be numbered sequentially throughout.

If appendices include photocopied materials, they must be legible.

Applications should be two-hole punched at the top center and fastened separately with a compressor slide paper fastener or a binder clip. The submission of bound applications or applications enclosed in a binder are specifically discouraged.

Applications must be submitted on white 8½ x 11-inch paper only since OCS may find it necessary to duplicate them for review purposes. They must not include colored, oversized or folded materials; organizational brochures or other promotional materials; slides; films; clips; etc. They will be discarded if included.

Part F—Instructions for Completing Application Package

(Approved by the OMB under Control Number 0970–0062)

The standard forms attached to this program announcement shall be used when submitting applications for all funds under this announcement.

It is recommended that the applicant reproduce the SF–424, (Attachment A), SF–424A (Attachment B), SF–424B (Attachment C) and that the application be typed on the copies. If an item on the

SF–424 cannot be answered or does not appear to be related or relevant to the assistance requested, the applicant should write ''NA'' for ''Not applicable.''

The application should be prepared in accordance with the standard instructions in Attachments A and B corresponding to the forms, as well as the specific instructions set forth below:

1. SF–424 ''Application for Federal Assistance''

Item

1. For the purposes of this program announcement, all projects are considered ''Applications''; there are no ''Pre-Applications.''

5. and 6. The legal name of the applicant must match that listed as corresponding to the Employer Identification Number. Where the applicant is a previous Department of Health and Human Services grantee, enter the Central Registry System Employee Identification Number (CRS/EIN) and the Payment Identifying Number, if one has been assigned, in the Block entitled ''Federal Identifier'' located at the top right hand corner of the form.

7.If the applicant is a non-profit corporation, enter ''N'' in the box and specify ''non-profit corporation'' in the space marked ''Other.'' Proof of non-profit status such as IRS determination, articles of incorporation, or by-laws, must be included as an appendix to the project narrative.

8. For the purposes of this announcement, all applications are ''New.''

9. Enter ''DHHS–ACF/OCS.''

10. The Catalog of Federal Domestic Assistance number for the OCS program covered under this announcement is ''93.570.''

11. In addition to a brief descriptive title of the project, the following priority area designations must be used to indicate the priority and sub-priority areas for which funds are being requested:

NA—Sub-Priority Area 1.1—National Academy
LD— Sub-Priority Area 1.2—Leadership Development
TT—Sub-Priority Area 1.3— Train-the-Trainers
BP— Sub-Priority Area 1.4—Best Practices
IF-Sub-Priority Area 1.5—ROMA Impact Information
RM—Sub-Priority Area 1.6— State Special ROMA Technical Assistance
CB—Sub-Priority Area 2.1—National Training
IS—Sub-Priority Area 2.2—Collection, Analysis, and Dissemination of Information on CSBG Activities Nationwide
CP— Sub-Priority Area 2.3— Local Capacity Building
LF—Sub-Priority Area 2.4—Strengthen CAA Capacity to Address Legal Issues
UI—Sub-Priority Area 2.5—Addressing Urban Problems
PP— Sub-Priority Area 3.1— Special Technical Assistance
WB—Sub-Priority Area 4.1—Information Sharing Tools

The title is ''Office of Community Services' Discretionary CSBG Awards—Fiscal Year 2001 Training, Technical Assistance, and Capacity-Building Programs.''

15a. For purposes of this announcement, this amount should reflect the amount requested for the entire project period.

15b–e. These items should reflect both cash and third party in-kind contributions for the total project period.

2. SF–424A—''Budget Information-Non-Construction Programs''

See instructions accompanying the form as well as the instructions set forth below:

In completing these sections, the Federal budget entries will relate to the requested OCS Training and Technical Assistance Program funds only, and Non-Federal will include mobilized funds from all other sources—applicant, State, and other. Federal funds, other than those requested from the Training and Technical Assistance Program should be included in Non-Federal entries.

Sections A and D must contain entries for both Federal (OCS) and non-Federal (mobilized).

Section A—Budget Summary

Col. (a): Line 1—Enter ''OCS Training and Technical Assistance Program'';

Col. (b): Line 1—Enter ''93.570''.

Col. (c) and (d): Not Applicable.

Col. (e)–(g): For lines 1 enter in column (e), (f) and (g) the appropriate amounts needed to support the project for the entire project period.

Line 5—Enter the figures from Line 1 for all columns completed under (e), (f), and (g).

Section B—Budget Categories

This section should contain entries for OCS funds only. For all projects, the first budget period of 12 months will be entered in Column #1. Allowability of costs is governed by applicable cost principles set forth in 45 CFR parts 74 and 92.

A separate itemized budget justification should be included to explain fully and justify major items, as indicated below. The budget justification should immediately follow the Table of Contents.

Column 5: Enter total requirements for Federal funds by the Object Class Categories of this section.

Line 6a—Personnel: Enter the total costs of salaries and wages.

Justification: Identify the project director. Specify by title or name the percentage of time allocated to the project, the individual annual salaries and the cost to the project (both Federal and Non-Federal) of the organization's staff who will be working on the project.

Line 6b—Fringe Benefits: Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate which is entered on line 6j.

Justification: Enter the total costs of fringe benefits, unless treated as part of an approved indirect cost rate.

Line 6c—Travel: Enter total cost of all travel by employees of the project. Do not enter costs for consultant's travel.

Justification: Include the name(s) of traveler(s), total number of trips, destinations, length of stay, mileage rate, transportation costs and subsistence allowances.

Line 6d—Equipment: Enter the total costs of all non-expendable personal property to be acquired by the project. Equipment means tangible non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

Justification: Equipment to be purchased with Federal funds must be required to conduct the project, and the applicant organization or its subgrantees must not already have the equipment or a reasonable facsimile available to the project. The justification also must contain plans for future use or disposal of the equipment after the project ends.

Line 6e—Supplies: Enter the total costs of all tangible personal property (surplus) other than that included on line 6d.

Line 6h—Other: Enter the total of all other costs. Such costs, where applicable, may include, but are not limited to, insurance, food, medical and dental costs (noncontractual), fees and travel paid directly to individual consultants, local transportation (all travel which does not require per diem is considered local travel), space and equipment rentals, printing and publication, computer use training costs including tuition and stipends, training service costs including wage payments to individuals and supportive service payments, and staff development costs.

Line 6j—Indirect Charges: Enter the total amount of indirect costs. This line should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services or other Federal agencies. With the exception of States and local governments, applicants should enclose a copy of the current approved rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services. For an educational institution, the indirect costs on training grants will be allowed at the lesser of the institution's actual indirect costs or 8 percent of the total direct costs.

If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately, upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the pertinent *DHHS Guide for Establishing Indirect Cost Rates,* and submit it to the appropriate DHHS Regional Office.

It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool cannot be budgeted or charged as direct costs to the grant.

Line 6k—Totals: The total amount shown in Section B, Column (5), should be the same as the amount shown in Section A, line 5, column (e).

Line 7—Program Income: Enter the estimated amount of income, if any is expected to be generated from this project. Separately show expected program income generated from OCS support and income generated from other mobilized funds. Do not add or subtract this amount from the budget total. Show the nature and source of income in the program narrative statement.

Column 5: Carry totals from column 1 to column 5 for all line items.

Justification: Describe the nature, source and anticipated use of program income in the Program Narrative Statement.

Section C—Non-Federal Resources

This section is to record the amounts of Non-Federal resources that will be used to support the project. Non-Federal resources refer to other than OCS funds for which the applicant has received a commitment. Provide a brief explanation, on a separate sheet, showing the type of contribution, broken out by Object Class Categories, section B.6) and whether it is cash or third party in-kind. The firm commitment of these required funds must be documented and submitted with the application.

Except in unusual situations, this documentation must be in the form of letters of commitment or letters of intent from the organization(s)/individuals from which funds will be received.

Line 8—Col. (a): Enter the project title.

Col. (b): Enter the amount of cash or donations to be made by the applicant.

Col. (c): Enter the State contribution.

Col. (d): Enter the amount of cash and third party in-kind contributions to be made from all other sources.

Col. (e): Enter the total of column (b), (c), and (d). Lines 9, 10, and 11 should be left blank.

Line 12: Carry the total of each column of line 8, (b) through (e). The amount in column (e) should be equal to the amount on section A, Line 5, and column (f).

Justification: Describe third party in-kind contributions, if included.

Section D—Forecasted Cash Needs

Line 13—Enter the amount of Federal (OCS) cash needed for this grant for first year and by quarter, during the first 12-month budget period.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the total of Lines 13 and 14 for all columns.

Section E—Budget Estimates of Federal Funds Needed for Balance of the Project

To be completed by applicants applying for funds for a three year project period.

Section F—Other Budget Information

Line 21—Include narrative justification required under Section B for each object class category for the total project period.

Line 22—Enter the type of HHS or other Federal agency approved indirect cost rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied and the total indirect expense. Also, enter the date the rate was approved, where applicable. Attach a copy of the approved rate agreement if it was negotiated with a Federal agency other than the Department of Health and Human Services. If the applicant decides not apply an indirect cost rate to the proposal, then ''this line should be left blank.''

Line 23—Provide any other explanations and continuation sheets required or deemed necessary to justify or explain the budget information.

3.SF–424B ''Assurances Non-Construction''

Applicant must sign and return the ''Assurances'' found at Attachment C with its application.

4. Project Narrative

Each narrative section of the application must address one or more of the focus areas described in Part B and follow the format outlined below:

(a) Need for Assistance
(b) Work Program
(c) Significant and Beneficial Impact
(d) Evidence of Significant Collaborations
(e) Ability of the Applicant to Perform
(f) Adequacy of the Budget

Part G—Post Award Information and Reporting Requirements

Following approval of the applications selected for funding, notice of project approval and authority to draw down project funds will be made in writing. The official award document is the Financial Assistance Award, which indicates, the amount of Federal funds approved for use in the project, the project and budget periods for which support is provided, the terms and conditions of the award, and the total project period for which support is contemplated.

In addition to the standard terms and conditions which will be applicable to grants, grantee will be subject to the provisions of 45 CFR parts 74 (non-governmental) and 92 (governmental) and OMB Circulars A–122 (nonprofit) and A–87 (governmental).

Grantees will be required to submit semi-annual program progress narrative and financial reports (SF–269) as well as a final program progress narrative report and a final financial report.

Grantees are subject to the audit requirements in 45 CFR parts 74 (non-governmental) and 92 (governmental) and OMB Circular A–133.

Section 319 of Public Law 101–121, signed into law on October 23, 1989 imposes prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans. It provides exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their sub-tier contractors and/or grantees) are prohibited from using Federal funds, other than profits from a Federal contract, for lobbying Congress or any Federal agency in connection with the award of a contract, grant, cooperative agreement, or loan. In addition, for each award action in excess of $100,000 (or $150,000 for loans) the law requires recipients and

their subtier contractors and/or subgrantees (1) to certify that they have neither used nor will use any appropriated funds for payment to lobbyists, (2) to disclose the name, address, payment details, and purpose of any agreements with lobbyists whom recipients or their subtier Contractors or subgrantee will pay with profits or *non-appropriated* funds on or after December 22, 1989, and (3) to file quarterly up-dates about the use of lobbyists if material changes occur in their use. The law establishes civil penalties for noncompliance. See Attachment F for certification and disclosure forms to be submitted with the applications for this program.

Public Law 103–227, Part C. Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through States or local government by Federal grant, contract, loan or loan guarantee. The law does not apply to facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for in-patient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1,000 per day and/or the imposition of an administrative compliance order on the responsible entity.

By signing and submitting this application, the applicant/grantee certifies that it will comply with the requirement of the Act. The applicant/grantee further agrees that it will require the language of this certification be included in any sub-awards, which contain provisions for children's services and that all subgrantees shall certify accordingly.

Attachment H indicates the regulations that apply to all applicants/grantees under this program.

Dated: June 25, 2001.

Robert Mott,

Acting Director, Office of Community Services.

CSBG Training, Technical Assistance and Capacity-Building Program

List of Attachments

A—Application for Federal Assistance, SF 424

B—Budget Information—Non-Construction Programs, SF 424A

C—Assurances—Non-Construction Programs, SF 424B

D—Certification Regarding Drug-Free Work Place

E—Debarment Certification

F—Certification Regarding Environmental Tobacco Smoke

G—Disclosure of Lobbying Activities, SF–LLL

H—DHHS/ACF Standard Terms and Conditions—Discretionary Grants

I—Listing of State Single Points of Contact

BILLING CODE 4184–01–P

Attachment A, Page 1

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction; Preapplication ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, State, and zip code)*:	Name and telephone number of person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER *(EIN)*: ☐☐ — ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other*(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ — ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(Cities, Counties, States, etc.)*:

13. PROPOSED PROJECT		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:	
a. Federal	$ .00
b. Applicant	$ .00
c. State	$ .00
d. Local	$ .00
e. Other	$ .00
f. Program Income	$ .00
g. TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b. No. ☐ PROGRAM IS NOT COVERED BY E. O. 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Type Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

Previous Edition Usable
Authorized for Local Reproduction

Standard Form 424 (Rev. 7-97)
Prescribed by OMB Circular A-102

BILLING CODE 4184–01–C

Instructions for the SF–424

Public reporting burden for this collection of information is estimated to average 45 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 (0348–0043), 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.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:

—''New'' means a new assistance award.
—''Continuation'' means an extension for an additional funding/budget period for a project with a projected completion date.
—''Revision'' means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.

9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization by submitted as part of the application.

BILLING CODE 4184–01–P

Attachment B, Page 1

BUDGET INFORMATION - Non-Construction Programs

OMB Approval No. 0348-0044

SECTION A - BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. Totals		$	$	$	$	$

SECTION B - BUDGET CATEGORIES

6. Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total
	(1)	(2)	(3)	(4)	(5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges *(sum of 6a-6h)*					
j. Indirect Charges					
k. TOTALS *(sum of 6i and 6j)*	$	$	$	$	$
7. Program Income	$	$	$	$	$

Authorized for Local Reproduction

Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

Previous Edition Usable

Attachment B, Page 2

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTAL *(sum of lines 8-11)*	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. Non-Federal					
15. TOTAL *(sum of lines 13 and 14)*	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTAL *(sum of lines 16-19)*	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

21. Direct Charges:	22. Indirect Charges:
23. Remarks:	

Authorized for Local Reproduction

Standard Form 424A (Rev. 7-97) Page

Instructions for the SF–424A

Public reporting burden for this collection of information is estimated to average 180 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 (0348–0044), Washington, DC 20503.

Please do not return your completed form to the Office of Management and Budget. Send to the address provided by the sponsoring agency.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All publications should contain a breakdown by the object class categories should in Lines a–k of Section B.

Section A. Budget Summary Lines 1–4 Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and not requiring a functional or activity breakdown, enter on Line 1 under Column (a) the Catalog program title and the Catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities. enter the name of each activity or function on each line in Column (a), and enter the Catalog number in Column (b), For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the Catalog program title on each line in Column (a) and the respective Catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) Through (g)

For new applications, leave Column (c) and (d) blank. For each line entry in Columns (a) an (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1–4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Line 6a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For the supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount, Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the Federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 89–11—Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a)—Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b)—Enter the contribution to be made by the applicant.

Column (c)—Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d)—Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12—Enter the total for each of Columns (b)–(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13—Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14—Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15—Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Line 16–19—Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not to be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20—Enter the total for each of the Columns (b)–(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21—Use this space to explain amounts for individuals direct object class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22—Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23—Provide any other explanations or comments deemed necessary.

Attachment C—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

date 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 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, it 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 U.S.C. 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 basic 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 basic 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 statue(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 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 Authorizing Official

Title

Applicant Organization

Date Submitted

Attachment D—Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517–D, 200 Independence Avenue, SW Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which

reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee 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 ongoing 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 ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. 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 paragraph (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.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant.

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

Attachment E—Certification Regarding Debarment, Suspension and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause for default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered

transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment 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 (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction,'' without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntary excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion—Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it not its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Attachment F—Certification Regarding Environmental Tobacco Smoke

Public Law 103227, Part C Environmental Tobacco Smoke, also known as the Pro Children Act of 1994, requires that smoking not be permitted in any portion of any indoor

routinely owned or leased or contracted for by an entity and used routinely or regularly for provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantee. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to $1000 per day and/or the imposition of an administrative compliance order on the responsible entity. By signing and submitting this application the applicant/grantee certifies that it will comply with the requirements of the Act.

The applicant/grantee further agrees that it will require the language of this certification be included in any subawards which contain provisions for the children's services and that all subgrantees shall certify accordingly.

Attachment G—Certification Regarding Lobbying

Certificate for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempt to influence an officer or employee of an agency, a Member of Congress, an officer of employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) 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 contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Issuance

The undersigned states, to the best of his or her knowledge and belief, that:

If any 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 commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form–LLL, ''Disclosure Form to Report Lobbying,'' in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature

Title

Organization

BILLING CODE 4184–01–P

Attachment G, Page 2

Approved by OMB 0348-0046

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	2. Status of Federal Action:	3. Report Type:
☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	☐ a. bid/offer/application b. initial award c. post-award	☐ 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)

BILLING CODE 4184–01–C

Instructions for Completion of SF–LLL, Disclosure of Lobbying Activities

The 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 service, 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.

Note: 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 Managemente and Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS)

ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF)

STANDARD TERMS AND CONDITIONS—DISCRETIONARY GRANTS

The attached Financial Assistance Award is subject to Federal legislation and to DHHS and ACF regulations and policies. These include the following:

1. For institutions of higher education, hospitals, other non-profit organizations, and commercial (for-profit) organizations, Title 45 of Code of Federal Regulations (45 CFR) Part 74, ''Uniform Administrative Requirements for Awards and Sub-awards to Institutions of Higher Education, Hospitals, Other Non-Profit Organizations; and Commercial Organizations; and Certain Grants and Agreements with States, Local Governments and Indian Tribal Governments.'' http://www.access.gpo.gov/nara/cfr/waisdx_99/45cfr74_99.html

2. For States, local governments and Federally recognized Indian Tribes, 45 CFR Part 92, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.'' http://www.access.gpo.gov/nara/cfr/waisidx_99/45cfr92_99.html

3. Other DHHS regulations codified in Title 45 of the Code of Federal Regulations: http://www.access.gpo.gov/nara/cfr/waisidx_00/45cfrv1_00.html

Part 16—Procedures of the Departmental Grants Appeals Board
Part 30—Claims Collections
Part 46—Protection of Human Subjects
Part 76—Government-wide Debarment and Suspension (Non-Procurement) and Government-wide Requirements for Drug-Free Workplace (Grants)
Part 80—Nondiscrimination Under Programs Receiving Federal Assistance through the DHHS Effectuation of Title VI of the Civil Rights Acts of 1964
Part 81—Practice and Procedure of Hearings Under Part 80 of this Title
Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities receiving Federal Financial Assistance
Part 86—Nondiscrimination on the Basis of Sex in Education Programs and Activities receiving or benefiting from Federal Financial Assistance
Part 91—Nondiscrimination on the Basis of Age in DHHS programs or Activities receiving Federal Financial Assistance
Part 93—New Restriction on Lobbying
Part 100—Intergovernmental review of DHHS Program and Activities

4. 37 CFR Part 401—Right to Inventions made by Nonprofit Organizations and Small Business firms under Government Grants, Contracts, and Cooperative Agreements. http://www.access.gpo.gov/nara/cfr/waisidx_00/37cfr401_00.html

5. The recipient organization must carry out the project according to the application as approved by the Administration for Children and Families (ACF), including the proposed work program and any amendments, all of which are incorporated by reference in these terms and conditions.

6. If this is a multi-year project and it is not the final budget period, the grantee is advised that future awards for continuation of this project will be dependent upon the availability of Federal funds, satisfactory progress by the granted, and ACF's determination that continued funding is in the best interest of the Federal government.

7. Grantees shall liquidate all obligations incurred under the award no later than 90 days after the end of the project period. The only exceptions to this rule are the basic Head Start grants with an indefinite project period. For these grants, liquidation of obligations should occur no later than 90 days after each budget period. In either case, an unobligations balance from a prior budget period does not authorize a grantee to obligate funds in excess of the total federally approved budget reflected on the FAA for the current budget period.

