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Contents

Federal Register

Vol. 66, No. 142

Tuesday, July 24, 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. 142

Tuesday, July 24, 2001

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210 and 220

RIN 0584–AC92

National School Lunch Program and School Breakfast Program: Identification of Blended Beef, Pork, Poultry or Seafood Products

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule finalizes the interim provisions addressing the use of products or dishes containing more than 30 parts fully hydrated vegetable protein to less than 70 parts beef, pork, poultry or seafood in the National School Lunch Program and the School Breakfast Program. To the extent that participating school food authorities identify foods in a menu, or on the serving line or through other available means of communicating with program participants, school food authorities must identify such blended products or dishes in a manner which does not characterize the product or dish solely as beef, pork, poultry or seafood. This provision is intended to ensure that program participants are not misinformed regarding the use of blended products and dishes.

EFFECTIVE DATE: This final rule will become effective August 24, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302; telephone 703–305–2620.

SUPPLEMENTARY INFORMATION:

Background

Why Was the Interim Rule Published?

The interim rule on identification of blended meat or seafood products served in the school meals programs was published on June 8, 2000 (65 FR 36315). The interim rule was issued in response to concerns about the possibility that blended beef, pork, poultry or seafood products or dishes containing more than 30 percent fully hydrated vegetable protein (of the hydrated soy and meat total) might be presented as beef, pork, poultry or seafood. (Readers will note that the term ''vegetable protein product or VPP'' is used in the preamble since this term reflects common usage; however, for technical reasons, the term ''alternate protein products'' is used in the regulatory text.)

While these blended products and dishes fulfill an essential role in the programs, misrepresentation or misperception of the nature of those products serves neither industry nor program participants well. Children and their parents must be aware of what is in the foods offered in the lunch and breakfast programs if they are to make informed food choices. Thus, to the extent that school food authorities identify foods in the menu, on the serving line or through other available means of communicating with program participants, the interim rule required identification of beef, pork, poultry or seafood products and dishes containing more than 30 percent fully hydrated vegetable protein (of the hydrated soy and meat total) in a manner which does not characterize the products or dishes solely as beef, pork, poultry or seafood. The interim rule revised 7 CFR 210.10(h) and 7 CFR 220.8 (m).

What Comments Were Received on the Interim Rule?

We received six comment letters on the interim rule, all of which were from food industry representatives. The commentors generally supported the changes made by the interim rule. However, commentors expressed concerns about formulation of blended VPP products used in the Child Nutrition Programs. We have been and will continue to work with interested parties about their concerns.

Two commentors had a specific recommendation. They recommended that the level for identifying a product or dish as a blended product be 50 parts fully hydrated VPP, not 30 parts fully hydrated VPP. These commentors stated that at a 50–50 level, the product is predominantly VPP.

Identifying products as blended which contain 50 percent or more VPP would place only those products which are equally or predominantly made with VPP under the identification requirement. The 30–70 ratio has been the established ratio used to describe blended products. Maintaining the 30–70 standard will avoid unnecessary confusion and will provide notification when products vary from the traditional blend levels. Therefore, we are retaining the 30 parts fully hydrated VPP as the level products must be identified as a blended product or dish. Because we made no changes to the interim rule, it is adopted as final at 7 CFR 210.10(h) and 220.8(m).

Executive Order 12866

This final rule was determined to be non-significant and is not subject to review by the Office of Management and Budget under Executive Order 12866.

Public Law 104–4

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

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

subject to the requirements of sections 202 and 205 of the UMRA.

Regulatory Flexibility Act

This final rule was reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 through 612). The Acting Administrator of FNS has certified that this rule will not have a significant economic impact on a substantial number of small entities. This rule makes no changes to the National School Lunch and School Breakfast Program meal patterns. However, when certain products are used, this rule would require schools to use existing methods of communication to advise children and their parents of the use of such products.

Executive Order 12372

The National School Lunch Program and the School Breakfast Program are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555 and 10.553, respectively. Each is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V and final rule related notice at 48 FR 29112, June 24, 1983.)