8. The DHHS Inspector General maintains a toll free number, 800–HHS–TIPS (800–447–8477), for receiving information concerning fraud, waste or abuse under grants and cooperative agreements. Such reports are kept confidential, and callers may decline to give their names if they choose to remain anonymous. http://www.dhhs.gov/progorg/oei/hotline/hhshot.html

9. The grantee will take all necessary affirmative steps to ensure that small, minority and women-owned business firms are utilized when possible as sources of supplies services, equipment and construction. To the extent practicable, all equipment and products purchased with funds made available through this award should be American made.

10. Failure to submit reports (i.e., financial, progress, or other required reports) on time may be the basis for withholding financial

assistance payments, suspension termination or denial or refunding. A history of such unsatisfactory performance may result in designation of ''high-risk'' status for the recipient organization and may jeopardize potential future funding from DHHS.

11. Under Section 508 of Public Law 103–333, the following condition is applicable to all Federal awards:

''When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments and recipient of Federal research grants shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) the percentage and dollar amount of total costs of the project or program that will be refinanced by nongovernmental sources.''

12. Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children's Act of 1994 requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs either directly or through State or local governments, by Federal grant, contract, loan, or loan guarantees. The law does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment. http:///www.ed.gov/legislation/GOALS2000/TheAct/sedc1043.html

13. For purposes of this award each item of equipment with acquisition cost of less than $5,000 is included under supplies, is allowable as a direct cost of this project, and does not require prior approval of the Grants Officer. Conversely, an item of equipment with an acquisition cost of $5,000 or more is NOT considered an allowable project cost without prior approval of the Grants Management Officer.

14. The Grantee shall comply with all provisions of OMB Circular A–133 (revised June 24, 1997), ''Audit of State, Local Governments and Non-Profit Organizations.'' http://www.whitehouse. gov/omb/circulars/a133/a133.html Grantees that expend a total of $300,000 or more in Federal funds are required to submit an annual audit within nine months after the end of the audit period. The Reporting Package should include: (1) SF–SAC–Data Collection Form for Reporting on Audits of State, Local Governments and Non-Profit Organizations. http://harvester.census.gov/fac/collect/formoptions.html; (2) Summary of prior audit findings; (3) Auditors reports and (4) Corrective action plans. Copies of this Reporting Package are to be sent to: Single Audit Clearinghouse, Bureau of the Census, 1201 East 10th Street, Jeffersonville, Indiana 47132.

15. Grantee shall comply with the particular set of Federal cost principles that applies in determining allowable cost. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs:

- The allowability of costs incurred by State, local or Federally-recognized Indian tribal governments is determined in accordance with the provisions of OMB Circular A–87, ''Cost Principles for States and Local Governments.'' http://www.whitehouse. gov/omb/circulars/a087/a087.html
- The allowability of costs incurred by nonprofit organizations (except for those listed in Attachment C of Circular A–122) is determined in accordance with the provisions of OMB Circular A–122, ''Cost Principles for Nonprofit Organizations'' and paragraph (b) of 45 CFR, 74.27. http://www.whitehouse. gov/omb/circulars/a122/a122.html
- The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A–21, ''Cost Principles for Educational Institutions.'' http://www.whitehouse. gov/omb/circulars/a021/a021.html
- The allowability of costs incurred by hospital is determined in accordance with the provisions of Appendix E of 45 CFR Part 74, ''Principles for Determining Cost Applicable to Research and Development Under Grants and Contracts with Hospitals.''
- The allowability of cost incurred by commercial organizations and those non-profit organizations listed in Attachment C to Circular A–122 is determined in accordance with the provision of the Federal Acquisition Regulation (FAR) at 48 CFR Part 31, except that independent research and development costs are unallowable http://www.access.gpo.gov/nara/cfr/waisidx_99/48cfr31_99.html

Office of Management and Budget

It is estimated that in 2001 the Federal Government will outlay $305.6 billion in grants to State and local governments. Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' was issued with the desire to foster the intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. The Order allows each State to designate an entity to perform this function. Below is the official list of those entities. For those States that have a home page for their designated entity, a direct link has been provided below. States that are not listed on this page have chosen not to participate in the intergovernmental review process, and therefore do not have a SPOC. If you are located within one of these States, you may still send application materials directly to a Federal awarding agency.

Arkansas

Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 W. 7th St., Room 412, Little Rock, Arkansas 72203, Telephone: (501) 682–1074, Fax: (501) 682–5206, tlcopeland@dfa.state.ar.us

California

Grants Coordination, State Clearinghouse, Office of Planning and Research, P.O. Box 3044, Room 222, Sacramento, California 95812–3044, Telephone: (916) 445–0613, Fax: (916) 323–3018, state.clearinghouse@opr.ca.gov

Delaware

Charles H. Hopkins, Executive Department, Office of the Budget, 540 S. Dupont Highway, 3rd Floor, Dover, Delaware 19901, Telephone: (302) 739–3323, Fax: (302) 739–5661, chopkins@state.de.us

District of Columbia

Ron Seldon, Office of Grants Management and Development, 717 14th Street, NW., Suite 1200, Washington, DC 20005, Telephone: (202) 727–1705, Fax: (202) 727–1617, ogmd-ogmd@degov.org

Florida

Florida State Clearinghouse, Department of Community Affairs, 2555 Shumard Oak Blvd., Tallahassee, Florida 32399–2100, Telephone: (850) 922–5438, (850) 414–5495 (direct), Fax: (850) 414–0479

Georgia

Georgia State Clearinghouse, 270 Washington Street, SW., Atlanta, Georgia, 30334, Telephone: (404) 656–3855, Fax: (404) 656–7901, gach@mail.opb.state.ga.us

Illinois

Virginia Bova, Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3–400, Chicago, Illinois 60601, Telephone: (312) 814–6028, Fax (312) 814–8485, vbova@commerce.state.il.us

Iowa

Steven R. McCann, Division of Community and Rural Development, Iowa Department of Economic Development, 200 East Grant Avenue, Des Moines, Iowa 50309, Telephone: (515) 242–4719, Fax: (515) 242–4809, steve.mccann@ided.state.ia.us

Kentucky

Ron Cook, Department for Local Government, 1024 Capital Center Drive, Suite 340, Frankfort, Kentucky 40601, Telephone: (502) 573–2382, Fax: (502) 573–2512, ron.cook@mail.state.ky.us

Maine

Joyce Benson, State Planning Office, 184 State Street, 38 State House Station, Augusta, Maine 04333, Telephone: (207) 287–3261, (207) 287–1461 (direct), Fax: (207) 287–6489, joyce.benson@state.me.us

Maryland

Linda Janey, Manager, Clearinghouse and Plan Review Unit, Maryland Office of Planning, 301 West Preston Street—Room 1104, Baltimore, Maryland 21201–2305, Telephone: (410) 767–4490, Fax: (410) 767–4480, linda@mail.op.state.md.us

Michigan

Richard Pfaff, Southeast Michigan Council of Governments, 535 Griswold, Suite 300, Detroit, Michigan 48226, Telephone: (313) 961–4266, Fax: (313) 961–4869, pfaff@semcog.org

Mississippi

Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, 1301 Woolfolk Building, Suite E, 501 North West Street, Jackson, Mississippi 39201, Telephone: (601) 359–6762, Fax: (601) 359–6758

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Truman Building, Room 840, Jefferson City, Missouri 65102, Telephone: (573) 751–4834, Fax: (573) 522–4395, pohll_@mail.oa.state.mo.us

Nevada

Heather Elliott, Department of Administration, State Clearinghouse, 209 E. Musser Street, Room 200, Carson City, Nevada 89701, Telephone: (775) 684–0209, Fax: (775) 684–0260, helliott@govmail.state.nv.us

New Hampshire

Jeffrey H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, Mike Blake, 2–½ Beacon Street, Concord, New Hampshire 03301, Telephone: (603) 27–2155, Fax: (603) 271–1728, jtaylor@osp.state.nh.us

New Mexico

Ken Hughes, Local Government Division, Room 201 Bataan Memorial Building, Santa Fe, New Mexico 87503, Telephone: (505) 827–4370, Fax: (505) 827–4948, khughes@dfa.state.nm.us

North Carolina

Jeanette Furney, Department of Administration, 1302 Mail Service Center, Raleigh, North Carolina 27699–1302, Telephone: (919) 807–2323, Fax: (919) 733–9571, jeanette.furney@ncmail.net

North Dakota

Jim Boyd, Division of Community Services, 600 East Boulevard Ave, Dept 105, Bismarck, North Dakota 58505–0170, Telephone: (701) 328–2094, Fax: (701) 328–2308, jboyd@state.nd.us

Rhode Island

Kevin Nelson, Department of Administration, Statewide Planning Program, One Capitol Hill, Providence, Rhode Island 02908–5870, Telephone: (401) 222–2093, Fax: (401) 222–2083, knelson@doa.state.ri.us

South Carolina

Omeagia Burgess, Budget and Control Board, Office of State Budget, 1122 Ladies Street, 12th Floor, Columbia, South Carolina 29201, Telephone: (803) 734–0494, Fax: (803) 734–0645, aburgess@budget.state.sc.us

Texas

Denise S. Francis, Director, State Grants Team, Governor's Office of Budget and Planning, P.O. Box 12428, Austin, Texas 78711, Telephone: (512) 305–9415, Fax: (512) 936–2681, dfrancis@governor.state.tx.us

Utah

Carolyn Wright, Utah State Clearinghouse, Governor's Office of Planning and Budget, State Capitol, Room 114, Salt Lake City, Utah 84114, Telephone (801) 538–1535, Fax: (801) 538–1547, cwright@gov.state.ut.us

West Virginia

Fred Cutlip, Director, Community Development Division, West Virginia Development Office, Building #6, Room 553, Charleston, West Virginia 25305, Telephone (304) 558–4010, Fax: (304) 558–3248, fcutlip@wvdo.org

Wisconsin

Jeff Smith, Section Chief, Federal/State Relations, Wisconsin Department of Administration, 101 East Wilson Street—6th Floor, P.O. Box 7868, Madison, Wisconsin 53707, Telephone: (608) 266–0267, Fax: (608) 267–6931, jeffrey.smith@doa.state.wi.us

American Samoa

Pat M. Galea'i, Federal Grants/Programs Coordinator, Office of Federal Programs, Office of the Governor/Department of Commerce, American Samoa Government, Pago Pago, American Samoa 96799, Telephone: (684) 633–5155, Fax: (684) 633–4195, pmgaleai@samoatelco.com

Guam

Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, Guam 96910, Telephone: 011–671–472–2285, Fax: 011–472–2825,, jer@ns.gov.gu

Puerto Rico

Jose Caballero / Mayra Silva, Puerto Rico Planning Board, Federal Proposals Review Office, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–1119, Telephone: (787) 723–6190, Fax: (787) 722–6783

North Mariana Islands

Ms. Jacoba T. Seman, Federal Programs Coordinator, Office of Management and Budget, Office of the Governor, Saipan, MP 96950, Telephone: (670) 664–2289, Fax: (670) 664–2272, omb.jseman@saipan.com

Virgin Islands

Ira Mills, Director, Office of Management and Budget, #41 Norre Gade Emancipation Garden Station, Second Floor, Saint Thomas, Virgin Islands 00802, Telephone: (340) 774–0750, Fax: (340) 766–0069, lrmills@usvi.org

[FR Doc. 01–16447 Filed 6–29–01; 8:45 am]

BILLING CODE 4184–01–P

Federal Register

Monday,
July 2, 2001

Part III

Department of the Treasury

Fiscal Service

Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies; Notice

DEPARTMENT OF THE TREASURY

FISCAL SERVICE
(Dept. Circular 570; 2001 Revision)

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE SURETIES ON FEDERAL BONDS AND AS ACCEPTABLE REINSURING COMPANIES

Effective July 1, 2001

This Circular is published annually, solely for the information of Federal bond-approving officers and persons required to give bonds to the United States. Copies of the Circular and interim changes may be obtained directly from the internet or from the Government Printing Office (202) 512-1800. (Interim changes are published in the FEDERAL REGISTER and on the internet as they occur.) Other information pertinent to Federal sureties may be obtained from the U.S. Department of the Treasury, Financial Management Service, Surety Bond Branch, 3700 East West Highway, Room 6A04, Hyattsville, MD 20782, Telephone (202) 874-6850 or Fax (202) 874-9978.

The most current list of Treasury authorized companies is always available through the Internet at http://www.fms.treas.gov/c570/index.html. In addition, applicable laws, regulations, and application information are also available at the same site.

Please note that the underwriting limitation published herein is on a per bond basis but this does not limit the amount of a bond that a company can write. Companies are allowed to write bonds with a penal sum over their underwriting limitation as long as they protect the excess amount with reinsurance, coinsurance or other methods as specified at 31 CFR 223.10-11. Please refer to footnote (b) at the end of this publication.

The following companies have complied with the law and the regulations of the U.S. Department of the Treasury. Those listed in the front of this Circular are acceptable as sureties and reinsurers on Federal bonds under Title 31 of the United States Code, Sections 9304 to 9308 [See Note (a)]. Those listed in the back are acceptable only as reinsurers on Federal bonds under 31 CFR 223.3(b) [See Note (e)].

If we can be of any assistance, please feel free to contact the Surety Bond Branch at (202) 874-6850.

Judith R. Tillman
Assistant Commissioner
Financial Operations
Financial Management Service

IMPORTANT INFORMATION IS CONTAINED IN THE NOTES AT THE END OF THIS CIRCULAR. PLEASE READ THE NOTES CAREFULLY.

Acadia Insurance Company

BUSINESS ADDRESS: P.O. Box 9010, Westbrook, ME 04098-5010. PHONE: (207) 772-4300. UNDERWRITING LIMITATION b/: $1,902,000. SURETY LICENSES c,f/: CT, DE, ME, MD, MA, NH, NY, PA, RI, VT. INCORPORATED IN: Maine.

ACCREDITED SURETY AND CASUALTY COMPANY, INC.

BUSINESS ADDRESS: P.O. Box 2067, Winter Park, FL 32790-2067. PHONE: (407) 629-2131. UNDERWRITING LIMITATION b/: $931,000. SURETY LICENSES c,f/: AL, AZ, CA, CO, CT, DE, DC, FL, GA, ID, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WA, WY. INCORPORATED IN: Florida.

ACSTAR INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 2350, New Britain, CT 06050-2350. PHONE: (860) 224-2000. UNDERWRITING LIMITATION b/: $1,916,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

ACUITY, A Mutual Insurance Company 1/

BUSINESS ADDRESS: 2800 South Taylor Drive, P.O. Box 58, Sheboygan, WI 53082-0058. PHONE: (920) 458-9131. UNDERWRITING LIMITATION b/: $20,341,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NV, ND, OH, OR, PA, SD, TN, TX, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Aegis Security Insurance Company

BUSINESS ADDRESS: P.O. Box 3153, Harrisburg, PA 17105. PHONE: (717) 657-9671. UNDERWRITING LIMITATION b/: $2,165,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Affiliated FM Insurance Company

BUSINESS ADDRESS: P.O. Box 7500, Johnston, RI 02919-0500. PHONE: (401) 275-3000. UNDERWRITING LIMITATION b/: $2,524,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

ALL AMERICA INSURANCE COMPANY

BUSINESS ADDRESS: 800 South Washington Street, Van Wert, OH 45891. PHONE: (419) 238-5551. UNDERWRITING LIMITATION b/: $3,831,000. SURETY LICENSES c,f/: AZ, CA, CT, GA, IL, IN, IA, KY, MA, MI, NV, NJ, NY, NC, OH, OK, TN, TX, VA. INCORPORATED IN: Ohio.

See Footnotes/Notes at end of Circular

Allegheny Casualty Company

BUSINESS ADDRESS: P.O. Box 1116, Meadville, PA 16335-7116. PHONE: (814) 336-2521. UNDERWRITING LIMITATION b/: $1,411,000. SURETY LICENSES c,f/: AL, CA, DC, FL, ID, IL, IN, LA, MD, MI, MS, MO, NV, NJ, NM, NY, NC, OH, OK, PA, SC, SD, TN, TX, VA, WA, WI, WY. INCORPORATED IN: Pennsylvania.

AMCO Insurance Company

BUSINESS ADDRESS: 701 Fifth Avenue, Des Moines, IA 50391-2007. PHONE: (515) 280-4211. UNDERWRITING LIMITATION b/: $31,173,000. SURETY LICENSES c,f/: AZ, CA, CO, DC, ID, IL, IN, IA, KS, KY, MI, MN, MO, MT, NE, NM, ND, OH, OR, SD, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Iowa.

AMERICAN ALTERNATIVE INSURANCE CORPORATION

BUSINESS ADDRESS: 555 College Road East - P.O. Box 5241, Princeton, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION b/: $3,385,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

AMERICAN AND FOREIGN INSURANCE COMPANY

BUSINESS ADDRESS: 9300 Arrowpoint Blvd., P. O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION b/: $9,018,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MA, MI, MS, MO, MT, NE, NV, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

American Automobile Insurance Company

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION b/: $6,637,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA

BUSINESS ADDRESS: 11222 Quail Roost Drive, Miami, FL 33157. PHONE: (305) 253-2244. UNDERWRITING LIMITATION b/: $5,629,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Florida.

American Casualty Company of Reading, Pennsylvania

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $44,425,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

See Footnotes/Notes at end of Circular

AMERICAN CONTRACTORS INDEMNITY COMPANY 2/

BUSINESS ADDRESS: 9841 Airport Blvd., 9th Floor, Los Angeles, CA 90045. PHONE: (310) 649-0990. UNDERWRITING LIMITATION b/: $1,308,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, FL, GA, GU, HI, ID, IN, IA, KS, LA, MD, MT, NE, NV, NM, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

American Economy Insurance Company

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: $39,526,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Fire and Casualty Company

BUSINESS ADDRESS: 9450 Seward Road, Fairfield, OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION b/: $7,710,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

American Guarantee and Liability Insurance Company

BUSINESS ADDRESS: 1400 American Lane, Tower I, 19th Floor, Schaumburg, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION b/: $5,981,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Home Assurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $237,886,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

American Insurance Company (The)

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION b/: $28,353,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

AMERICAN INTERNATIONAL INSURANCE COMPANY OF PUERTO RICO

BUSINESS ADDRESS: P.O. Box 10181, San Juan, PR 00908-1181. PHONE: (787) 767-6400. UNDERWRITING LIMITATION b/: $5,484,000. SURETY LICENSES c,f/: PR, VI. INCORPORATED IN: Puerto Rico.

See Footnotes/Notes at end of Circular

American International Pacific Insurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION ***b/***: $2,474,000. SURETY LICENSES ***c,f/***: AK, CO, CT, DC, IA, ME, MD, MA, MS, MT, NE, NH, ND, RI, SD, UT, VT, WV, WY. INCORPORATED IN: Colorado.

American Interstate Insurance Company

BUSINESS ADDRESS: 2301 Highway 190 West, DeRidder, LA 70634-6005. PHONE: (800) 256-9052. UNDERWRITING LIMITATION ***b/***: $4,603,000. SURETY LICENSES ***c,f/***: AK, AR, DE, DC, GA, HI, ID, IL, IA, KS, KY, LA, MA, MI, MN, MT, NE, NV, NY, PA, RI, SC, SD, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: Louisiana.

American Manufacturers Mutual Insurance Company

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. PHONE: (847) 320-2000. UNDERWRITING LIMITATION ***b/***: $25,428,000. SURETY LICENSES ***c,f/***: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

American Motorists Insurance Company

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. PHONE: (847) 320-2000. UNDERWRITING LIMITATION ***b/***: $42,070,000. SURETY LICENSES ***c,f/***: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

American Re-Insurance Company

BUSINESS ADDRESS: 555 College Road East, P.O. Box 5241, Princeton, NJ 08543. PHONE: (609) 243-4200. UNDERWRITING LIMITATION ***b/***: $216,537,000. SURETY LICENSES ***c,f/***: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

AMERICAN RELIABLE INSURANCE COMPANY

BUSINESS ADDRESS: 8655 East Via De Ventura, Scottsdale, AZ 85258. PHONE: (480) 483-8666. UNDERWRITING LIMITATION ***b/***: $2,946,000. SURETY LICENSES ***c,f/***: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

American Safety Casualty Insurance Company

BUSINESS ADDRESS: 1845 The Exchange, Suite 200, Atlanta, GA 30339. PHONE: (770) 916-1908. UNDERWRITING LIMITATION ***b/***: $1,203,000. SURETY LICENSES ***c,f/***: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

See Footnotes/Notes at end of Circular

American States Insurance Company

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: $33,332,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

American Surety Company

BUSINESS ADDRESS: 3905 Vincennes Road, Suite 200, Indianapolis, IN 46268. PHONE: (317) 875-8700. UNDERWRITING LIMITATION b/: $484,000. SURETY LICENSES c,f/: AL, CA, CT, DE, FL, HI, ID, IN, IA, KS, LA, MD, MS, MO, NE, NV, ND, OH, PA, SC, SD, TN, TX, UT, VA, WA, WY. INCORPORATED IN: California.

Amerisure Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 2060, Farmington Hills, MI 48333-2060. PHONE: (248) 615-9000. UNDERWRITING LIMITATION b/: $8,398,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Antilles Insurance Company

BUSINESS ADDRESS: P.O. Box 9023507, San Juan, PR 00902-3507. PHONE: (787) 721-4900. UNDERWRITING LIMITATION b/: $3,646,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Associated Indemnity Corporation

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION b/: $3,939,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

ATLANTIC ALLIANCE FIDELITY AND SURETY COMPANY

BUSINESS ADDRESS: 8000 Midlantic Drive, Suite 410 North, Mt. Laurel, NJ 08054. PHONE: (856) 439-0066. UNDERWRITING LIMITATION b/: $300,000. SURETY LICENSES c,f/: AL, CT, DE, DC, FL, GA, IL, IN, KS, KY, MD, MA, MN, MO, NJ, NY, NC, OK, PA, TN, TX. INCORPORATED IN: New Jersey.

Atlantic Mutual Insurance Company

BUSINESS ADDRESS: 140 Broadway, New York, NY 10005-1101. PHONE: (212) 943-1800. UNDERWRITING LIMITATION b/: $47,171,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes/Notes at end of Circular

ATLAS ASSURANCE COMPANY OF AMERICA

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (315) 431-6100. UNDERWRITING LIMITATION *b/*: $34,975,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Auto-Owners Insurance Company

BUSINESS ADDRESS: P.O. Box 30660, Lansing, MI 48909-8160. PHONE: (517) 323-1200. UNDERWRITING LIMITATION *b/*: $297,040,000. SURETY LICENSES *c,f/*: AL, AZ, CO, FL, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NM, NC, ND, OH, OR, SC, SD, TN, TX, UT, VA, WA, WI. INCORPORATED IN: Michigan.

Berkley Insurance Company

BUSINESS ADDRESS: 100 Campus Drive, P.O. Box 853, Florham Park, NJ 07932-0853. PHONE: (973) 301-8000. UNDERWRITING LIMITATION *b/*: $43,719,000. SURETY LICENSES *c,f/*: AL, AK, AR, CA, CO, DE, DC, FL, ID, IL, IN, IA, KY, LA, MD, MI, MN, MS, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SD, TN, TX, UT, VT, WA, WV, WI. INCORPORATED IN: Delaware.

BITUMINOUS CASUALTY CORPORATION

BUSINESS ADDRESS: 320 - 18th Street, Rock Island, IL 61201-8744. PHONE: (309) 786-5401. UNDERWRITING LIMITATION *b/*: $17,494,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

BOND SAFEGUARD INSURANCE COMPANY

BUSINESS ADDRESS: 1919 S. Highland Ave., Bldg. A, Suite 300, Lombard, IL 60148. PHONE: (630) 495-9380. UNDERWRITING LIMITATION *b/*: $531,000. SURETY LICENSES *c,f/*: IL, IN, KS, MO, NC, OK, TN, TX. INCORPORATED IN: Illinois.

BRITISH AMERICAN INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 1590, Dallas, TX 75221-1590. PHONE: (214) 443-5500. UNDERWRITING LIMITATION *b/*: $2,117,000. SURETY LICENSES *c,f/*: TX. INCORPORATED IN: Texas.

Buckeye Union Insurance Company (The)

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION *b/*: $22,324,000. SURETY LICENSES *c,f/*: AK, DC, FL, IL, IN, IA, KS, KY, MD, MI, MO, NY, OH, PA, RI, SD, VA, WV. INCORPORATED IN: Ohio.

See Footnotes/Notes at end of Circular

Capital City Insurance Company, Inc.

BUSINESS ADDRESS: P.O. Box 212157, Columbia, SC 29221-2157. PHONE: (803) 731-7728. UNDERWRITING LIMITATION b/: $1,705,000. SURETY LICENSES c,f/: AL, AR, GA, IL, LA, MS, NC, OK, PA, SC, TN, TX, VA, WV. INCORPORATED IN: S. Carolina.

Capitol Indemnity Corporation

BUSINESS ADDRESS: P.O. Box 5900, Madison, WI 53705-0900. PHONE: (608) 231-4450. UNDERWRITING LIMITATION b/: $10,792,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Wisconsin.

Carolina Casualty Insurance Company

BUSINESS ADDRESS: P.O. Box 2575, Jacksonville, FL 32203. PHONE: (904) 363-0900. UNDERWRITING LIMITATION b/: $3,280,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Florida.

Centennial Insurance Company

BUSINESS ADDRESS: 140 Broadway, New York, NY 10005-1101. PHONE: (212) 943-1800. UNDERWRITING LIMITATION b/: $9,245,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

CENTRAL MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 800 South Washington Street, Van Wert, OH 45891. PHONE: (419) 238-5551. UNDERWRITING LIMITATION b/: $17,743,000. SURETY LICENSES c,f/: AZ, CA, CT, DE, GA, IL, IN, IA, KY, MA, MI, NV, NH, NJ, NM, NY, NC, OH, OK, PA, TN, TX, VT, VA, WV. INCORPORATED IN: Ohio.

CENTURY SURETY COMPANY

BUSINESS ADDRESS: P.O. Box 163340, Columbus, OH 43216-3340. PHONE: (614) 895-2000. UNDERWRITING LIMITATION b/: $1,190,000. SURETY LICENSES c,f/: AZ, IN, OH, WV, WI. INCORPORATED IN: Ohio.

CGU INSURANCE COMPANY

BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108-3100. PHONE: (617) 725-6000. UNDERWRITING LIMITATION b/: $112,260,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

See Footnotes/Notes at end of Circular

Cherokee Insurance Company

BUSINESS ADDRESS: 34200 Mound Road, Sterling Heights, MI 48310. PHONE: (800) 201-0450. UNDERWRITING LIMITATION ***b/***: $1,002,000. SURETY LICENSES ***c,f/***: CA, GA, ID, IN, IA, LA, MI, MN, MO, ND, OH, TN, WV. INCORPORATED IN: Michigan.

CHRYSLER INSURANCE COMPANY

BUSINESS ADDRESS: CIMS:465-20-85, P.O. Box 5168, Southfield, MI 48086-5168. PHONE: (248) 948-3443. UNDERWRITING LIMITATION ***b/***: $19,610,000. SURETY LICENSES ***c,f/***: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Michigan.

CHUBB INDEMNITY INSURANCE COMPANY

BUSINESS ADDRESS: 55 Water Street, New York, NY 10041. PHONE: (212) 612-4000. UNDERWRITING LIMITATION ***b/***: $1,327,000. SURETY LICENSES ***c,f/***: AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Cincinnati Casualty Company (The)

BUSINESS ADDRESS: P.O. Box 145496, Cincinnati, OH 45250-5496. PHONE: (513) 870-2000. UNDERWRITING LIMITATION ***b/***: $21,117,000. SURETY LICENSES ***c,f/***: AL, AZ, AR, CO, DE, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Cincinnati Insurance Company (The)

BUSINESS ADDRESS: P.O. Box 145496, Cincinnati, OH 45250-5496. PHONE: (513) 870-2000. UNDERWRITING LIMITATION ***b/***: $264,313,000. SURETY LICENSES ***c,f/***: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

COLONIAL AMERICAN CASUALTY AND SURETY COMPANY

BUSINESS ADDRESS: 1400 American Lane, Tower 1, 19th Floor, Schaumburg, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION ***b/***: $1,746,000. SURETY LICENSES ***c,f/***: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Maryland.

COLONIAL SURETY COMPANY

BUSINESS ADDRESS: 50 Chestnut Ridge Road, Montvale, NJ 07645. PHONE: (201) 573-8788. UNDERWRITING LIMITATION ***b/***: $327,000. SURETY LICENSES ***c,f/***: AL, AK, AR, CA, CT, DE, DC, FL, IN, KS, MD, MA, MT, NE, NV, NJ, NM, NY, NC, ND, OK, OR, PA, SD, TN, TX, UT, WV, WY. INCORPORATED IN: Pennsylvania.

See Footnotes/Notes at end of Circular

Columbia Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 618, Columbia, MO 65202. PHONE: (573) 474-6193. UNDERWRITING LIMITATION *b/*: $6,576,000. SURETY LICENSES *c,f/*: AL, AZ, AR, CO, GA, ID, IL, IN, IA, KS, KY, LA, MN, MS, MO, MT, NE, NM, ND, OK, SD, TN, TX, VA, WA, WV, WY. INCORPORATED IN: Missouri.

Commercial Casualty Insurance Company of Georgia

BUSINESS ADDRESS: P.O. Box 926270, Norcross, GA 30010-6270. PHONE: (770) 729-8101. UNDERWRITING LIMITATION *b/*: $834,000. SURETY LICENSES *c,f/*: CA, FL, GA, IN, LA, NV, NC, PA, SC, WA. INCORPORATED IN: Georgia.

Commercial Insurance Company of Newark, New Jersey

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION *b/*: $6,607,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

Commercial Union Insurance Company

BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108-3100. PHONE: (617) 725-6000. UNDERWRITING LIMITATION *b/*: $28,750,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Consolidated Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (317) 581-6400. UNDERWRITING LIMITATION *b/*: $3,710,000. SURETY LICENSES *c,f/*: FL, IL, IN, IA, KY, MI, MN, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Continental Casualty Company

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION *b/*: $346,528,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Continental Insurance Company (The)

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION *b/*: $52,946,000. SURETY LICENSES *c,f/*: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

See Footnotes/Notes at end of Circular

CONTRACTORS BONDING AND INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 9271, Seattle, WA 98109-0271. PHONE: (206) 628-7200. UNDERWRITING LIMITATION *b/*: $2,418,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Cooperativa de Seguros Multiples de Puerto Rico

BUSINESS ADDRESS: G.P.O. Box 363846, San Juan, PR 00936-3846. PHONE: (787) 758-8585. UNDERWRITING LIMITATION *b/*: $12,640,000. SURETY LICENSES *c,f/*: PR. INCORPORATED IN: Puerto Rico.

CUMBERLAND CASUALTY & SURETY COMPANY

BUSINESS ADDRESS: 4311 West Waters Avenue Suite 401, Tampa, FL 33614. PHONE: (813) 885-2112. UNDERWRITING LIMITATION *b/*: $544,000. SURETY LICENSES *c,f/*: AL, AR, DE, DC, FL, GA, GU, ID, IN, KS, KY, LA, MD, MA, MO, MT, NE, NV, ND, OR, PA, SC, SD, TN, TX, WA, WV, WY. INCORPORATED IN: Florida.

CUMIS INSURANCE SOCIETY, INC.

BUSINESS ADDRESS: P. O. Box 1084, Madison, WI 53701. PHONE: (608) 238-5851. UNDERWRITING LIMITATION *b/*: $23,757,000. SURETY LICENSES *c,f/*: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Developers Surety and Indemnity Company

BUSINESS ADDRESS: P.O. Box 19725, Irvine, CA 92613. PHONE: (949) 263-3300. UNDERWRITING LIMITATION *b/*: $1,506,000. SURETY LICENSES *c,f/*: AK, AZ, CA, CO, DC, FL, HI, ID, IL, IN, IA, KS, KY, MD, MN, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WI, WY. INCORPORATED IN: Iowa.

DIAMOND STATE INSURANCE COMPANY

BUSINESS ADDRESS: Three Bala Plaza, East, Suite 300, Bala Cynwyd, PA 19004. PHONE: (610) 664-1500. UNDERWRITING LIMITATION *b/*: $5,352,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

EMPLOYERS INSURANCE OF WAUSAU A Mutual Company

BUSINESS ADDRESS: P.O. Box 8017, Wausau, WI 54402-8017. PHONE: (715) 845-5211. UNDERWRITING LIMITATION *b/*: $5,050,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

See Footnotes/Notes at end of Circular

Employers Mutual Casualty Company

BUSINESS ADDRESS: P. O. Box 712, Des Moines, IA 50303-0712. PHONE: (515) 280-2511. UNDERWRITING LIMITATION b/: $52,626,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Employers Reinsurance Corporation

BUSINESS ADDRESS: P.O. Box 2991, Overland Park, KS 66201-1391. PHONE: (913) 676-5200. UNDERWRITING LIMITATION b/: $317,696,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Erie Insurance Company

BUSINESS ADDRESS: 100 Erie Insurance Place, Erie, PA 16530. PHONE: (814) 870-2000. UNDERWRITING LIMITATION b/: $8,252,000. SURETY LICENSES c,f/: DC, IL, IN, KY, MD, NY, NC, OH, PA, TN, VA, WV, WI. INCORPORATED IN: Pennsylvania.

Everest Reinsurance Company

BUSINESS ADDRESS: P.O. Box 830, Liberty Corner, NJ 07938-0830. PHONE: (908) 604-3000. UNDERWRITING LIMITATION b/: $89,553,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Delaware.

Evergreen National Indemnity Company

BUSINESS ADDRESS: P.O. Box 163340, Columbus, OH 43216-3340. PHONE: (614) 895-1773. UNDERWRITING LIMITATION b/: $1,356,000. SURETY LICENSES c,f/: AL, AK, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, WA, WI, WY. INCORPORATED IN: Ohio.

Excelsior Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $4,074,000. SURETY LICENSES c,f/: CT, DE, DC, FL, GA, IN, KY, ME, MD, MA, NH, NJ, NY, NC, PA, VT, VA. INCORPORATED IN: New Hampshire.

Executive Risk Indemnity Inc.

BUSINESS ADDRESS: 15 Mountain View Road, P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION b/: $27,156,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: Delaware.

See Footnotes/Notes at end of Circular

EXPLORER INSURANCE COMPANY (THE)

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (858) 350-2400. UNDERWRITING LIMITATION *b/*: $2,784,000. SURETY LICENSES *c,f/*: AZ, CA, FL, HI, ID, IL, IA, MT, NV, NM, OR, PA, TX, UT, WA. INCORPORATED IN: Arizona.

Factory Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 7500, Johnston, RI 02919-0500. PHONE: (401) 275-3000. UNDERWRITING LIMITATION *b/*: $244,006,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

FAR WEST INSURANCE COMPANY

BUSINESS ADDRESS: 5230 Las Virgenes Road, Calabasas, CA 91302. PHONE: (818) 871-2000. UNDERWRITING LIMITATION *b/*: $1,027,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

Farmers Alliance Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 1401, McPherson, KS 67460. PHONE: (316) 241-2200. UNDERWRITING LIMITATION *b/*: $7,431,000. SURETY LICENSES *c,f/*: AZ, CO, ID, IN, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, SD, TX. INCORPORATED IN: Kansas.

Farmington Casualty Company

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION *b/*: $15,694,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Farmland Mutual Insurance Company

BUSINESS ADDRESS: 1963 Bell Avenue, Des Moines, IA 50315-1030. PHONE: (515) 245-8800. UNDERWRITING LIMITATION *b/*: $7,070,000. SURETY LICENSES *c,f/*: AL, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NV, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

See Footnotes/Notes at end of Circular

Federal Insurance Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION b/: $301,341,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Indiana.

FEDERATED MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 121 East Park Square, Owatonna, MN 55060. PHONE: (507) 455-5200. UNDERWRITING LIMITATION b/: $104,256,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Fidelity and Casualty Company of New York (The)

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $24,137,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Fidelity and Deposit Company of Maryland

BUSINESS ADDRESS: 1400 American Lane, Tower 1, 19th Floor, Schaumburg, IL 60196-1056. PHONE: (847) 605-6000. UNDERWRITING LIMITATION b/: $14,321,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

FIDELITY AND GUARANTY INSURANCE COMPANY

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: $1,327,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Fidelity and Guaranty Insurance Underwriters, Inc.

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: $3,121,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Financial Pacific Insurance Company

BUSINESS ADDRESS: P.O. Box 292220, Sacramento, CA 95829-2220. PHONE: (916) 630-5000. UNDERWRITING LIMITATION b/: $1,997,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, ID, KS, MO, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, WI. INCORPORATED IN: California.

See Footnotes/Notes at end of Circular

Fireman's Fund Insurance Company

BUSINESS ADDRESS: 777 San Marin Drive, Novato, CA 94998. PHONE: (415) 899-2000. UNDERWRITING LIMITATION *b/*: $123,980,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: California.

Firemen's Insurance Company of Newark, New Jersey

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION *b/*: $30,843,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

First Community Insurance Company

BUSINESS ADDRESS: 360 Central Avenue, St. Petersburg, FL 33701. PHONE: (727) 823-4000. UNDERWRITING LIMITATION *b/*: $966,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, MD, MA, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

First Insurance Company of Hawaii, Ltd.

BUSINESS ADDRESS: P.O. BOX 2866, HONOLULU, HI 96803. PHONE: (808) 527-7777. UNDERWRITING LIMITATION *b/*: $9,992,000. SURETY LICENSES *c,f/*: GU, HI. INCORPORATED IN: Hawaii.

First Liberty Insurance Corporation (The)

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION *b/*: $1,745,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

First National Insurance Company of America

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION *b/*: $6,481,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

FOLKSAMERICA REINSURANCE COMPANY

BUSINESS ADDRESS: One Liberty Plaza, New York, NY 10006-1404. PHONE: (212) 312-2500. UNDERWRITING LIMITATION *b/*: $38,046,000. SURETY LICENSES *c,f/*: AL, AZ, AR, CO, DC, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MS, MT, NE, NH, NM, NY, NC, ND, OH, OK, OR, PA, SC, TX, UT, VA, WA, WI. INCORPORATED IN: New York.

See Footnotes/Notes at end of Circular

GENERAL ACCIDENT INSURANCE COMPANY

BUSINESS ADDRESS: One Beacon Street, Boston, MA 02108-3100. PHONE: (617) 725-6000. UNDERWRITING LIMITATION b/: $9,791,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

General Insurance Company of America

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: $50,143,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Washington.

General Reinsurance Corporation

BUSINESS ADDRESS: 695 East Main Street, P.O. Box 10350, Stamford, CT 06904-2350. PHONE: (203) 328-5000. UNDERWRITING LIMITATION b/: $292,574,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Global Surety & Insurance Co.

BUSINESS ADDRESS: 3555 Farnam Street, Omaha, NE 68131. PHONE: (402) 271-2840. UNDERWRITING LIMITATION b/: $2,866,000. SURETY LICENSES c,f/: AZ, CA, CO, NE. INCORPORATED IN: Nebraska.

GLOBE INDEMNITY COMPANY

BUSINESS ADDRESS: 9300 Arrowpoint Blvd.,P.O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION b/: $37,593,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Grain Dealers Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 1747, Indianapolis, IN 46206. PHONE: (317) 923-2453. UNDERWRITING LIMITATION b/: $1,296,000. SURETY LICENSES c,f/: AZ, AR, CO, GA, IL, IN, IA, KS, KY, LA, MN, MS, MO, NE, NV, NM, NC, ND, OH, OK, OR, SD, TN, TX, VA, WA, WI, WY. INCORPORATED IN: Indiana.

GRANITE RE, INC.