Executive Order 12988

This final rule was reviewed under Executive Order 12988, Civil Justice Reform. This final rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This final rule is not intended to have retroactive effect unless so specified in the **DATES** section of this preamble. Prior to any judicial challenge to the provisions of this final rule or the application of the provisions, all applicable administrative procedures must be exhausted. This includes any administrative procedures provided by State or local governments and, for disputes involving procurements by State agencies and sponsors, any administrative appeal procedures to the extent required by 7 CFR Part 3016.

For the National School Lunch Program and School Breakfast Program, the administrative procedures are set forth under the following regulations: (1) School food authority appeals of State agency findings as a result of an administrative review must follow State agency hearing procedures as established pursuant to 7 CFR 210.18(q); (2) school food authority appeals of FNS findings as a result of an administrative review must follow FNS hearing procedures as established pursuant to 7 CFR 210.30(d)(3); and (3) State agency appeals of State Administrative Expense fund sanctions (7 CFR 235.11(b)) must follow FNS Administrative Review Process as established pursuant to 7 CFR 235.11(f).

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the third party disclosure requirements included in this final rule were reviewed by the Office of Management and Budget. OMB has approved these requirements for part 210 under OMB #0584–0006. The requirements for part 220 are approved under OMB #0584–0012.

List of Subjects

7 CFR Part 210

Children, Commodity School Program, Food assistance programs, Grants programs-social programs, National School Lunch Program, Nutrition, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 220

Children, Food assistance programs, Grant programs-social programs, Nutrition, Reporting and recordkeeping requirements, School Breakfast Program.

PART 210—NATIONAL SCHOOL LUNCH PROGRAM AND PART 220—SCHOOL BREAKFAST PROGRAM

Accordingly, the interim rule amending 7 CFR Parts 210 and 220 which was published at 65 FR 36315 on June 8, 2000, is adopted as a final rule without change.

Dated: July 18, 2001.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 01–18369 Filed 7–23–01; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–309–AD; Amendment 39–12330; AD 2001–14–19]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes. For certain airplanes this AD requires rework of the bonding jumper assemblies on the drain tube assemblies of the slat track housing of the wings. For certain other airplanes, this AD requires repetitive inspections of the drain tube assemblies of the slat track housing of the wings to find discrepancies, and corrective actions, if necessary. This AD also provides for terminating action for the repetitive inspections. These actions are necessary to find and fix discrepancies of the bonding jumper assemblies, which could result in an in-tank ignition source due to electrostatic discharge or lightning. The actions also are necessary to find and fix discrepancies of the slat track drain tubes, which could result in fuel migrating into the tubes and leaking onto an engine or exhaust nozzle, and consequent risk of a fire when the airplane is stationary or during low speed taxiing. This action is intended to address the identified unsafe conditions.

DATES: Effective August 28, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 28, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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: Dennis Kammers, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2956; fax (425) 227–1181.

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 Boeing Model 767 series airplanes was published in the **Federal Register** on December 22, 2000 (65 FR 80796). For certain airplanes that action proposed to require rework of the bonding jumper assemblies. For certain other airplanes, that action proposed to require repetitive inspections of the drain tube assemblies of the slat track housing of

the wings to find discrepancies, and corrective actions, if necessary. That action also provides for terminating action for the repetitive inspections.

Comments

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

Extend Compliance Time

Several commenters ask that the compliance time for doing the terminating action specified in paragraph (b) of the proposed rule be extended, as follows.

The first commenter states that the terminating action specified in paragraph (b) of the proposed rule requires compliance within 6,000 flight hours or 18 months after the effective date of the AD, whichever occurs first; but current Boeing delivery schedules forecast a 12-month delivery time for the required kits. The commenter further states that they have ordered the material (kits), but the kits have not yet arrived, which affects the commenter's ability to comply with the proposed rule. The commenter proposes to do the terminating action at a heavy maintenance visit as soon as the kits are delivered, but asks that the compliance time be changed to within 48 months after the effective date of the AD to allow time for delivery of the kits. The commenter adds that the repetitive visual inspections for the fuel leak specified in the service bulletin and a compliance time of 48 months provide an acceptable level of safety.