BUSINESS ADDRESS: P.O. Box 20683, Oklahoma City, OK 73156. PHONE: (405) 752-2600. UNDERWRITING LIMITATION b/: $303,000. SURETY LICENSES c,f/: AZ, AR, CO, KS, MN, MT, ND, OK, SD. INCORPORATED IN: Oklahoma.

See Footnotes/Notes at end of Circular

Granite State Insurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $2,490,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Great American Alliance Insurance Company

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION b/: $1,044,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Great American Insurance Company

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION b/: $107,445,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

GREAT AMERICAN INSURANCE COMPANY OF NEW YORK

BUSINESS ADDRESS: 580 Walnut Street, Cincinnati, OH 45202. PHONE: (513) 369-5000. UNDERWRITING LIMITATION b/: $2,694,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Great Northern Insurance Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION b/: $11,727,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

GREAT RIVER INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 152180, Irving, TX 75015-2180. PHONE: (972) 719-2400. UNDERWRITING LIMITATION b/: $942,000. SURETY LICENSES c,f/: AL, AR, GA, KY, LA, MS, SC, TN, TX, UT. INCORPORATED IN: Mississippi.

Greenwich Insurance Company

BUSINESS ADDRESS: Seaview House, 70 Seaview Avenue, Stamford, CT 06902-6040. PHONE: (203) 964-5200. UNDERWRITING LIMITATION b/: $2,439,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

See Footnotes/Notes at end of Circular

Gulf Insurance Company

BUSINESS ADDRESS: P.O. Box 131771, Dallas, TX 75313-1771. PHONE: (972) 650-2800. UNDERWRITING LIMITATION b/: $31,044,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Hanover Insurance Company (The)

BUSINESS ADDRESS: 100 North Parkway, Worcester, MA 01605. PHONE: (508) 853-7200. UNDERWRITING LIMITATION b/: $103,277,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

HARCO NATIONAL INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 68309, Schaumburg, IL 60168-0309. PHONE: (847) 734-4100. UNDERWRITING LIMITATION b/: $5,689,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Harleysville Mutual Insurance Company

BUSINESS ADDRESS: 355 Maple Avenue, Harleysville, PA 19438-2297. PHONE: (215) 256-5000. UNDERWRITING LIMITATION b/: $55,101,000. SURETY LICENSES c,f/: AL, AR, CA, CO, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Harleysville Worcester Insurance Company 12/

BUSINESS ADDRESS: 120 Front Street, Ste 500, Worcester, MA 01608-1408. PHONE: (508) 751-8100. UNDERWRITING LIMITATION b/: $10,189,000. SURETY LICENSES c,f/: CT, ME, MA, MI, NH, NY, RI, VT. INCORPORATED IN: Massachusetts.

Hartford Accident and Indemnity Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: $88,608,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

See Footnotes/Notes at end of Circular

Hartford Casualty Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: $47,708,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Fire Insurance Company

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: $550,553,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Hartford Insurance Company of Illinois

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: $46,154,000. SURETY LICENSES c,f/: IL, PA. INCORPORATED IN: Illinois.

Hartford Insurance Company of the Midwest

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: $8,042,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Hartford Insurance Company of the Southeast

BUSINESS ADDRESS: Hartford Plaza, Hartford, CT 06115. PHONE: (860) 547-5000. UNDERWRITING LIMITATION b/: $3,141,000. SURETY LICENSES c,f/: CT, FL, GA, LA, PA. INCORPORATED IN: Florida.

Heritage Mutual Insurance Company 1/

ICI MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 730, Burlington, VT 05402-0730. PHONE: (802) 863-0096. UNDERWRITING LIMITATION b/: $10,881,000. SURETY LICENSES c,f/: VT. INCORPORATED IN: Vermont.

Indemnity Company of California

BUSINESS ADDRESS: P.O. Box 19725, Irvine, CA 92623. PHONE: (949) 263-3300. UNDERWRITING LIMITATION b/: $535,000. SURETY LICENSES c,f/: AK, AZ, CA, HI, ID, IN, NV, OR, SC, UT, VA, WA. INCORPORATED IN: California.

See Footnotes/Notes at end of Circular

Indemnity Insurance Company of North America

BUSINESS ADDRESS: 1601 Chestnut St., P.O. Box 41484, Philadelphia, PA 19101-1484. PHONE: (215) 640-1000 x-2324. UNDERWRITING LIMITATION b/: $1,106,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Independence Casualty and Surety Company

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (858) 350-2400 x-2550. UNDERWRITING LIMITATION b/: $1,934,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Indiana Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (317) 581-6400. UNDERWRITING LIMITATION b/: $8,503,000. SURETY LICENSES c,f/: FL, IL, IN, IA, KY, MI, MN, NJ, OH, TN, WA, WI. INCORPORATED IN: Indiana.

Indiana Lumbermens Mutual Insurance Company

BUSINESS ADDRESS: 3600 Woodview Trace, Indianapolis, IN 46268-0600. PHONE: (800) 428-1441. UNDERWRITING LIMITATION b/: $3,743,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Inland Insurance Company

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION b/: $5,760,000. SURETY LICENSES c,f/: AZ, CO, IA, KS, MN, MO, NE, ND, OK, SD, WY. INCORPORATED IN: Nebraska.

Insurance Company of the State of Pennsylvania (The)

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $70,054,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Insurance Company of the West

BUSINESS ADDRESS: P.O. Box 85563, San Diego, CA 92186-5563. PHONE: (858) 350-2400 x-2550. UNDERWRITING LIMITATION b/: $23,722,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: California.

See Footnotes/Notes at end of Circular

Insurors Indemnity Company

BUSINESS ADDRESS: P.O. Box 2683, Waco, TX 76702-2683. PHONE: (254) 750-8128. UNDERWRITING LIMITATION b/: $250,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

INTEGRAND ASSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 70128, San Juan, PR 00936-8128. PHONE: (787) 781-0707. UNDERWRITING LIMITATION b/: $3,443,000. SURETY LICENSES c,f/: PR, VI. INCORPORATED IN: Puerto Rico.

International Business & Mercantile REassurance Company

BUSINESS ADDRESS: 307 North Michigan Avenue, Chicago, IL 60601. PHONE: (312) 346-8100. UNDERWRITING LIMITATION b/: $8,360,000. SURETY LICENSES c,f/: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

International Fidelity Insurance Company

BUSINESS ADDRESS: One Newark Center, 20th Floor, Newark, NJ 07102-5207. PHONE: (973) 624-7200. UNDERWRITING LIMITATION b/: $3,402,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New Jersey.

ISLAND INSURANCE COMPANY, LIMITED

BUSINESS ADDRESS: P.O. Box 1520, Honolulu, HI 96806-1520. PHONE: (808) 564-8200. UNDERWRITING LIMITATION b/: $11,033,000. SURETY LICENSES c,f/: HI. INCORPORATED IN: Hawaii.

Kansas Bankers Surety Company (The)

BUSINESS ADDRESS: P. O. Box 1654, Topeka, KS 66601-1654. PHONE: (785) 228-0000. UNDERWRITING LIMITATION b/: $7,755,000. SURETY LICENSES c,f/: AZ, AR, CO, ID, IL, IN, IA, KS, KY, LA, ME, MI, MN, MS, MO, MT, NE, NM, ND, OK, SD, TN, TX, WI, WY. INCORPORATED IN: Kansas.

LEXINGTON NATIONAL INSURANCE CORPORATION

BUSINESS ADDRESS: 214 East Lexington Street, Baltimore, MD 21202. PHONE: (410) 625-0800. UNDERWRITING LIMITATION b/: $483,000. SURETY LICENSES c,f/: CA, CO, DE, FL, IN, MD, MS, NJ, PA. INCORPORATED IN: Maryland.

Liberty Insurance Corporation

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION b/: $18,900,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Vermont.

See Footnotes/Notes at end of Circular

LIBERTY MUTUAL FIRE INSURANCE COMPANY

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION *b/*: $72,871,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Liberty Mutual Insurance Company

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION *b/*: $300,609,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Massachusetts.

Lincoln General Insurance Company

BUSINESS ADDRESS: 3350 Whiteford Road, P.O. Box 3709, York, PA 17402-0136. PHONE: (717) 757-0000. UNDERWRITING LIMITATION *b/*: $1,709,000. SURETY LICENSES *c,f/*: AL, AR, CO, DE, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

LM Insurance Corporation

BUSINESS ADDRESS: 175 Berkeley Street, Boston, MA 02117. PHONE: (617) 357-9500. UNDERWRITING LIMITATION *b/*: $1,489,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Lumbermens Mutual Casualty Company

BUSINESS ADDRESS: 1 Kemper Drive, Long Grove, IL 60049-0001. PHONE: (847) 320-2000. UNDERWRITING LIMITATION *b/*: $93,628,000. SURETY LICENSES *c,f/*: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Lyndon Property Insurance Company

BUSINESS ADDRESS: 520 Maryville Centre Drive, Ste 500, St. Louis, MO 63141. PHONE: (314) 275-5200. UNDERWRITING LIMITATION *b/*: $2,878,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

See Footnotes/Notes at end of Circular

MARKEL INSURANCE COMPANY

BUSINESS ADDRESS: 4600 Cox Road, Glen Allen, VA 23060. PHONE: (800) 431-1270. UNDERWRITING LIMITATION b/: $7,684,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Massachusetts Bay Insurance Company

BUSINESS ADDRESS: 100 North Parkway, Worcester, MA 01605. PHONE: (508) 853-7200 x-4373. UNDERWRITING LIMITATION b/: $1,942,000. SURETY LICENSES c,f/: AL, AR, CA, CO, CT, DC, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, TX, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

Merchants Bonding Company (Mutual)

BUSINESS ADDRESS: 2100 Fleur Drive, Des Moines, IA 50321-1158. PHONE: (515) 243-8171. UNDERWRITING LIMITATION b/: $2,897,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Iowa.

Michigan Millers Mutual Insurance Company

BUSINESS ADDRESS: P. O. Box 30060, Lansing, MI 48909-7560. PHONE: (517) 482-6211 x-765. UNDERWRITING LIMITATION b/: $8,009,000. SURETY LICENSES c,f/: AZ, AR, CA, ID, IL, IN, IA, KS, KY, MI, MN, MO, NE, NY, NC, OH, OK, PA, VA, WI. INCORPORATED IN: Michigan.

Mid-Century Insurance Company

BUSINESS ADDRESS: P. O. Box 2478, Terminal Annex, Los Angeles, CA 90051-2478. PHONE: (323) 932-3200. UNDERWRITING LIMITATION b/: $63,951,000. SURETY LICENSES c,f/: AZ, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, SD, TN, TX, UT, VT, VA, WA, WI, WY. INCORPORATED IN: California.

MID-CONTINENT CASUALTY COMPANY

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221. UNDERWRITING LIMITATION b/: $6,234,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, IL, IN, IA, KS, LA, MN, MS, MO, MT, NE, NM, ND, OH, OK, OR, SD, TN, TX, UT, WA, WY. INCORPORATED IN: Oklahoma.

Mid-State Surety Corporation

BUSINESS ADDRESS: 102 Kercheval, Grosse Pointe Farms, MI 48236. PHONE: (313) 886-2200. UNDERWRITING LIMITATION b/: $1,207,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, NE, NV, NJ, NY, NC, ND, OH, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WV, WI, WY. INCORPORATED IN: Michigan.

See Footnotes/Notes at end of Circular

MIDWESTERN INDEMNITY COMPANY (THE) 3/

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (513) 576-3200. UNDERWRITING LIMITATION b/: $2,282,000. SURETY LICENSES c,f/: AL, AR, CT, GA, IL, IN, IA, KS, KY, MI, MN, MS, MO, NE, NJ, NY, NC, OH, OK, PA, SC, TN, VA, WV, WI. INCORPORATED IN: Ohio.

Minnesota Surety and Trust Company

BUSINESS ADDRESS: P. O. Box 463, Austin, MN 55912. PHONE: (507) 437-3231. UNDERWRITING LIMITATION b/: $186,000. SURETY LICENSES c,f/: CO, MN, MT, ND, SD, UT. INCORPORATED IN: Minnesota.

Motors Insurance Corporation

BUSINESS ADDRESS: 300 Galleria Officentre, Southfield, MI 48034. PHONE: (248) 263-6900. UNDERWRITING LIMITATION b/: $114,964,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

Mountbatten Surety Company, Inc. (The)

BUSINESS ADDRESS: 33 Rock Hill Road, Bala Cynwyd, PA 19004. PHONE: (610) 664-2259. UNDERWRITING LIMITATION b/: $1,215,000. SURETY LICENSES c,f/: AL, AR, CT, DE, DC, FL, GA, IL, IN, IA, KY, MD, MI, MS, NJ, NY, NC, OH, PA, SC, TN, TX, VA, WV, WI. INCORPORATED IN: Pennsylvania.

MUTUAL SERVICE CASUALTY INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 64035, St. Paul, MN 55164-0035. PHONE: (651) 631-7000. UNDERWRITING LIMITATION b/: $1,427,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

NAC Reinsurance Corporation 6/

National American Insurance Company

BUSINESS ADDRESS: 1010 Manvel Avenue, Chandler, OK 74834. PHONE: (405) 258-0804. UNDERWRITING LIMITATION b/: $4,392,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Oklahoma.

National Fire Insurance Company of Hartford

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $79,284,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

See Footnotes/Notes at end of Circular

National Grange Mutual Insurance Company

BUSINESS ADDRESS: 55 West Street, Keene, NH 03431. PHONE: (603) 352-4000. UNDERWRITING LIMITATION b/: $25,819,000. SURETY LICENSES c,f/: CT, DE, DC, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, WI. INCORPORATED IN: New Hampshire.

National Indemnity Company

BUSINESS ADDRESS: 3024 Harney Street, Omaha, NE 68131-3580. PHONE: (402) 536-3000. UNDERWRITING LIMITATION b/: $403,474,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NM, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Nebraska.

National Surety Corporation

BUSINESS ADDRESS: 233 South Wacker Drive, Suite 2000, Chicago, IL 60606-6308. PHONE: (312) 441-5400. UNDERWRITING LIMITATION b/: $8,329,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

National Union Fire Insurance Company of Pittsburgh, PA

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION b/: $274,657,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

National-Ben Franklin Insurance Company of Illinois

BUSINESS ADDRESS: CNA Plaza, Chicago, IL 60685. PHONE: (312) 822-5000. UNDERWRITING LIMITATION b/: $8,934,000. SURETY LICENSES c,f/: DC, FL, IL, IN, IA, KY, MD, MI, MN, NY, NC, ND, RI, SD, WI. INCORPORATED IN: Illinois.

Nationwide Mutual Insurance Company

BUSINESS ADDRESS: One Nationwide Plaza, Columbus, OH 43216. PHONE: (614) 249-7111. UNDERWRITING LIMITATION b/: $483,284,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Netherlands Insurance Company (The)

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $3,042,000. SURETY LICENSES c,f/: AZ, CA, CT, DC, GA, ID, IL, IN, IA, KY, ME, MD, MA, MI, MN, NV, NH, NJ, NY, NC, OH, OR, PA, RI, SC, TN, UT, VT, VA, WA, WI. INCORPORATED IN: New Hampshire.

See Footnotes/Notes at end of Circular

New Hampshire Insurance Company

BUSINESS ADDRESS: 70 Pine Street, New York, NY 10270. PHONE: (212) 770-7000. UNDERWRITING LIMITATION *b/*: $27,054,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

NORTH AMERICAN SPECIALTY INSURANCE COMPANY

BUSINESS ADDRESS: 650 Elm Street, Manchester, NH 03101. PHONE: (603) 644-6600. UNDERWRITING LIMITATION *b/*: $10,176,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

NORTHLAND INSURANCE COMPANY

BUSINESS ADDRESS: P. O. Box 64816, St. Paul, MN 55164-0816. PHONE: (651) 688-4100. UNDERWRITING LIMITATION *b/*: $10,855,000. SURETY LICENSES *c,f/*: AL, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

NORTHWESTERN PACIFIC INDEMNITY COMPANY

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (503) 221-4240. UNDERWRITING LIMITATION *b/*: $3,107,000. SURETY LICENSES *c,f/*: CA, OK, OR, TX, WA. INCORPORATED IN: Oregon.

NOVA Casualty Company

BUSINESS ADDRESS: 180 Oak Street, Buffalo, NY 14203-1610. PHONE: (716) 856-3722. UNDERWRITING LIMITATION *b/*: $878,000. SURETY LICENSES *c,f/*: AZ, FL, GA, IN, IA, MS, NV, NY, ND, PA, TN. INCORPORATED IN: New York.

Ohio Casualty Insurance Company (The)

BUSINESS ADDRESS: 9450 Seward Road, Fairfield, OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION *b/*: $81,213,000. SURETY LICENSES *c,f/*: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Ohio Farmers Insurance Company

BUSINESS ADDRESS: P. O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION *b/*: $67,620,000. SURETY LICENSES *c,f/*: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

See Footnotes/Notes at end of Circular

Oklahoma Surety Company

BUSINESS ADDRESS: P.O. Box 1409, Tulsa, OK 74101. PHONE: (918) 587-7221. UNDERWRITING LIMITATION b/: $555,000. SURETY LICENSES c,f/: AR, KS, LA, OK, TX. INCORPORATED IN: Oklahoma.

OLD DOMINION INSURANCE COMPANY

BUSINESS ADDRESS: 55 West Street, Keene, NH 03431. PHONE: (904) 739-0873. UNDERWRITING LIMITATION b/: $1,191,000. SURETY LICENSES c,f/: DE, FL, GA, MD, SC, VA. INCORPORATED IN: Florida.

Old Republic Insurance Company

BUSINESS ADDRESS: P.O. Box 789, Greensburg, PA 15601-0789. PHONE: (724) 834-5000. UNDERWRITING LIMITATION b/: $40,579,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Old Republic Surety Company

BUSINESS ADDRESS: P.O. Box 1635, Milwaukee, WI 53201. PHONE: (262) 797-2640. UNDERWRITING LIMITATION b/: $2,884,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, DC, FL, GA, ID, IL, IN, IA, KS, MD, MN, MS, MO, MT, NE, NV, NM, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

ORISKA INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 855, Oriskany, NY 13424. PHONE: (315) 768-2726. UNDERWRITING LIMITATION b/: $303,000. SURETY LICENSES c,f/: DC, GA, NY, NC, PA, TN, WV. INCORPORATED IN: New York.

Pacific Employers Insurance Company

BUSINESS ADDRESS: 1601 Chestnut Street, P.O. Box 41484, Philadelphia, PA 19101-1484. PHONE: (215) 640-1000 x-2324. UNDERWRITING LIMITATION b/: $2,963,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Pennsylvania.

Pacific Indemnity Company

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (908) 903-2000. UNDERWRITING LIMITATION b/: $42,152,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

See Footnotes/Notes at end of Circular

PARTNER REINSURANCE COMPANY OF THE U.S.

BUSINESS ADDRESS: One Greenwich Plaza, Greenwich, CT 06830-6352. PHONE: (203) 485-4200. UNDERWRITING LIMITATION b/: $27,200,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, DC, GA, IL, IA, MS, NE, NV, NY, OH, SD, TX, WA. INCORPORATED IN: New York.

PARTNERRE INSURANCE COMPANY OF NEW YORK

BUSINESS ADDRESS: One Greenwich Plaza, Greenwich, CT 06830-6352. PHONE: (203) 485-4200. UNDERWRITING LIMITATION b/: $7,827,000. SURETY LICENSES c,f/: AL, AZ, CA, CO, DE, DC, IL, IN, IA, KS, KY, MD, MI, MN, MS, MT, NE, NJ, NM, NY, ND, OH, OK, OR, PA, RI, SC, SD, TX, UT, VT, WA, WV, WI. INCORPORATED IN: New York.

Peerless Insurance Company

BUSINESS ADDRESS: 62 Maple Avenue, Keene, NH 03431. PHONE: (603) 352-3221. UNDERWRITING LIMITATION b/: $16,760,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New Hampshire.

Pekin Insurance Company

BUSINESS ADDRESS: 2505 Court Street, Pekin, IL 61558. PHONE: (309) 346-1161. UNDERWRITING LIMITATION b/: $5,195,000. SURETY LICENSES c,f/: IL, IN, IA, WI. INCORPORATED IN: Illinois.

Penn Millers Insurance Company

BUSINESS ADDRESS: P. O. Box P, Wilkes-Barre, PA 18773-0016. PHONE: (570) 822-8111. UNDERWRITING LIMITATION b/: $4,775,000. SURETY LICENSES c,f/: AL, AR, CT, DC, FL, GA, IL, IN, KS, KY, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA. INCORPORATED IN: Pennsylvania.

Pennsylvania National Mutual Casualty Insurance Company

BUSINESS ADDRESS: P.O. Box 2361, Harrisburg, PA 17105-2361. PHONE: (717) 234-4941. UNDERWRITING LIMITATION b/: $17,921,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI. INCORPORATED IN: Pennsylvania.

Pioneer General Insurance Company

BUSINESS ADDRESS: 6780 East Hampden Avenue, Denver, CO 80224. PHONE: (303) 758-8122. UNDERWRITING LIMITATION b/: $264,000. SURETY LICENSES c,f/: CO, MT. INCORPORATED IN: Colorado.

PLANET INDEMNITY COMPANY

BUSINESS ADDRESS: 9025 N. Lindbergh Dr., Peoria, IL 61615. PHONE: (309) 692-1000. UNDERWRITING LIMITATION b/: $1,210,000. SURETY LICENSES c,f/: AZ, CO, DC, FL, ID, IL, IN, KS, KY, MI, MN, MO, NE, NV, ND, OH, OR, PA, SC, SD, UT, VA, WA. INCORPORATED IN: Illinois.

See Footnotes/Notes at end of Circular

Progressive Casualty Insurance Company

BUSINESS ADDRESS: 6300 Wilson Mills Road, W33, Mayfield Village, OH 44143-2182. PHONE: (440) 461-5000. UNDERWRITING LIMITATION ***b/***: $57,267,000. SURETY LICENSES ***c,f/***: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Protective Insurance Company

BUSINESS ADDRESS: 1099 North Meridian Street, Indianapolis, IN 46204. PHONE: (317) 636-9800. UNDERWRITING LIMITATION ***b/***: $29,009,000. SURETY LICENSES ***c,f/***: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

Providence Washington Insurance Company

BUSINESS ADDRESS: P.O. Box 518, Providence, RI 02901-0518. PHONE: (401) 453-7000. UNDERWRITING LIMITATION ***b/***: $7,094,000. SURETY LICENSES ***c,f/***: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Rhode Island.

Ranger Insurance Company

BUSINESS ADDRESS: P.O. Box 2807, Houston, TX 77252. PHONE: (713) 954-8100. UNDERWRITING LIMITATION ***b/***: $4,838,000. SURETY LICENSES ***c,f/***: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

Republic - Franklin Insurance Company

BUSINESS ADDRESS: P. O. Box 530, Utica, NY 13503-0530. PHONE: (315) 734-2000. UNDERWRITING LIMITATION ***b/***: $2,598,000. SURETY LICENSES ***c,f/***: CT, DE, DC, GA, IL, IN, KS, MD, MA, MI, NJ, NY, NC, OH, PA, RI, TN, TX, VA, WI. INCORPORATED IN: Ohio.

Republic Western Insurance Company

BUSINESS ADDRESS: 2721 North Central Avenue, Phoenix, AZ 85004-1163. PHONE: (602) 263-6755. UNDERWRITING LIMITATION ***b/***: $4,051,000. SURETY LICENSES ***c,f/***: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

See Footnotes/Notes at end of Circular

RLI Insurance Company

BUSINESS ADDRESS: 9025 N. Lindbergh Drive, Peoria, IL 61615. PHONE: (309) 692-1000. UNDERWRITING LIMITATION b/: $25,780,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Royal Indemnity Company

BUSINESS ADDRESS: 9300 Arrowpoint Boulevard, P.O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION b/: $5,680,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Delaware.

ROYAL INSURANCE COMPANY OF AMERICA

BUSINESS ADDRESS: 1240 E. Diehl Rd., Ste 500, P. O. Box 3144, Naperville, IL 60566. PHONE: (630) 577-9200. UNDERWRITING LIMITATION b/: $40,598,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

SAFECO Insurance Company of America

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: $70,632,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Washington.

Safeguard Insurance Company

BUSINESS ADDRESS: 9300 Arrowpoint Blvd., P. O. Box 1000, Charlotte, NC 28201-1000. PHONE: (704) 522-2000. UNDERWRITING LIMITATION b/: $11,285,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Safety National Casualty Corporation

BUSINESS ADDRESS: 2043 Woodland Parkway, Suite 200, St. Louis, MO 63146. PHONE: (314) 995-5300. UNDERWRITING LIMITATION b/: $11,935,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

See Footnotes/Notes at end of Circular

Seaboard Surety Company

BUSINESS ADDRESS: 5801 Smith Avenue, Baltimore, MD 21209-3653. PHONE: (410) 205-3000. UNDERWRITING LIMITATION b/: $14,562,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Select Insurance Company

BUSINESS ADDRESS: P.O. Box 131771, Dallas, TX 75313-1771. PHONE: (972) 650-2800. UNDERWRITING LIMITATION b/: $4,832,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, DE, DC, FL, GA, ID, IL, IN, IA, KY, LA, MD, MI, MS, MO, MT, NE, NV, NM, NC, OH, OR, SC, SD, TN, TX, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

Selective Insurance Company of America

BUSINESS ADDRESS: 40 Wantage Avenue, Branchville, NJ 07890. PHONE: (973) 948-3000. UNDERWRITING LIMITATION b/: $25,105,000. SURETY LICENSES c,f/: AL, CT, DE, DC, GA, IL, IN, IA, KY, MD, MI, MN, MS, MO, NJ, NY, NC, OH, PA, RI, SC, SD, TN, TX, VA, WV, WI. INCORPORATED IN: New Jersey.

Seneca Insurance Company, Inc.

BUSINESS ADDRESS: 160 Water Street, New York, NY 10038-4922. PHONE: (212) 344-3000. UNDERWRITING LIMITATION b/: $4,954,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Sentry Insurance A Mutual Company

BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, WI 54481-8020. PHONE: (715) 346-6000. UNDERWRITING LIMITATION b/: $169,521,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

Sentry Select Insurance Company 4/

BUSINESS ADDRESS: 1800 North Point Drive, Stevens Point, WI 54481-8020. PHONE: (715) 346-6000. UNDERWRITING LIMITATION b/: $9,500,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Wisconsin.

SERVICE INSURANCE COMPANY

BUSINESS ADDRESS: P.O. Box 9729, Bradenton, FL 34206-9729. PHONE: (941) 746-4107 x-273. UNDERWRITING LIMITATION b/: $677,000. SURETY LICENSES c,f/: AL, DE, FL, GA, IA, NE, NC, SC, TN, VA. INCORPORATED IN: Florida.

See Footnotes/Notes at end of Circular

SERVICE INSURANCE COMPANY INC. (THE)

BUSINESS ADDRESS: 80 Main Street, West Orange, NJ 07052. PHONE: (973) 731-7650. UNDERWRITING LIMITATION *b/*: $181,000. SURETY LICENSES *c,f/*: NJ. INCORPORATED IN: New Jersey.

SOREMA NORTH AMERICA REINSURANCE COMPANY

BUSINESS ADDRESS: 199 Water Street, New York, NY 10038-3526. PHONE: (212) 480-1900. UNDERWRITING LIMITATION *b/*: $12,153,000. SURETY LICENSES *c,f/*: AL, AK, AZ, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: New York.

St. Paul Fire and Marine Insurance Company

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION *b/*: $173,101,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

ST. PAUL GUARDIAN INSURANCE COMPANY

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION *b/*: $3,494,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

St. Paul Mercury Insurance Company

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION *b/*: $6,698,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Minnesota.

Standard Fire Insurance Company (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION *b/*: $67,909,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Star Insurance Company

BUSINESS ADDRESS: 26600 Telegraph Road, Southfield, MI 48034. PHONE: (248) 358-1100. UNDERWRITING LIMITATION *b/*: $1,008,000. SURETY LICENSES *c,f/*: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Michigan.

See Footnotes/Notes at end of Circular

State Auto Property and Casualty Insurance Company

BUSINESS ADDRESS: 518 East Broad Street, Columbus, OH 43215. PHONE: (864) 877-3311. UNDERWRITING LIMITATION b/: $21,709,000. SURETY LICENSES c,f/: AL, AZ, AR, DC, FL, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NC, ND, OH, OK, PA, SC, SD, TN, UT, VA, WV, WI, WY. INCORPORATED IN: S. Carolina.

State Automobile Mutual Insurance Company

BUSINESS ADDRESS: 518 East Broad Street, Columbus, OH 43215-3976. PHONE: (614) 464-5000. UNDERWRITING LIMITATION b/: $70,666,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DC, FL, GA, IL, IN, IA, KS, KY, MD, MI, MN, MS, MO, MT, NE, NC, ND, OH, OK, PA, SC, SD, TN, VA, WV, WI, WY. INCORPORATED IN: Ohio.

State Farm Fire and Casualty Company

BUSINESS ADDRESS: One State Farm Plaza, Bloomington, IL 61710. PHONE: (309) 766-2311. UNDERWRITING LIMITATION b/: $437,916,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Statewide Insurance Company

BUSINESS ADDRESS: P.O. Box 799, Waukegan, IL 60079-0799. PHONE: (847) 662-0073 x152. UNDERWRITING LIMITATION b/: $600,000. SURETY LICENSES c,f/: AZ, AR, ID, IL, IN, IA, KS, KY, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, PA, SC, SD, TN, UT, WA, WI, WY. INCORPORATED IN: Illinois.

Suretec Insurance Company

BUSINESS ADDRESS: 10000 Memorial Dr. Suite 330, Houston, TX 77024. PHONE: (713) 812-0800. UNDERWRITING LIMITATION b/: $330,000. SURETY LICENSES c,f/: TX. INCORPORATED IN: Texas.

Surety Company of the Pacific

BUSINESS ADDRESS: P.O. Box 10289, Van Nuys, CA 91410-0289. PHONE: (818) 609-9232. UNDERWRITING LIMITATION b/: $567,000. SURETY LICENSES c,f/: CA. INCORPORATED IN: California.

Swiss Reinsurance America Corporation

BUSINESS ADDRESS: 175 King Street, Armonk, NY 10504. PHONE: (914) 828-8000. UNDERWRITING LIMITATION b/: $153,704,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WI. INCORPORATED IN: New York.

See Footnotes/Notes at end of Circular

TEXAS PACIFIC INDEMNITY COMPANY

BUSINESS ADDRESS: 15 Mountain View Rd., P.O. Box 1615, Warren, NJ 07061-1615. PHONE: (214) 754-0777. UNDERWRITING LIMITATION b/: $930,000. SURETY LICENSES c,f/: AR, TX. INCORPORATED IN: Texas.

TRANSATLANTIC REINSURANCE COMPANY

BUSINESS ADDRESS: 80 Pine Street, New York, NY 10005. PHONE: (212) 770-2000. UNDERWRITING LIMITATION b/: $128,892,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, DE, DC, GA, ID, IL, IN, IA, KS, KY, LA, MI, MN, MS, NE, NV, NJ, NM, NY, OH, OK, PA, SD, UT, WA, WI. INCORPORATED IN: New York.

Travelers Casualty and Surety Company

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $175,366,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of America

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $58,568,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Travelers Casualty and Surety Company of Illinois

BUSINESS ADDRESS: 215 Shuman Boulevard, Naperville, IL 60563. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $36,436,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Illinois.

Travelers Indemnity Company (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $116,607,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Connecticut.

Trinity Universal Insurance Company

BUSINESS ADDRESS: P.O. Box 655028, Dallas, TX 75265-5028. PHONE: (214) 360-8000. UNDERWRITING LIMITATION b/: $51,020,000. SURETY LICENSES c,f/: AL, AZ, AR, CA, CO, GA, ID, IL, IN, IA, KS, KY, LA, MI, MS, MO, MT, NE, NM, OH, OK, OR, TN, TX, UT, WA, WI, WY. INCORPORATED IN: Texas.

See Footnotes/Notes at end of Circular

Underwriters Indemnity Company

BUSINESS ADDRESS: 9025 N. Lindbergh Dr., Peoria, IL 61615. PHONE: (309) 692-1000. UNDERWRITING LIMITATION b/: $1,356,000. SURETY LICENSES c,f/: AL, AR, DE, DC, GA, HI, ID, IL, IN, KS, KY, LA, MS, MO, MT, NE, NV, NM, NC, ND, OK, OR, PA, SC, SD, TN, TX, UT, VA, WA, WV, WI. INCORPORATED IN: Texas.

Union Insurance Company

BUSINESS ADDRESS: P.O. Box 1594, Des Moines, IA 50306. PHONE: (515) 278-3000. UNDERWRITING LIMITATION b/: $567,000. SURETY LICENSES c,f/: AR, CO, DC, ID, IA, KS, MD, MN, MS, MO, MT, NE, NC, ND, OK, SD, TN, TX, UT, VA, WA, WY. INCORPORATED IN: Nebraska.

UNITED CASUALTY AND SURETY INSURANCE COMPANY

BUSINESS ADDRESS: 170 Milk Street, Boston, MA 02109. PHONE: (617) 542-3232. UNDERWRITING LIMITATION b/: $241,000. SURETY LICENSES c,f/: DC, MA, NY, ND, PA. INCORPORATED IN: Massachusetts.

United Coastal Insurance Company 5/

BUSINESS ADDRESS: 233 Main Street P.O. Box 2350, New Britain, CT 06050-2350. PHONE: (860) 223-5000. UNDERWRITING LIMITATION b/: $2,349,000. SURETY LICENSES c,f/: AZ. INCORPORATED IN: Arizona.

United Fire & Casualty Company

BUSINESS ADDRESS: P.O. Box 73909, Cedar Rapids, IA 52407-3909. PHONE: (319) 399-5700. UNDERWRITING LIMITATION b/: $18,360,000. SURETY LICENSES c,f/: AK, AZ, AR, CA, CO, FL, ID, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, ND, OH, OK, OR, SC, SD, TN, TX, UT, WA, WV, WI, WY. INCORPORATED IN: Iowa.

UNITED NATIONAL INSURANCE COMPANY

BUSINESS ADDRESS: Three Bala Plaza East, Suite 300, Bala Cynwyd, PA 19004. PHONE: (610) 664-1500. UNDERWRITING LIMITATION b/: $22,913,000. SURETY LICENSES c,f/: PA. INCORPORATED IN: Pennsylvania.

United States Fidelity and Guaranty Company

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: $49,729,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Maryland.

UNITED STATES FIRE INSURANCE COMPANY

BUSINESS ADDRESS: 305 Madison Avenue, Morristown, NJ 07960. PHONE: (973) 490-6600. UNDERWRITING LIMITATION b/: $32,145,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes/Notes at end of Circular

United States Surety Company

BUSINESS ADDRESS: P.O. Box 5605, Timonium, MD 21094. PHONE: (410) 453-9522. UNDERWRITING LIMITATION b/: $251,000. SURETY LICENSES c,f/: DE, DC, MD, PA, WV. INCORPORATED IN: Maryland.

UNITED SURETY AND INDEMNITY COMPANY

BUSINESS ADDRESS: P.O. Box 2111, San Juan, PR 00922-2111. PHONE: (787) 273-1818 x2090. UNDERWRITING LIMITATION b/: $3,257,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

UNIVERSAL BONDING INSURANCE COMPANY

BUSINESS ADDRESS: 518 Stuyvesant Avenue, Lyndhurst, NJ 07071. PHONE: (201) 438-7223. UNDERWRITING LIMITATION b/: $1,310,000. SURETY LICENSES c,f/: NJ, NY, PA. INCORPORATED IN: New Jersey.

UNIVERSAL INSURANCE COMPANY

BUSINESS ADDRESS: G.P.O. Box 71338, San Juan, PR 00936. PHONE: (787) 793-7202. UNDERWRITING LIMITATION b/: $7,582,000. SURETY LICENSES c,f/: PR. INCORPORATED IN: Puerto Rico.

Universal Surety Company

BUSINESS ADDRESS: P.O. Box 80468, Lincoln, NE 68501. PHONE: (402) 435-4302. UNDERWRITING LIMITATION b/: $3,357,000. SURETY LICENSES c,f/: AZ, AR, CO, ID, IL, IA, KS, MI, MN, MO, MT, NE, NM, ND, OH, OK, OR, SD, UT, WA, WI, WY. INCORPORATED IN: Nebraska.

Universal Surety of America

BUSINESS ADDRESS: P.O. Box 1068, Houston, TX 77251-1068. PHONE: (713) 722-4600. UNDERWRITING LIMITATION b/: $1,689,000. SURETY LICENSES c,f/: AL, AK, AR, CA, CO, DE, DC, FL, GA, ID, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Texas.

UNIVERSAL UNDERWRITERS INSURANCE COMPANY

BUSINESS ADDRESS: 7045 College Boulevard, Overland Park, KS 66211. PHONE: (913) 339-1000. UNDERWRITING LIMITATION b/: $12,682,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Kansas.

Utica Mutual Insurance Company

BUSINESS ADDRESS: P.O. Box 530, Utica, NY 13503-0530. PHONE: (315) 734-2000. UNDERWRITING LIMITATION b/: $35,150,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes/Notes at end of Circular

VAN TOL SURETY COMPANY, INCORPORATED

BUSINESS ADDRESS: 424 Fifth Street, Brookings, SD 57006. PHONE: (605) 692-6294. UNDERWRITING LIMITATION ***b/***: $279,000. SURETY LICENSES ***c,f/***: SD. INCORPORATED IN: South Dakota.

Vigilant Insurance Company

BUSINESS ADDRESS: 55 Water Street, New York, NY 10041. PHONE: (212) 612-4000. UNDERWRITING LIMITATION ***b/***: $4,164,000. SURETY LICENSES ***c,f/***: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

Washington International Insurance Company

BUSINESS ADDRESS: 1200 Arlington Heights Road, Suite 400, Itasca, IL 60143-2625. PHONE: (630) 227-4700. UNDERWRITING LIMITATION ***b/***: $2,925,000. SURETY LICENSES ***c,f/***: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Arizona.

West American Insurance Company

BUSINESS ADDRESS: 9450 Seward Road, Fairfield, OH 45014. PHONE: (513) 603-2400. UNDERWRITING LIMITATION ***b/***: $45,161,000. SURETY LICENSES ***c,f/***: AL, AK, AZ, AR, CO, CT, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VA, WA, WV, WI, WY. INCORPORATED IN: Indiana.

WEST BEND MUTUAL INSURANCE COMPANY

BUSINESS ADDRESS: 1900 South 18th Avenue, West Bend, WI 53095. PHONE: (262) 334-5571. UNDERWRITING LIMITATION ***b/***: $17,949,000. SURETY LICENSES ***c,f/***: IL, IN, IA, MI, MN, OH, WI. INCORPORATED IN: Wisconsin.

Westchester Fire Insurance Company

BUSINESS ADDRESS: 1601 Chestnut Street, P. O. Box 41484, Philadelphia, PA 19101-1484. PHONE: (215) 640-1000. UNDERWRITING LIMITATION ***b/***: $19,747,000. SURETY LICENSES ***c,f/***: AL, AK, AS, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

Western Insurance Company

BUSINESS ADDRESS: P.O. Box 21030, Reno, NV 89515. PHONE: (775) 829-6650. UNDERWRITING LIMITATION ***b/***: $438,000. SURETY LICENSES ***c,f/***: NV, UT. INCORPORATED IN: Nevada.

See Footnotes/Notes at end of Circular

Western Surety Company

BUSINESS ADDRESS: P.O. Box 5077, Sioux Falls, SD 57117-5077. PHONE: (605) 336-0850. UNDERWRITING LIMITATION b/: $16,874,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: South Dakota.

Westfield Insurance Company

BUSINESS ADDRESS: P. O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION b/: $36,090,000. SURETY LICENSES c,f/: AL, AZ, AR, CO, DE, DC, FL, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Ohio.