The second commenter states that the proposed rule, as written, does not take into consideration the amount of time needed to defuel and purge the fuel tanks. The commenter estimates that approximately 48 hours are needed to ensure adequate safety before maintenance personnel may enter the fuel tanks. The commenter does not specify a change to the compliance time, but states that the time given to do the terminating action should be extended to allow for proper airplane scheduling.

The third commenter states that the compliance time for doing the terminating action as specified in paragraph (b) of the proposed rule corresponds to a maintenance planning document ''C'' check interval, and is unreasonable. The commenter notes that the cracking of the slat track housing drain tubes is due to airframe vibration, which is related to flight hours, not calendar time. The commenter adds that the terminating action was considered optional based on ongoing inspections specified in the referenced service bulletin. The requirement to rework the drain tubes within 18 months after the effective date of the AD will not allow adequate time for airlines to obtain the necessary parts and do the rework within existing planned maintenance intervals, and does not allow for escalated maintenance programs. The commenter notes that the rework cannot be adequately done within planned maintenance outside of a ''C'' required to drain and vent the fuel tanks prior to tank entry. Additionally, there will be considerable impact on the airline operation when airplanes are scheduled for rework outside of routine maintenance checks. The commenter proposes that the calendar time limit for the terminating action specified in paragraph (b) of the proposed rule be extended to 24 months (the equivalent of a scheduled ''C'' check). The commenter wants the flight hour threshold specified in paragraph (b) to remain the same, which means the actual operating period for the airplane prior to rework is unchanged.

The fourth commenter states that they use Maintenance Planning Document MPD 57–50–00–A to inspect their airplanes at the enroute check before every flight. The commenter notes that this inspection is adequate to find fuel leaks, and no leaks have been found during these inspections. The commenter plans to do the terminating action specified in the proposed rule at the next heavy maintenance check per the normal defueling requirements of the MPD. The MPD task to defuel is at the 4C check, 72-month interval. The commenter adds that a 72-month compliance time could minimize their cost impact.

The fifth commenter states that since the terminating action in the proposed rule was optional in the service bulletin referenced in paragraph (b) of the proposed rule, kits were ordered only on demand as the operators planned their maintenance action. Since the proposed rule mandates that the terminating action be done within 18 months, there is a shortage of parts. The manufacturer has delivered 176 kits to date, and currently there are only 2 kits in supply, with 200 kits on order that are due to arrive in July 2001. The commenter adds that they will not be able to get enough kits for all 671 airplanes within the 18-month compliance time. The commenter also states that the repeat inspection at intervals not to exceed 500 flight hours, as specified in paragraph (a) of the proposed rule, maintains an adequate level of safety until the terminating action can be done. The commenter notes that there have not been any reported leaks at the slat track drain tube location since the proposed rule was issued. The commenter asks that the compliance time specified in paragraph (b) of the proposed rule be changed to within 6,000 flight hours or 36 months after the effective date of the AD, whichever comes first, to allow operators time to obtain the necessary parts.

The FAA concurs with the commenters that the compliance time required by paragraph (b) of the final rule should be extended somewhat to ensure that enough parts are available to do the required actions within the specified compliance time. In developing an appropriate compliance time for the terminating action required by the final rule, we considered not only the degree of urgency associated with addressing the unsafe condition, but the practical aspect of incorporating the required drain tube modification on the Model 767 fleet in a timely manner. Other factors included in the determination of an acceptable compliance time are that we informed the Air Transport Association in March 1998 of our plans to mandate appropriate service information to alleviate the unsafe condition, and affected operators have had access to the service bulletin that was revised to add the terminating modification since December 1998. Therefore, operators have had time to incorporate into their individual maintenance plans the inspections and terminating action required by this final rule.

It is our intent in this final rule to have the terminating action done within the time frame of a 'C' check maintenance interval. We took the commenters' recommendations into account, as well as the time necessary to do the terminating action, and we find that a 24-month compliance time should correspond with the regular maintenance schedules of the majority of affected operators. An extension of the compliance time to 24 months will not adversely affect safety because the inspections required by paragraph (a) of the final rule will provide an acceptable level of safety until the terminating action required by paragraph (b) is done. Paragraph (b) of the final rule has been changed accordingly.

In response to the commenters' concerns that parts will not be available for installation within the compliance time required by the final rule, we have confirmed with the manufacturer that parts will be available to support a compliance time of 24 months after the effective date of this final rule.

In response to the third commenter's statement that the cracking of the slat track housing drain tubes is due to airframe vibration, which is related to flight hours, not calendar time; our determination is that the drain tubes failed in service due to corrosion.

Separate Rulemaking Actions

One commenter asks that Boeing Service Bulletins 767–57A0060, Revision 1, and 767–57–0068, referenced in the proposed rule as the appropriate sources of service information for accomplishment of the actions, be addressed in two separate rulemaking actions. The commenter states that these two service bulletins do not address the same discrepant condition and should not be grouped together in one proposed rule.

The FAA does not concur. We agree that two unsafe conditions do exist with the same drain tube installation, but we consider it acceptable to address both conditions in one rule. The reasons for this are as follows:

Boeing Service Bulletin 767–57A0060, Revision 1, provides procedures for repetitive visual inspections of the drain tube assemblies of the slat track housing of the wings to find discrepancies. Such discrepancies may lead to an airplane fire as a result of fuel leakage onto an engine or exhaust nozzle. The service bulletin also provides procedures for replacement of the existing drain tube assembly with a newly designed assembly that would constitute terminating action for the repetitive inspections.

Boeing Service Bulletin 767–57–0068 provides procedures for modification of the bonding jumper assembly on the drain tube assembly of the slat track housing of the wings. An earlier production installation of the bonding assembly on the newly designed drain tube assembly did not meet the current bonding specifications. Those airplanes with the earlier production installation must have the bonding provisions modified to protect against an in-tank ignition source due to electrostatic discharge or lightning. Incorporation of this service bulletin will bring affected airplanes into the same configuration as those airplanes modified by Service Bulletin 767–57A0060. Clarification of the related procedures in these two service bulletins was provided in the preamble of the proposed rule.

Revise Preamble Language

One commenter states that the Summary and Discussion sections of the proposed rule should be changed to explicitly state that only the numbers 5 and 8 inboard slat track housing drain locations are affected by the proposed rule. The commenter adds that it also should be explicitly stated that visual inspections are to be done at the exterior lower wing surface drain locations, as shown in Figure 2 of Boeing Service Bulletin 767–57A0060, Revision 1, located on page 21.

The FAA concurs with these comments and acknowledges that the description of the area (numbers 5 and 8 inboard) of the drain assembly of the slat track housing affected could have been more specific in the Summary and Discussion sections, but the Discussion section is not restated in this final rule. The intent of the Summary section of the final rule is to provide a brief explanation of the unsafe condition and the actions necessary to find and fix any discrepancies. We have revised the Summary section, as well as the other applicable sections in this final rule, to further clarify the unsafe condition and the specified actions.

One commenter asks that the Differences section of the proposed rule be changed. The commenter points out that there is a typographical error in the MPD section number that is specified in the Differences, the correct number is Section 57–50–00–A.

We concur that a typographical error in the Differences section resulted in an incorrect reference to Section 57–59–00–A of the MPD, instead of the correct reference to Section 57–50–00–A. But this final rule does not restate the Differences section of the proposed rule wherein the commenter has requested changes. That difference merely stated that the proposed rule would require accomplishment of the initial and repeat visual inspections regardless of earlier accomplishment of the inspection specified in the MPD.

Maintenance Planning Document (MPD)

One commenter states that Boeing Service Bulletin 767–57A0060, Revision 1, describes the Boeing 767 MPD, Section 57–50–00–A, as an acceptable means to inspect and detect damage and/or fuel leakage, as an alternative to the visual inspection specified in Part I of the service bulletin. The commenter asks that the FAA confirm that the MPD can be used instead of doing the visual inspection specified in paragraph (a) of the proposed rule.

The FAA does not concur. As stated in the Differences section of the proposed rule, discussed previously, the final rule requires accomplishment of the initial and repeat visual inspections regardless of earlier accomplishment of the inspection specified in the MPD. This is necessary because the inspection in the MPD does not require a minimum amount of fuel in each wing tank, but the visual inspections described in Part I of the service bulletin specify a minimum of 4,400 gallons of fuel in each wing tank to ensure adequate fuel coverage over the drain tubes during the fuel leakage check.