Westfield National Insurance Company

BUSINESS ADDRESS: P. O. Box 5001, Westfield Center, OH 44251-5001. PHONE: (330) 887-0101. UNDERWRITING LIMITATION b/: $9,628,000. SURETY LICENSES c,f/: CA, IA, KY, ND, OH. INCORPORATED IN: Ohio.

Westport Insurance Corporation

BUSINESS ADDRESS: P.O. Box 2979, Overland Park, KS 66201-1379. PHONE: (913) 676-5270. UNDERWRITING LIMITATION b/: $15,016,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: Missouri.

Worcester Insurance Company 12/

XL Reinsurance America Inc. 6/

BUSINESS ADDRESS: Seaview House, 70 Seaview Avenue, Stamford, CT 06902-6040. PHONE: (203) 964-5200. UNDERWRITING LIMITATION b/: $38,336,000. SURETY LICENSES c,f/: AL, AK, AZ, CA, CO, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, WA, WV, WI, WY. INCORPORATED IN: New York.

XL Specialty Insurance Company

BUSINESS ADDRESS: 1450 East American Lane, 20th Floor, Schaumburg, IL 60173. PHONE: (847) 517-2990. UNDERWRITING LIMITATION b/: $4,571,000. SURETY LICENSES c,f/: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, GU, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: Illinois.

See Footnotes/Notes at end of Circular

Zurich American Insurance Company

BUSINESS ADDRESS: 1400 American Lane, Tower 1, 19th Floor, Schaumburg, IL 60196. PHONE: (847) 605-6000. UNDERWRITING LIMITATION ***b/***: $164,423,000. SURETY LICENSES ***c,f/***: AL, AK, AZ, AR, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, ND, OH, OK, OR, PA, PR, RI, SC, SD, TN, TX, UT, VT, VA, VI, WA, WV, WI, WY. INCORPORATED IN: New York.

See Footnotes/Notes at end of Circular

COMPANIES HOLDING CERTIFICATES OF AUTHORITY AS ACCEPTABLE REINSURING COMPANIES UNDER SECTION 223.3(b) OF TREASURY CIRCULAR NO. 297, REVISED SEPTEMBER 1, 1978 [See Note (e)]*

GE Reinsurance Corporation 7/

BUSINESS ADDRESS: 475 Half Day Road, Suite 300, Lincolnshire, IL 60069. PHONE: (847) 876-1500. UNDERWRITING LIMITATION b/: $63,644,000.

Generali - U.S. Branch

BUSINESS ADDRESS: One Liberty Plaza, New York, NY 10006. PHONE: (212) 602-7600. UNDERWRITING LIMITATION b/: $5,801,000.

GERLING GLOBAL REINSURANCE CORPORATION OF AMERICA

BUSINESS ADDRESS: 717 Fifth Avenue, New York, NY 10022. PHONE: (212) 754-7500. UNDERWRITING LIMITATION b/: $48,791,000.

NATIONAL REINSURANCE CORPORATION

BUSINESS ADDRESS: 695 East Main St., P.O. Box 10350, Stamford, CT 06904-2350. PHONE: (203) 328-5000. UNDERWRITING LIMITATION b/: $54,274,000.

NORTHBROOK PROPERTY AND CASUALTY INSURANCE COMPANY

BUSINESS ADDRESS: 385 Washington Street, St. Paul, MN 55102. PHONE: (651) 310-7911. UNDERWRITING LIMITATION b/: $16,498,000.

Odyssey Reinsurance Corporation

BUSINESS ADDRESS: 300 First Stamford Place, Stamford, CT 06902. PHONE: (203) 977-8000. UNDERWRITING LIMITATION b/: $31,523,000.

Phoenix Insurance Company (The)

BUSINESS ADDRESS: One Tower Square, Hartford, CT 06183-6014. PHONE: (860) 277-0111. UNDERWRITING LIMITATION b/: $55,210,000.

SAFECO Insurance Company of Illinois 8/

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: $15,293,000.

SAFECO National Insurance Company 9/

BUSINESS ADDRESS: SAFECO Plaza, Seattle, WA 98185. PHONE: (206) 545-5000. UNDERWRITING LIMITATION b/: $6,202,000.

SCOR REINSURANCE COMPANY 10/

BUSINESS ADDRESS: 2 World Trade Center, New York, NY 10048-2495. PHONE: (212) 390-5200. UNDERWRITING LIMITATION b/: $27,644,000.

See Footnotes/Notes at end of Circular

ZENITH INSURANCE COMPANY 11/

BUSINESS ADDRESS: 21255 Califa Street, Woodland Hills, CA 91367. PHONE: (818) 713-1000. UNDERWRITING LIMITATION *b/*: $10,514,000.

See Footnotes/Notes at end of Circular

FOOTNOTES

1 Heritage Mutual Insurance Company changed its name to ACUITY, A Mutual Insurance Company, effective June 1, 2001.

2 AMERICAN CONTRACTORS INDEMNITY COMPANY is required by state law to conduct business in the state of Texas as TEXAS BONDING COMPANY, assumed name of AMERICAN CONTRACTORS INDEMNITY COMPANY.

3 This Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular.

4 Sentry Select Insurance Company changed its state of incorporation from Illinois to Wisconsin effective January 1, 2001.

5 United Coastal Insurance Company is an approved surplus lines carrier. Such approval by the State Insurance Department may indicate that the Company is authorized to write surety in a particular state, even though the Company is not licensed in the state. Questions related to this, may be directed to the appropriate State Insurance Department. Refer to the list of the Departments at the end of this publication.

6 NAC Reinsurance Corporation changed its name to XL Reinsurance America Inc., effective January 16, 2001.

7 GE Reinsurance Corporation's Treasury authority has changed from an acceptable surety on Federal bonds to an acceptable reinsurer on Federal bonds, effective July 1, 2001.

8 SAFECO Insurance Company of Illinois Treasury authority has changed from an acceptable surety on Federal bonds to an acceptable reinsurer on Federal bonds, effective July 1, 2001.

9 SAFECO National Insurance Company's Treasury authority has changed from an acceptable surety on Federal bonds to an acceptable reinsurer on Federal bonds, effective July 1, 2001.

10 SCOR REINSURANCE COMPANY's Treasury authority has changed from an acceptable surety on Federal bonds to an acceptable reinsurer on Federal bonds, effective July 1, 2001.

11 This Company's name is very similar to another company that is NOT certified by this Department. Please ensure that the name of the Company and the state of incorporation are exactly as they appear in this Circular. Do not hesitate to contact the Company to verify the authenticity of a bond.

12 Worcester Insurance Company changed its name to Harleysville Worcester Insurance Company, effective July 1, 2001.

See Footnotes/Notes at end of Circular

NOTES

(a) All Certificates of Authority expire June 30, and are renewable July 1, annually. Companies holding Certificates of Authority as acceptable sureties on Federal bonds are also acceptable as reinsuring companies.

(b) The Underwriting Limitations published herein are on a per bond basis. Treasury requirements do not limit the penal sum (face amount) of bonds which surety companies may provide. However, when the penal sum exceeds a company's Underwriting Limitation, the excess must be protected by co-insurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised September 1, 1978 (31 CFR Section 223.10, Section 223.11). Treasury refers to a bond of this type as an Excess Risk. When Excess Risks on bonds in favor of the United States are protected by reinsurance, such reinsurance is to be effected by use of a Federal reinsurance form to be filed with the bond or within 45 days thereafter. In protecting such excess risks, the underwriting limitation in force on the day in which the bond was provided will govern absolutely. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

(c) A surety company must be licensed in the State or other area in which it provides a bond, but need not be licensed in the State or other area in which the principal resides or where the contract is to be performed [28 Op. Atty. Gen. 127, Dec. 24, 1909; 31 CFR Section 223.5 (b)]. The term "other area" includes the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands.

License information in this Circular is provided to the Treasury Department by the companies themselves. For updated license information, you may contact the company directly or the applicable State Insurance Department. Refer to the list of state insurance departments at the end of this publication. For further assistance, contact the Surety Bond Branch at (202) 874-6850.

(d) FEDERAL PROCESS AGENTS: Treasury approved surety companies are required to appoint Federal process agents in accord with 31 U.S.C. 9306 and 31 CFR 224 in the following districts: Where the principal resides; where the obligation is to be performed; and in the District of Columbia where the bond is returnable or filed. No process agent is required in the State or other area where the company is incorporated (31 CFR Section 224.2). The name and address of a particular surety's process agent in a particular Federal Judicial District may be obtained from the Clerk of the U.S. District Court in that district. (The appointment documents are on file with the clerks.) (NOTE: A surety company's underwriting agent who furnishes its bonds may or may not be its authorized process agent.)

SERVICE OF PROCESS: Process should be served on the Federal process agent appointed by a surety in a judicial district, except where the appointment of such agent is pending or during the absence of such agent from the district. Only in the event that an agent has not been duly appointed, or the appointment is pending, or the agent is absent from the district, should process be served directly on the Clerk of the court pursuant to the provisions of 31 U.S.C. 9306.

See Footnotes/Notes at end of Circular

(e) Companies holding Certificates of Authority as acceptable reinsuring companies are acceptable only as reinsuring companies on Federal bonds.

(f) Some companies may be approved surplus lines carriers in various states. Such approval may indicate that the company is authorized to write surety in a particular state, even though the company is not licensed in the state. Questions related to this may be directed to the appropriate State Insurance Department. Refer to the list of state insurance departments at the end of this publication.

See Footnotes/Notes at end of Circular

STATE INSURANCE DEPARTMENTS	TELEPHONE NO.
Alabama, Montgomery 36130-3401	(334) 269-3550
Alaska, Juneau 99811-0805	(907) 465-2515
Arizona, Phoenix 85012	(602) 912-8400
Arkansas, Little Rock 72204	(501) 371-2600
California, Sacremento 95814	(916) 492-3500
Colorado, Denver 80202	(303) 894-7499
Connecticut, Hartford 06142-0816	(860) 297-3800
D. C., Washington 20013-7200	(202) 727-8000
Delaware, Dover 19901	(302) 739-4251
Florida, Tallahasse 32399-0300	(850) 922-3100
Georgia, Atlanta 30334	(404) 656-2056
Hawaii, Honolulu 96811	(808) 586-2790
Idaho, Boise 83720	(208) 334-4250
Illinois, Springfield 62767	(217) 782-4515
Indiana, Indianapolis 46204-2787	(317) 232-2385
Iowa, Des Moines 50319	(515) 281-5705
Kansas, Topeka 66612	(785) 296-7801
Kentucky, Frankfort 40602	(502) 564-3630
Louisiana, Baton Rouge 70804	(225) 342-5900
Maine, Augusta 04333	(207) 624-8475
Maryland, Baltimore 21202	(410) 468-2090
Massachusetts, Boston 02114	(617) 521-7794
Michigan, Lansing 48909	(517) 373-9273
Minnesota, St. Paul 55101	(651) 296-6848
Mississippi, Jackson 39205	(601) 359-3569
Missouri, Jefferson City 65102-0690	(573) 751-4126
Montana, Helena 59604-4009	(406) 444-2040
Nebraska, Lincoln 68508	(402) 471-2201
Nevada, Carson City 89710	(775) 687-4270
New Hampshire, Concord 03301	(603) 271-2261
New Jersey, Trenton 08625	(609) 292-5360
New Mexico, Sante Fe 87504-1269	(505) 827-4500
New York, New York 10013	(212) 480-6400
North Carolina, Raleigh 27611	(919) 733-7349
North Dakota, Bismarck 58505	(701) 328-2440
Ohio, Columbus 43266-0566	(614) 644-2658
Oklahoma, Oklahoma City 73152-3408	(405) 521-2828
Oregon, Salem 97310	(503) 947-7980
Pennsylvania, Harrisburg 17120	(717) 787-5173
Puerto Rico, Santurce 00910-8330	(787) 722-8686
Rhode Island, Providence 02903	(401) 222-2223
South Carolina, Columbia 29202-3105	(803) 737-6160
South Dakota, Pierre 57501	(605) 773-3563
Tennessee, Nashville 37243-0565	(615) 741-2241
Texas, Austin 78714-9104	(512) 463-6464
Utah, Salt Lake City 84114-1201	(801) 538-3800
Vermont, Montpelier 05620-3101	(802) 828-3301
Virgin Islands, St. Thomas 00802	(340) 773-6449
Virginia, Richmond 23209	(804) 371-9741
Washington, Olympia 98504	(360) 753-7301
West Virginia, Charleston 25305	(304) 558-3394
Wisconsin, Madison 53707-7873	(608) 266-0102
Wyoming, Cheyenne 82002	(307) 777-7401

See Footnotes/Notes at end of Circular

[FR Doc. 01–16502 Filed 6–29–01; 8:45 am]
BILLING CODE 4810–35–C

Federal Register

Monday,
July 2, 2001

Part IV

Department of Housing and Urban Development

24 CFR Part 207

Mortgage Insurance Premiums in Multifamily Housing Programs; Increase in Certain FHA Multifamily Mortgage Insurance Premiums; Interim Rule and Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 207

[Docket No. FR–4679–I–01]

RIN 2502–AH64

Mortgage Insurance Premiums in Multifamily Housing Programs

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: HUD currently has statutory authority to set the mortgage insurance premiums (''MIP'') for multifamily programs from one-fourth to one percent of the outstanding principal balance per annum. However, HUD's current regulations currently set the MIP at a specific figure, one-half of one percent in most programs. This interim rule revises current regulations to permit the Secretary to set mortgage insurance premiums by program within the full range of HUD's statutory authority through notice, making it easier for HUD to respond more efficiently to changing market and programmatic conditions, and making it possible to continue these programs for the remainder of fiscal year 2001 and into 2002.

DATES: *Effective Date:* August 1, 2001.

Comment Due Date: August 31, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are *not* acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Michael McCullough, Director, Office of Multifamily Development, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, at (202) 708–1142. Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

A. Background

Section 203(c)(1) of the National Housing Act authorizes the Secretary to set the premium charge for insurance of mortgages under the various programs in Title II of the National Housing Act. The range within which the Secretary may set such charges must be between one-fourth of one percent per annum and one percent per annum of the amount of the principal obligation of the mortgage outstanding at any time. (See 12 U.S.C. 1709(c)(1)).

HUD's multifamily mortgage insurance program regulations have generally set the MIP at a specific percentage amount within the authorized range and have not reflected the authorized range. Thus, for example, 24 CFR 207.252 and 207.252a(a) have set the general MIP rate for most mortgage insurance programs at one-half of one percent of the average outstanding principal balance of the mortgage per year. There are other programs where the MIP has been set at the maximum authorized amount, for example, the first year mortgage insurance premium for section 223(f) specified in section 207.252b.

Each year, Congress appropriates funds to cover HUD's credit subsidy needs, based on an assessment of the probable risk of loss in the insurance programs. The Federal Credit Reform Act of 1990, 2 U.S.C. 661 *et seq.* (''FCRA'') requires that the budgetary treatment for all direct loan and loan guarantee programs recognize, in advance, the estimated net cost to the Federal Government resulting from these transactions. In other words, under FCRA, HUD is required to estimate the probable cost to the agency of all multifamily mortgages it insures and must request ''credit subsidy'' as part of its budget each fiscal year to cover those costs. For example, the most popular of HUD's multifamily construction programs, Section 221(d)(4), currently requires a subsidy of 3.35 cents for each dollar of loan insured.

Due to greater than anticipated requests for loan insurance commitments by HUD, the existing credit subsidy is insufficient for HUD to continue the following programs: section 207 for new construction/substantial rehabilitation and manufactured home parks, section 220 for housing in urban renewal areas, sections 221(d)(3), 221(d)(4), 223(d) operating loss loans, section 231 housing mortgage insurance for the elderly, Section 234(d) for condominiums, section 241(a) supplemental loans for multifamily projects, and HOPE VI projects under the sections 207, 220, 221(d)(4) and 231 programs. Because of this lack of necessary credit subsidy, these programs will not be able to continue to operate throughout the fiscal year. HUD is anticipating some additional credit subsidy to be appropriated in the near future for the remainder of Fiscal Year (FY) 2001, but it will not be sufficient to fund all outstanding requests for commitments. In addition, it is anticipated that only a small amount of credit subsidy will be available in FY 2002. For these reasons, HUD is revising certain multifamily mortgage insurance programs to eliminate or substantially reduce the need for credit subsidy by amending its regulations to allow the Secretary to raise mortgage insurance premiums to the full extent of his statutory authority. The Secretary will proceed to set the actual MIP within the statutory and new regulatory limits by notice as described below.

B. This Interim Rule

This interim rule revises Subpart B ''Contract Rights and Obligations'' of Part 207 ''Multifamily Housing Mortgage Insurance'' so that the provisions on mortgage insurance premiums reflect the statutory language, and allow the Secretary to raise or lower mortgage premiums within the statutory limits through notice.

Where ''one-half of one percent'' appears in §§ 207.252 and 207.252a, this interim rule changes that phrase to ''not less than one-fourth of one percent nor more than one percent as the Secretary shall determine.'' Where the regulations have specified that a one percent premium will be charged, including during the first year mortgage insurance premium for the Section 223(f) program specified in § 207.252b, and for properties located near military installations insured under Special Risk Insurance Fund, as set forth in § 207.252c, the one percent premium remains and there is no change in the regulations to §§ 207.252b or 207.252c. There is no change to regulations at § 207.252d (late charge) or to § 207.252e (electronic transmission of premiums).

An increase as described below in the mortgage premium for mortgages under the section 221(d)(4), section 207, section 207 for mobile home parks, section 220, section 231, section 234(d) and HOPE VI projects under sections 207, 220, 221(d)(4), and 231 will result in a decrease in the credit subsidy needed for those programs for the remainder of FY 2001, and the elimination of credit subsidy requirements for FY 2002. The section 221(d)(3), section 223(d), and section 241(a) for apartments programs will continue to require some credit subsidy in both FY 2001 and FY 2002, albeit a reduced amount.

C. Changes in MIP

No later than the date this interim rule becomes effective, HUD will issue a separate notice increasing its mortgage insurance premium requirements for certain multifamily programs that currently require credit subsidy to reduce the credit subsidy rates and the need for credit subsidy. Other programs will keep the premiums in effect prior to the notice. Based on HUD's analysis of credit subsidy needs, for the period from the effective date of this rule to September 30, 2001, the notice will change certain mortgage insurance programs, now having a mortgage premium of 0.5% of the outstanding principal balance of the insured loan, to programs with a mortgage premium of 0.8% of the outstanding principal balance. HUD will make future changes by notice as credit subsidy allocations and program needs dictate, although HUD currently plans to keep the 0.8% rate in effect through FY 2002. HUD will provide 30 days for public comment on all such future changes in mortgage insurance premiums. Changes made by this rule in the method for setting mortgage insurance premiums will be applied in accordance with 24 CFR 207.499.

The mortgage insurance premiums, by program, will be:

Multifamily loan program	Percent [1]
Section 207—Multifamily Housing—new/sub. Rehab	0.8
Section 207—Mobile Home Parks	0.8
Section 220—Housing In Urban Renewal Areas	0.8
Section 221(d)(3) and 221(d)(4)—Moderate Income Housing	0.8
Section 223(a)(7) Refinancing of Insured Multifamily Project	0.5
Section 223(d) Operating Loss Loans	0.8
Section 207/223(f) Purchase or Refinance—housing	0.5
Section 231 Housing for the Elderly	0.8
Section 232 Health Care Facilities	0.5
Section 232 pursuant to Section 223(f) Purchase or Refinance Transactions	0.5
Section 234(d) Condominium Housing	0.5
Section 241(a) Additions & Improvements for Apartments	0.8
Section 241(a) Additions & Improvements for Health Care Facilities	0.5
Section 242—Hospitals	0.5
Title XI—Group Practice	0.5
HOPE VI Projects—[207, 220, 221(d)(4) and 231]	0.8
Low Income Tax Credit Projects [207, 220, 221(d)(4) and 231] without HOPE VI	0.5

[1] Annual mortgage insurance permiums charged.

Absent any change in law, premium rate changes will not apply to mortgages which have received a firm commitment and a sufficient obligation of credit subsidy; such mortgagees may continue to proceed to closing at the committed amount with the premium rate in effect before the change made by this rule and the notice to be issued on or before its effective date. An obligation of credit subsidy occurs when the mortgagee has notified the appropriate HUD office in writing of the acceptance of the firm commitment by the mortgagee and the borrower, and has received notice in writing from HUD that there is sufficient credit subsidy to cover the mortgage amount for which a firm commitment was received.

All firm commitments for these programs to be issued, reissued or amended on or after the effective date of this rule and its implementing notice must be processed at the 0.8% rate. In the case of commitments having a sufficient obligation of credit subsidy, amendments to those commitments that do not affect the mortgage amount need not be reprocessed at the new premium rate. All projects in the Headquarters queue that did not receive an obligation of credit subsidy prior to the effective date of this rule and its implementing notice will, subject to the availability of credit subsidy and any conditions that may be imposed on such availability, not be reprocessed at the new rate but will continue to be processed at the rate on which the commitment was based. Notwithstanding the previous sentence, all projects in the Headquarters queue that did not receive an obligation of credit subsidy prior to the effective date of this rule and implementing notice, upon the request of the mortgagee, will be reprocessed at the new premium rates.

In accordance with 24 CFR 200.40, HUD will refund to the mortgagee any firm commitment application fee, if the mortgagee advises the Field Office in writing that it wishes to withdraw its application or surrender its outstanding firm commitment because of the increase in the mortgage insurance premium.

D. Findings and Clearances

Justification for Interim Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advanced notice and public participation. The good cause requirement is satisfied when prior public procedure is ''impractical, unnecessary, or contrary to the public interest'' (see 24 CFR 10.1). Because the credit subsidy appropriated for FY 2001 HUD mortgage insurance programs affected by this rule has been almost completely committed, and the additional credit subsidy HUD is anticipating will not suffice to cover upcoming requests currently in the application pipeline, HUD is facing the near-term shutdown of those programs. It is in the public interest for those programs to continue so that the various low and moderate income multifamily projects, for which mortgage insurance is made available by HUD's programs, can continue to receive the HUD-insured mortgage funding that makes such housing possible. The business community, as well, needs continuity if these programs are to remain useful vehicles for housing production. Therefore, HUD finds that good cause exists to have the regulations reflect the statutory requirements so that the Secretary has the flexibility to adjust the MIPs within those requirements as necessary so that the programs can continue uninterrupted throughout the fiscal year. The changes being made by this rule are prospective only and do not affect existing commitments.

HUD will be accepting comments on this interim rule for a 60-day period. HUD will consider these comments in promulgating the final rule.

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review*. OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Room 10276, 451 Seventh Street, SW, Washington, DC 20410–0500.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this interim rule, and in so doing certifies that this rule will not have a significant

economic impact on a substantial number of small entities. While this rule does raise mortgage insurance premiums in certain programs, the amount of increase, which is constrained by HUD's statutory authorization, is relatively small. Furthermore, without the increase, it is likely that the effect on business entities will be much greater, as a number of HUD's mortgage insurance programs would have to cease operations completely, causing hardship and uncertainty to those who depend upon these programs to secure mortgages. Thus, this rule acts to minimize adverse impacts on the business community.

Notwithstanding HUD's determination that this rule does not have a significant economic impact on a substantial number of small entities, HUD specifically invites comment regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in the preamble.

Environmental Impact

In accordance with 24 CFR 50.19(c)(6) of HUD's regulations, this rule involves establishment of rate or cost determinations and related external administrative requirements and procedures which do not constitute a development decision that affects the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on State and local governments and is not required by statute, or preempts State law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This interim rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number applicable to the program affected by this rule is 14.134.

List of Subjects in 24 CFR Part 207

Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

For the reasons stated in the preamble, HUD amends 24 CFR part 207 as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

1. The authority citation for 24 CFR part 207 is revised to read as follows:

Authority: 12 U.S.C. 1701z-11(e), 1709(c)(1), 1713 and 1715b; 42 U.S.C. 3535(d).

Subpart B—Contract Rights and Obligations—Premiums

2. Revise § 207.252 to read as follows:

§ 207.252 First, second and third premiums.

The mortgagee, upon the initial endorsement of the mortgage for insurance, shall pay to the Commissioner a first mortgage insurance premium equal to not less than one-fourth of one percent nor more than one percent as the Secretary shall determine of the original face amount of the mortgage. The specific premium to be charged will be set forth in **Federal Register** notice.

(a) If the date of the first principal payment is more than one year following the date of such initial insurance endorsement, the mortgagee, upon the anniversary of such insurance date, shall pay a second premium equal to not less than one-fourth of one percent nor more than one percent as the Secretary shall determine of the original face amount of the mortgage. On the date of the first principal payment, the mortgagee shall pay a third premium equal to not less than one-fourth of one percent nor more than one percent of the average outstanding principal obligation of the mortgage for the following year which shall be adjusted so as to accord with such date and so that the aggregate of the said three premiums shall equal the sum of:

(1) One percent of the average outstanding principal obligation of the mortgage for the year following the date of initial insurance endorsement; and

(2) Not less than one-fourth of one percent nor more than one percent per annum as the Secretary shall determine of the average outstanding principal obligation of the mortgage for the period from the first anniversary of the date of initial insurance endorsement to one year following the date of the first principal payment.

(b) If the date of the first principal payment is one year, or less than one year following the date of such initial insurance endorsement, the mortgagee, upon such first principal payment date, shall pay a second premium equal to not less than one-fourth of one percent nor more than one percent as the Secretary shall determine of the average outstanding principal obligation of the mortgage for the following year which shall be adjusted so as to accord with such date and so that the aggregate of the said two premiums shall equal the sum of:

(1) One percent per annum of the average outstanding principal obligation of the mortgage for the period from the date of initial insurance endorsement to the date of first principal payment; and

(2) Not less than one-fourth of one percent nor more than one percent as the Secretary shall determine of the average outstanding principal obligation of the mortgage for the year following the date of the first principal payment.

(c) Where the credit instrument is initially and finally endorsed for insurance pursuant to a Commitment to Insure Upon Completion, the mortgagee on the date of the first principal payment shall pay a second premium equal to not less than one-fourth of one percent nor more than one percent as the Secretary shall determine of the average outstanding principal obligation of the mortgage for the year following such first principal payment date which shall be adjusted so as to accord with such date and so that the aggregate of the said two premiums shall equal the sum of not less than one-fourth of one percent nor more than one percent per annum as the Secretary shall determine of the average outstanding principal obligation of the mortgage for the period from the date of the insurance endorsement to one year following the date of the first principal payment.

(d) Until the mortgage is paid in full, or until receipt by the Commissioner of an application for insurance benefits, or until the contract of insurance is otherwise terminated with the consent of the Commissioner, the mortgagee, on each anniversary of the date of the first principal payment, shall pay an annual mortgage insurance premium equal to

not less than one-fourth of one percent nor more than one percent as the Secretary shall determine of the average outstanding principal obligation of the mortgage for the year following the date on which such premium becomes payable.

(e) The premiums payable on and after the date of the first principal payment shall be calculated in accordance with the amortization provisions without taking into account delinquent payments or prepayments.

(f) Premiums shall be payable in cash or in debentures at par plus accrued interest. All premiums are payable in advance and no refund can he made of any portion thereof except as hereinafter provided in this subpart.

(g) Any change in mortgage insurance premiums pursuant to this section will apply to new commitments issued or reissued on or after August 1, 2001 and any notice setting mortgage insurance premiums issued pursuant to this section.

3. Revise § 207.252a to read as follows:

§ 207.252a Premiums—operating loss loans.

(a) The mortgagee, upon the insurance endorsement of the increase loan credit instrument covering the operating loss loan, shall pay to the Commissioner a first mortgage insurance premium of not less than one-fourth of one percent nor more than one percent as the Secretary shall determine of the original amount of the loan.

(b) The provisions of paragraphs (d), (e), (f) and (g) of Sec. 207.252 shall apply to operating loss loans.

4. Add a new 24 CFR 207.254 to read as follows:

§ 207.254 Changes in premiums; manner of publication.

Notice of future premium changes will be published in the **Federal Register**. The Department will propose MIP changes for multifamily mortgage insurance programs and provide a 30-day public comment period for the purpose of accepting comments on whether the proposed changes are appropriate. After the comments have been considered, the Department will publish a final notice announcing the premiums for each program and their effective date. The provisions of paragraph (g) of 24 CFR 207.252 shall apply to any notice of future premium changes published pursuant to this section.

Dated: June 12, 2001.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 01–16594 Filed 6–29–01; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4679–N–02]

Increase in Certain FHA Multifamily Mortgage Insurance Premiums

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: This notice sets new mortgage insurance premiums (MIPs) in multifamily housing programs pursuant to the interim rule entitled ''Mortgage Insurance Premiums in Multifamily Housing Programs'' published elsewhere in today's **Federal Register**. This notice raises the multifamily insurance premium to 80 basis points in certain FHA multifamily programs where the premium was previously set at 50 basis points.

DATES: *Effective Date:* August 1, 2001.

ADDRESSES: Interested persons are invited to submit comments and responses to the Rules Docket Clerk, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) responses are not acceptable. A copy of each response will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m. eastern time) at the above address.

FOR FURTHER INFORMATION CONTACT: Michael McCullough, Director, Office of Multifamily Development, U.S. Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1142. Hearing or speech-impaired individuals may access these numbers via TTY by calling the Federal Information Relay Service at (800) 877–8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Introduction

HUD's interim rule titled ''Mortgage Insurance Premiums in Multifamily Housing Programs,'' published elsewhere in today's Federal Register (''the interim rule'') revises HUD's regulations at 24 CFR 207.252 and 207.252a, and adds a new § 207.254 to permit the Secretary of HUD to set the mortgage insurance premium (MIP) at a rate between one-fourth of one percent and one percent of the outstanding principal balance per annum. With this change, these revised regulations, which are incorporated by reference in the regulations of each of the multifamily programs listed in this Notice, reflect the statutory authority to set MIP interest rates as authorized in section 203(c)(1) of the National Housing Act. Until this change, the annual MIP had been set by regulations at one-half of one percent for almost all of HUD's FHA multifamily mortgage insurance programs.

The interim rule also provides notice that the Secretary will increase the MIP for certain multifamily insured mortgage programs. The new MIP will take effect upon the effective date of the interim rule, which is 30 days after publication in the Federal Register. This Notice sets the MIP for the programs listed in the table below as of the effective date of the interim rule.

As of the effective date of the interim rule, the multifamily mortgage insurance premiums shall be those premiums as provided in the following table:

Multifamily Loan Program	Annual mortgage insurance premiums charged
Section 207—Multifamily Housing—new construction/substantial rehabilitation	.8%
Section 207—Manufactured Home Parks	.8%
Section 220—Housing In Urban Renewal Areas	.8%
Section 221(d)(3) and 221(d)(4)—Moderate Income Housing	.8%
Section 223(a)(7) Refinancing of Insured Multifamily Project	.5%
Section 223(d) Operating Loss Loans, both apartments and health care facilities	.8%
Section 207/223(f) Purchase or Refinance—housing	.5%
Section 231 Housing for the Elderly	.8%
Section 232 Health Care Facilities	.5%
Section 232 pursuant to Section 223(f) Purchase or Refinance Health Care Facilities	.5%
Section 234(d) Condominium Housing	.5 %
Section 241(a) Additions & Improvements for Apartments	.8%
Section 241(a) Additions & Improvements for Health Care Facilities	.5%
Section 242—Hospitals	.5%
Title XI—Group Practice	.5%
HOPE VI Projects—[207, 220, 221(d)(4) and 231]	.8%
Tax Credit Projects [207, 220, 221(d)(4) and 231] without HOPE VI	.5%

The multifamily mortgage insurance premiums are increased to 80 basis points from 50 basis points for the following programs, as shown in the table, above. The programs are the same as those which require credit subsidy in FY 2001, as specified in Mortgagee Letter 01–10: Section 221(d)(3) apartments or cooperatives; sections 207, 220, 221(d)(4) and 231 HOPE VI transactions with or without Low Income Housing Tax Credits; New construction/substantial rehabilitation apartments financed without Low Income Housing Tax Credits under sections 207, 220, 221(d)(4) and 231; section 207 manufactured home parks, section 241(a) supplemental loans for additions or improvements of apartments, with or without Low Income Housing Tax Credits, and section 223(d) operating loss loans on apartments and health care facilities.

The mortgage insurance premium remains at 50 basis points for mortgages insured under sections 223(a)(7), 207 pursuant to 223(f), 232, 232 pursuant to 223(f), 234(d), 241(a) for health care facilities, 242, Title XI, and for new construction/substantial rehabilitation under sections 207, 220, 221(d)(4), and 231 with Tax Credits, but without HOPE VI.

For Programs Subject to the Increased Premiums

The following rules are applicable for those programs, shown in the table above, where the mortgage insurance premium is increased to 80 basis points.

A. Firm Commitments Issued or Reissued on or After the Effective Date of This Notice

The mortgagee, upon the initial endorsement of the mortgage for insurance, shall pay to the Commissioner a first mortgage insurance premium equal to 0.8 percent of the original face amount of the mortgage.

(a) If the date of the first principal payment is more than one year following the date of such initial endorsement, the mortgagee, upon the anniversary of such insurance date, shall pay a second premium equal to 0.8 percent of the original face amount of the mortgage. On the date of the first principal payment, the mortgagee shall pay a third premium equal to 0.8 percent of the average outstanding principal obligation of the mortgage for the following year which shall be adjusted so as to accord with such date and so that the aggregate of the three premiums shall equal the sum of:

(1) One percent of the average outstanding principal obligation of the mortgage for the year following the date of initial insurance endorsement, and

(2) 0.8 percent per annum of the average outstanding principal obligation for the period following the first anniversary of the date of initial insurance endorsement to one year following the date of the first principal payment.

(b) If the date of the first principal payment is one year, or less than one year following the date of the such initial insurance endorsement, the mortgagee, upon such first principal date, shall pay a second premium of 0.8 percent of the average outstanding principal obligation of the mortgage for the following year which shall be adjusted to accord with such date and so that the aggregate of the said two premiums shall equal the sum of:

(1) One percent per annum of the average outstanding principal obligation of the mortgage for the period from the date of initial insurance endorsement to the date of first principal payment, and

(2) 0.8 percent of the average outstanding principal obligation of the mortgage for the year following the date of the first principal payment.

(c) Where the credit instrument is initially and finally endorsed for insurance pursuant to a Commitment to Insure Upon Completion, the mortgagee on the date of the first principal payment shall pay a second premium equal to 0.8 percent of the average outstanding principal obligation of the mortgage for the year following such first principal payment date which shall be adjusted so as to accord with such date and so that the aggregate of the said two premiums shall equal the sum of 0.8 percent per annum of the average outstanding principal obligation of the mortgage for the period from the date of the insurance endorsement to one year following the date of the first principal payment.

Until the mortgage is paid in full, or until receipt by the Commissioner of an application for insurance benefits, or until the contract of insurance is otherwise terminated with the consent of the Commissioner, the mortgagee, on each anniversary of the date of the first principal payment, shall pay an annual mortgage insurance premium equal to 0.8 percent of the average outstanding principal obligation of the mortgage for the year following the date on which such premium becomes payable.

B. For Those Programs Where the Premium Remains at 0.5 Percent

For those programs where the premium is unchanged at 0.5 percent, according to the chart, above, the mortgage insurance premium is in accordance with paragraph 1(a), (b),(c), and (d), above, except that wherever 0.8 percent appears, the number 0.5 percent should be inserted in lieu of 0.8 percent.

Transition Rules

The interim rule on this subject published elsewhere in today's Federal Register includes transition provisions. There may be changes in those transition provisions due to potential changes in law being contemplated. HUD will advise on whether the transition provisions in the interim rule remain in effect or are changed in a future Notice.

Credit Subsidy

Mortgagee Letters will be issued from time to time to advise mortgages of any requirements for credit subsidy, and the availability of credit subsidy. The increase in the MIP substantially reduces the requirement for credit subsidy in FY 2001, and for FY 2002 it is expected that only three programs will require credit subsidy: section 221(d)(3) for nonprofits and certain other borrowers for new construction or substantial rehabilitation, section 223(d) for operating loss loans for housing and health care facilities, and section 241(a) for supplemental loans for additions or improvements to existing apartments.

Refund of Application Fees

The Multifamily Hubs or Program Centers will refund FHA application fees without question to mortgagees who wish to surrender outstanding commitments or to withdraw their pending applications because of the increase in MIP. The refund policy includes applications in the SAMA, Feasibility, Conditional Commitment (Section 241(a) only) stages as well as the firm commitment.

Dated: June 26, 2001.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 01–16595 Filed 6–29–01; 8:45 am]

BILLING CODE 4210–27–P

Reader Aids

Federal Register

Vol. 66, No. 127

Monday, July 2, 2001

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–523–5227**
Laws	**523–5227**
Presidential Documents	
Executive orders and proclamations	**523–5227**
The United States Government Manual	**523–5227**
Other Services	
Electronic and on-line services (voice)	**523–4534**
Privacy Act Compilation	**523–3187**
Public Laws Update Service (numbers, dates, etc.)	**523–6641**
TTY for the deaf-and-hard-of-hearing	**523–5229**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications:

http://www.access.gpo.gov/nara

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access:

http://www.nara.gov/fedreg

E-mail

PENS (Public Law Electronic Notification Service) is an E-mail service for notification of recently enacted Public Laws. To subscribe, send E-mail to

listserv@listserv.gsa.gov

with the text message:

subscribe PUBLAWS-L your name

Use listserv@www.gsa.gov only to subscribe or unsubscribe to PENS. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to:

info@fedreg.nara.gov

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, JULY

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JULY 2, 2001

COMMERCE DEPARTMENT

International Trade Administration

Watches, watch movements, and jewelry:

Duty-exemption allocations—

Virgin Islands, Guam, American Samoa, and Northern Mariana Islands; published 7-2-01

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

West Coast States and Western Pacific fisheres—

Pacific Coast groundfish; published 6-1-01

Marine mammals:

Humpback whales in Alaska; approach prohibition; published 5-31-01

ENVIRONMENTAL PROTECTION AGENCY

Air programs:

Ambient air quality standards, national—

Weirton, WVA nonattainment area; published 5-16-01

Air quality implementation plans; approval and promulgation; various States:

Arizona; published 5-1-01

California; published 5-2-01

Air quality implementation plans; √A√approval and promulgation; various States; air quality planning purposes; designation of areas:

Tennessee; published 5-3-01

FEDERAL COMMUNICATIONS COMMISSION

Digital television stations; table of assignments:

Arkansas; published 5-23-01

California; published 5-23-01

Radio stations; table of assignments:

Alaska; published 6-6-01

Virginia and Maryland; published 6-5-01

HEALTH AND HUMAN SERVICES DEPARTMENT

National Institutes of Health

National Research Service Awards; published 5-31-01

INTERIOR DEPARTMENT

Watches, watch movements, and jewelry:

Duty-exemption allocations—

Virgin Islands, Guam, American Samoa, and Northern Mariana Islands; published 7-2-01

NUCLEAR REGULATORY COMMISSION

Domestic licensing proceedings and issuance of orders; practice rules:

High-level radioactive waste disposal at geologic repository; licensing support network; design standards for participating websites; published 5-31-01

STATE DEPARTMENT

Nationality and passports:

Executing passport application on behalf of minor; procedures; published 6-4-01

TRANSPORTATION DEPARTMENT

Coast Guard

Boating safety:

Accidents involving recreational vessels, reports; property damage threshold raised; published 5-1-01

Ports and waterways safety:

Nahant Bay, Swampscott, MA; published 7-2-01

Ulster Landing, Hudson River, NY; safety zone; published 5-31-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; published 6-27-01

General Electric Co.; published 6-15-01

TREASURY DEPARTMENT

Comptroller of the Currency

Fees assessment; published 6-1-01

VETERANS AFFAIRS DEPARTMENT

Disabilities rating schedule:

Liver disabilities; published 5-31-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Commodity Credit Corporation

Loan and purchase programs:

Value-added wheat gluten and wheat starch product market development program; comments due by 7-9-01; published 6-8-01

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Steller sea lion protection measures; comments due by 7-9-01; published 6-13-01

West Coast States and Western Pacific fisheries—

Pacific Coast Groundfish; comments due by 7-9-01; published 5-9-01

Pacific Coast groundfish; comments due by 7-9-01; published 6-8-01

COMMODITY FUTURES TRADING COMMISSION

Commodity Futures Modernization Act; implementation:

Securities brokers or dealers; registration as futures commission merchant or introducing broker; comments due by 7-11-01; published 6-22-01

Securities:

Market capitalization and dollar value of average daily trading volume, method of determining; narrow-based security index definition application; comments due by 7-11-01; published 7-2-01

CONSUMER PRODUCT SAFETY COMMISSION

Consumer Product Safety Act; implementation:

Substantial product hazard reports; comments due by 7-9-01; published 6-7-01

ENERGY DEPARTMENT

Grants and agreements with for-profit organizations; inquiry; comments due by 7-9-01; published 5-8-01

ENVIRONMENTAL PROTECTION AGENCY

Air programs; State authority delegations:

Delaware; comments due by 7-9-01; published 6-8-01

Air quality implementation plans; approval and promulgation; various States:

Arizona and California; comments due by 7-9-01; published 6-8-01

California; comments due by 7-12-01; published 6-12-01

Indiana; comments due by 7-9-01; published 6-7-01

Minnesota; comments due by 7-12-01; published 6-12-01

Montana; comments due by 7-12-01; published 6-12-01

Ohio; comments due by 7-12-01; published 6-12-01

Rhode Island; comments due by 7-9-01; published 6-8-01

Texas; comments due by 7-11-01; published 6-11-01

Clean Air Act:

State and Federal Operating permits programs—

North Carolina; comments due by 7-12-01; published 6-12-01

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 7-12-01; published 6-12-01

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Commercial mobile radio services—

Wireless enhanced 911 compatibility; call back capability; comments due by 7-9-01; published 6-13-01

Radio broadcasting:

AM broadcasters using directional antennas; performance verification; regulatory requirements reduction; comments due by 7-9-01; published 4-25-01

FEDERAL EMERGENCY MANAGEMENT AGENCY

Flood insurance program:

Public entity insurers; pilot project; comments due by 7-9-01; published 5-8-01

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. 1914/P.L. 107–17

To extend for 4 additional months the period for which chapter 12 of title 11 of the United States Code is reenacted. (June 26, 2001; 115 Stat. 151)

Last List June 11, 2001

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to http://hydra.gsa.gov/archives/publaws-l.html or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L
Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.access.gpo.gov/nara/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $951.00 domestic, $237.75 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–044–00001–6)	6.50	[4] Jan. 1, 2001
3 (1997 Compilation and Parts 100 and 101)	(869–044–00002–4)	36.00	[1] Jan. 1, 2001
4	(869–044–00003–2)	9.00	Jan. 1, 2001
5 Parts:			
1–699	(869–044–00004–1)	53.00	Jan. 1, 2001
700–1199	(869–044–00005–9)	44.00	Jan. 1, 2001
1200–End, 6 (6 Reserved)	(869–044–00006–7)	55.00	Jan. 1, 2001
7 Parts:			
1–26	(869–044–00007–5)	40.00	[4] Jan. 1, 2001
27–52	(869–044–00008–3)	45.00	Jan. 1, 2001
53–209	(869–044–00009–1)	34.00	Jan. 1, 2001
210–299	(869–044–00010–5)	56.00	Jan. 1, 2001
300–399	(869–044–00011–3)	38.00	Jan. 1, 2001
400–699	(869–044–00012–1)	53.00	Jan. 1, 2001
700–899	(869–044–00013–0)	50.00	Jan. 1, 2001
900–999	(869–044–00014–8)	54.00	Jan. 1, 2001
1000–1199	(869–044–00015–6)	24.00	Jan. 1, 2001
1200–1599	(869–044–00016–4)	55.00	Jan. 1, 2001
1600–1899	(869–044–00017–2)	57.00	Jan. 1, 2001
1900–1939	(869–044–00018–1)	21.00	[4] Jan. 1, 2001
1940–1949	(869–044–00019–9)	37.00	[4] Jan. 1, 2001
1950–1999	(869–044–00020–2)	45.00	Jan. 1, 2001
2000–End	(869–044–00021–1)	43.00	Jan. 1, 2001
8	(869–044–00022–9)	54.00	Jan. 1, 2001
9 Parts:			
1–199	(869–044–00023–7)	55.00	Jan. 1, 2001
200–End	(869–044–00024–5)	53.00	Jan. 1, 2001
10 Parts:			
1–50	(869–044–00025–3)	55.00	Jan. 1, 2001
51–199	(869–044–00026–1)	52.00	Jan. 1, 2001
200–499	(869–044–00027–0)	53.00	Jan. 1, 2001
500–End	(869–044–00028–8)	55.00	Jan. 1, 2001
11	(869–044–00029–6)	31.00	Jan. 1, 2001
12 Parts:			
1–199	(869–044–00030–0)	27.00	Jan. 1, 2001
200–219	(869–044–00031–8)	32.00	Jan. 1, 2001
220–299	(869–044–00032–6)	54.00	Jan. 1, 2001
300–499	(869–044–00033–4)	41.00	Jan. 1, 2001
500–599	(869–044–00034–2)	38.00	Jan. 1, 2001
600–End	(869–044–00035–1)	57.00	Jan. 1, 2001
13	(869–044–00036–9)	45.00	Jan. 1, 2001
14 Parts:			
1–59	(869–044–00037–7)	57.00	Jan. 1, 2001
60–139	(869–044–00038–5)	55.00	Jan. 1, 2001
140–199	(869–044–00039–3)	26.00	Jan. 1, 2001
200–1199	(869–044–00040–7)	44.00	Jan. 1, 2001
1200–End	(869–044–00041–5)	37.00	Jan. 1, 2001
15 Parts:			
0–299	(869–044–00042–3)	36.00	Jan. 1, 2001
300–799	(869–044–00043–1)	54.00	Jan. 1, 2001
800–End	(869–044–00044–0)	40.00	Jan. 1, 2001
16 Parts:			
0–999	(869–044–00045–8)	45.00	Jan. 1, 2001
1000–End	(869–044–00046–6)	53.00	Jan. 1, 2001
17 Parts:			
1–199	(869–044–00048–2)	45.00	Apr. 1, 2001
200–239	(869–044–00049–1)	51.00	Apr. 1, 2001
240–End	(869–044–00050–4)	55.00	Apr. 1, 2001
18 Parts:			
1–399	(869–042–00051–0)	54.00	Apr. 1, 2000
400–End	(869–044–00052–1)	23.00	Apr. 1, 2001
19 Parts:			
1–140	(869–044–00053–9)	54.00	Apr. 1, 2001
141–199	(869–042–00054–4)	40.00	Apr. 1, 2000
200–End	(869–044–00055–5)	20.00	[5] Apr. 1, 2001
20 Parts:			
1–399	(869–044–00056–3)	45.00	Apr. 1, 2001
400–499	(869–042–00057–9)	56.00	Apr. 1, 2000
500–End	(869–044–00058–0)	57.00	Apr. 1, 2001
21 Parts:			
1–99	(869–044–00059–8)	37.00	Apr. 1, 2001
*100–169	(869–044–00060–1)	44.00	Apr. 1, 2001
170–199	(869–044–00061–0)	45.00	Apr. 1, 2001
200–299	(869–044–00062–8)	16.00	Apr. 1, 2001
300–499	(869–044–00063–6)	27.00	Apr. 1, 2001
500–599	(869–044–00064–4)	44.00	Apr. 1, 2001
*600–799	(869–044–00065–2)	15.00	Apr. 1, 2001
*800–1299	(869–044–00066–1)	52.00	Apr. 1, 2001
1300–End	(869–044–00067–9)	20.00	Apr. 1, 2001
22 Parts:			
1–299	(869–044–00068–7)	56.00	Apr. 1, 2001
300–End	(869–044–00069–5)	42.00	Apr. 1, 2001
23	(869–042–00070–6)	29.00	Apr. 1, 2000
24 Parts:			
0–199	(869–042–00071–4)	40.00	Apr. 1, 2000
200–499	(869–042–00072–2)	37.00	Apr. 1, 2000
500–699	(869–042–00073–1)	20.00	Apr. 1, 2000
*700–1699	(869–044–00074–1)	55.00	Apr. 1, 2001
1700–End	(869–042–00075–7)	18.00	[5] Apr. 1, 2000
25	(869–044–00076–8)	57.00	Apr. 1, 2001
26 Parts:			
§§ 1.0-1–1.60	(869–044–00077–6)	43.00	Apr. 1, 2001
§§ 1.61–1.169	(869–044–00078–4)	57.00	Apr. 1, 2001
§§ 1.170–1.300	(869–044–00079–2)	52.00	Apr. 1, 2001
§§ 1.301–1.400	(869–042–00080–3)	29.00	Apr. 1, 2000
§§ 1.401–1.440	(869–042–00081–1)	47.00	Apr. 1, 2000
§§ 1.441-1.500	(869-044-00082-2)	45.00	Apr. 1, 2001
§§ 1.501–1.640	(869–044–00083–1)	44.00	Apr. 1, 2001
§§ 1.641–1.850	(869–044–00084–9)	53.00	Apr. 1, 2001
§§ 1.851–1.907	(869–042–00085–4)	43.00	Apr. 1, 2000
§§ 1.908–1.1000	(869–044–00086–5)	53.00	Apr. 1, 2001
§§ 1.1001–1.1400	(869–044–00087–3)	55.00	Apr. 1, 2001
§§ 1.1401–End	(869–044–00088–1)	58.00	Apr. 1, 2001
2–29	(869–044–00089–0)	54.00	Apr. 1, 2001
30–39	(869–044–00090–3)	37.00	Apr. 1, 2001
40–49	(869–044–00091–1)	25.00	Apr. 1, 2001
50–299	(869–044–00092–0)	23.00	Apr. 1, 2001
300–499	(869–044–00093–8)	54.00	Apr. 1, 2001
500–599	(869–044–00094–6)	12.00	[5] Apr. 1, 2001
600–End	(869–042–00095–1)	12.00	Apr. 1, 2000
27 Parts:			
1–199	(869–042–00096–0)	59.00	Apr. 1, 2000

Title	Stock Number	Price	Revision Date
*200–End	(869–044–00097–1)	26.00	Apr. 1, 2001
28 Parts:			
0-42	(869–042–00098–6)	43.00	July 1, 2000
43-end	(869-042-00099-4)	36.00	July 1, 2000
29 Parts:			
0–99	(869–042–00100–1)	33.00	July 1, 2000
100–499	(869–042–00101–0)	14.00	July 1, 2000
500–899	(869–042–00102–8)	47.00	July 1, 2000
900–1899	(869–042–00103–6)	24.00	July 1, 2000
1900–1910 (§§ 1900 to 1910.999)	(869–042–00104–4)	46.00	[6]July 1, 2000
1910 (§§ 1910.1000 to end)	(869–042–00105–2)	28.00	[6]July 1, 2000
1911–1925	(869–042–00106–1)	20.00	July 1, 2000
1926	(869–042–00107–9)	30.00	[6]July 1, 2000
1927–End	(869–042–00108–7)	49.00	July 1, 2000
30 Parts:			
1–199	(869–042–00109–5)	38.00	July 1, 2000
200–699	(869–042–00110–9)	33.00	July 1, 2000
700–End	(869–042–00111–7)	39.00	July 1, 2000
31 Parts:			
0–199	(869–042–00112–5)	23.00	July 1, 2000
200–End	(869–042–00113–3)	53.00	July 1, 2000
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–042–00114–1)	51.00	July 1, 2000
191–399	(869–042–00115–0)	62.00	July 1, 2000
400–629	(869–042–00116–8)	35.00	July 1, 2000
630–699	(869–042–00117–6)	25.00	July 1, 2000
700–799	(869–042–00118–4)	31.00	July 1, 2000
800–End	(869–042–00119–2)	32.00	July 1, 2000
33 Parts:			
1–124	(869–042–00120–6)	35.00	July 1, 2000
125–199	(869–042–00121–4)	45.00	July 1, 2000
200–End	(869–042–00122–5)	36.00	July 1, 2000
34 Parts:			
1–299	(869–042–00123–1)	31.00	July 1, 2000
300–399	(869–042–00124–9)	28.00	July 1, 2000
400–End	(869–042–00125–7)	54.00	July 1, 2000
35	(869–042–00126–5)	10.00	July 1, 2000
36 Parts			
1–199	(869–042–00127–3)	24.00	July 1, 2000
200–299	(869–042–00128–1)	24.00	July 1, 2000
300–End	(869–042–00129–0)	43.00	July 1, 2000
37	(869–042–00130–3)	32.00	July 1, 2000
38 Parts:			
0–17	(869–042–00131–1)	40.00	July 1, 2000
18–End	(869–042–00132–0)	47.00	July 1, 2000
39	(869–042–00133–8)	28.00	July 1, 2000
40 Parts:			
1–49	(869–042–00134–6)	37.00	July 1, 2000
50–51	(869–042–00135–4)	28.00	July 1, 2000
52 (52.01–52.1018)	(869–042–00136–2)	36.00	July 1, 2000
52 (52.1019–End)	(869–042–00137–1)	44.00	July 1, 2000
53–59	(869–042–00138–9)	21.00	July 1, 2000
60	(869–042–00139–7)	66.00	July 1, 2000
61–62	(869–042–00140–1)	23.00	July 1, 2000
63 (63.1–63.1119)	(869–042–00141–9)	66.00	July 1, 2000
63 (63.1200–End)	(869–042–00142–7)	49.00	July 1, 2000
64–71	(869–042–00143–5)	12.00	July 1, 2000
72–80	(869–042–00144–3)	47.00	July 1, 2000
81–85	(869–042–00145–1)	36.00	July 1, 2000
86	(869–042–00146–0)	66.00	July 1, 2000
87-135	(869–042–00146–8)	66.00	July 1, 2000
136–149	(869–042–00148–6)	42.00	July 1, 2000
150–189	(869–042–00149–4)	38.00	July 1, 2000
190–259	(869–042–00150–8)	25.00	July 1, 2000
260–265	(869–042–00151–6)	36.00	July 1, 2000
266–299	(869–042–00152–4)	35.00	July 1, 2000
300–399	(869–042–00153–2)	29.00	July 1, 2000
400–424	(869–042–00154–1)	37.00	July 1, 2000
425–699	(869–042–00155–9)	48.00	July 1, 2000
700–789	(869–042–00156–7)	46.00	July 1, 2000
790–End	(869–042–00157–5)	23.00	[6]July 1, 2000
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–042–00158–3)	15.00	July 1, 2000
101	(869–042–00159–1)	37.00	July 1, 2000
102–200	(869–042–00160–5)	21.00	July 1, 2000
201–End	(869–042–00161–3)	16.00	July 1, 2000
42 Parts:			
1–399	(869–042–00162–1)	53.00	Oct. 1, 2000
400–429	(869–042–00163–0)	55.00	Oct. 1, 2000
430–End	(869–042–00164–8)	57.00	Oct. 1, 2000
43 Parts:			
1–999	(869–042–00165–6)	45.00	Oct. 1, 2000
1000–end	(869–042–00166–4)	55.00	Oct. 1, 2000
44	(869–042–00167–2)	45.00	Oct. 1, 2000
45 Parts:			
1–199	(869–042–00168–1)	50.00	Oct. 1, 2000
200–499	(869–042–00169–9)	29.00	Oct. 1, 2000
500–1199	(869–042–00170–2)	45.00	Oct. 1, 2000
1200–End	(869–042–00171–1)	54.00	Oct. 1, 2000
46 Parts:			
1–40	(869–042–00172–9)	42.00	Oct. 1, 2000
41–69	(869–042–00173–7)	34.00	Oct. 1, 2000
70–89	(869–042–00174–5)	13.00	Oct. 1, 2000
90–139	(869–042–00175–3)	41.00	Oct. 1, 2000
140–155	(869–042–00176–1)	23.00	Oct. 1, 2000
156–165	(869–042–00177–0)	31.00	Oct. 1, 2000
166–199	(869–042–00178–8)	42.00	Oct. 1, 2000
200–499	(869–042–00179–6)	36.00	Oct. 1, 2000
500–End	(869–042–00180–0)	23.00	Oct. 1, 2000
47 Parts:			
0–19	(869–042–00181–8)	54.00	Oct. 1, 2000
20–39	(869–042–00182–6)	41.00	Oct. 1, 2000
40–69	(869–042–00183–4)	41.00	Oct. 1, 2000
70–79	(869–042–00184–2)	54.00	Oct. 1, 2000
80–End	(869–042–00185–1)	54.00	Oct. 1, 2000
48 Chapters:			
1 (Parts 1–51)	(869–042–00186–9)	57.00	Oct. 1, 2000
1 (Parts 52–99)	(869–042–00187–7)	45.00	Oct. 1, 2000
2 (Parts 201–299)	(869–042–00188–5)	53.00	Oct. 1, 2000
3–6	(869–042–00189–3)	40.00	Oct. 1, 2000
7–14	(869–042–00190–7)	52.00	Oct. 1, 2000
15–28	(869–042–00191–5)	53.00	Oct. 1, 2000
29–End	(869–042–00192–3)	38.00	Oct. 1, 2000
49 Parts:			
1–99	(869–042–00193–1)	53.00	Oct. 1, 2000
100–185	(869–042–00194–0)	57.00	Oct. 1, 2000
186–199	(869–042–00195–8)	17.00	Oct. 1, 2000
200–399	(869–042–00196–6)	57.00	Oct. 1, 2000
400–999	(869–042–00197–4)	58.00	Oct. 1, 2000
1000–1199	(869–042–00198–2)	25.00	Oct. 1, 2000
1200–End	(869–042–00199–1)	21.00	Oct. 1, 2000
50 Parts:			
1–199	(869–042–00200–8)	55.00	Oct. 1, 2000
200–599	(869–042–00201–6)	35.00	Oct. 1, 2000

Title	Stock Number	Price	Revision Date
600–End	(869–042–00202–4)	55.00	Oct. 1, 2000
*CFR Index and Findings Aids	(869–044–00047–4)	56.00	Jan. 1, 2001
Complete 2000 CFR set		1,094.00	2000
Microfiche CFR Edition:			
Subscription (mailed as issued)		290.00	1999
Individual copies		1.00	1999
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1999, through July 1, 2000. The CFR volume issued as of July 1, 1999 should be retained..

TABLE OF EFFECTIVE DATES AND TIME PERIODS—JULY 2001

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
July 2	July 17	August 1	August 16	August 31	Oct 1
July 3	July 18	August 2	August 17	Sept 4	Oct 1
July 5	July 20	August 6	August 20	Sept 4	Oct 3
July 6	July 23	August 6	August 20	Sept 4	Oct 4
July 9	July 24	August 8	August 23	Sept 7	Oct 9
July 10	July 25	August 9	August 24	Sept 10	Oct 9
July 11	July 26	August 10	August 27	Sept 10	Oct 9
July 12	July 27	August 13	August 27	Sept 10	Oct 10
July 13	July 30	August 13	August 27	Sept 11	Oct 11
July 16	July 31	August 15	August 30	Sept 14	Oct 15
July 17	August 1	August 16	August 31	Sept 17	Oct 15
July 18	August 2	August 17	Sept 4	Sept 17	Oct 16
July 19	August 3	August 20	Sept 4	Sept 17	Oct 17
July 20	August 6	August 20	Sept 4	Sept 18	Oct 18
July 23	August 7	August 22	Sept 6	Sept 21	Oct 22
July 24	August 8	August 23	Sept 7	Sept 24	Oct 22
July 25	August 9	August 24	Sept 10	Sept 24	Oct 23
July 26	August 10	August 27	Sept 10	Sept 24	Oct 24
July 27	August 13	August 27	Sept 10	Sept 25	Oct 25
July 30	August 14	August 29	Sept 13	Sept 28	Oct 29
July 31	August 15	August 30	Sept 14	Oct 1	Oct 29