Cost Impact

One commenter states that the number of work hours estimated for doing the actions in the proposed rule, as specified in the service bulletins, are more accurate than the number of work hours specified in the cost impact section of the proposed rule. The commenter notes that the estimate for replacement of the drain tube assemblies as specified in the proposal is 12 work hours, but the estimate specified in the applicable service bulletin is 40 work hours for the replacement. The estimate for rework of the bonding jumper assemblies specified in the proposal is 4 work hours, but the estimate specified in the applicable service bulletin is 25 work hours. The commenter asks that the work hours estimated in the service bulletins be used in the Cost Impact section of the proposed rule.

The FAA does not concur. The cost impact information (below) estimates only the ''direct'' costs of the specific actions required by this final rule. The number of work hours necessary to do the required actions was provided to us by the manufacturer, based on the data available to date. We recognize that in doing the actions required by this final rule, operators may incur ''incidental'' costs in addition to the ''direct'' costs. The cost analysis in AD rulemaking actions, however, typically does not include incidental costs, such as the time required to gain access and close-up; planning time; or time necessitated by other administrative actions. Because incidental costs may vary significantly from operator to operator, they are almost impossible to calculate. Further, because ADs require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be incurred by operators. However, because of the general obligation of operators to maintain and operate airplanes in an airworthy condition, this cost estimate is inaccurate. Attributing those costs to the requirements of this final rule is unrealistic because in the interest of maintaining and operating safe airplanes, operators would do the required actions even if they were not required to do the final rule.

Conclusion

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

Cost Impact

There are approximately 745 airplanes of the affected design in the worldwide fleet. The FAA estimates that 275 airplanes of U.S. registry will be affected by this AD.

For airplanes listed in Boeing Service Bulletin 767–57A0060, Revision 1 (228 U.S.-registered airplanes): It will take approximately 1 work hour per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be $13,680, or $60 per airplane, per inspection cycle.

It will take approximately 12 work hours per airplane to accomplish the required replacement of the drain tube assemblies specified in Boeing Service Bulletin 767–57A0060, Revision 1, at an average labor rate of $60 per work hour. Required parts will cost approximately $5,236 per airplane. Based on these figures, the cost impact of the required replacement on U.S. operators is estimated to be $1,357,968, or $5,956 per airplane.

For airplanes listed in Boeing Service Bulletin 767–57–0068, (47 U.S.-registered airplanes): It will take approximately 4 work hours per airplane to accomplish the required rework of the bonding jumper assemblies, at an average labor rate of $60 per work hour. Required parts will cost approximately $322 per airplane. Based on these figures, the cost impact of the required rework on U.S. operators is estimated to be $26,414, or $562 per airplane.

The cost impact figures discussed above are 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:

2001–14–19 Boeing: Amendment 39–12330. Docket 2000–NM–309–AD.

Applicability: Model 767 series airplanes, line numbers 1 through 757 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To find and fix discrepancies (bonding, loose fittings, cracking) of the bonding jumper assemblies, which could result in an in-tank ignition source due to electrostatic discharge or lightning; and of the slat track drain tubes, which could result in fuel migrating into the tubes and leaking onto an engine or exhaust nozzle, and consequent risk of a fire when the airplane is stationary or during low speed taxiing; accomplish the following:

Repetitive Inspections/Corrective Action

(a) For airplanes listed in Boeing Service Bulletin 767–57A0060, Revision 1, dated December 31, 1998; within 500 flight hours after the effective date of this AD: Do a general visual inspection of the drain tube assemblies of the slat track housings of the wings to find discrepancies (loose fittings, cracked tubes, fuel leaks), per Part I of the Accomplishment Instructions of the service bulletin.

(1) If any discrepancies are found, before further flight, rework the drain tube assembly per Part II of the Accomplishment Instructions of the service bulletin; repeat the inspection at intervals not to exceed 500 flight hours until accomplishment of the requirements in paragraph (b) of this AD.

(2) If no discrepancies are found, repeat the inspection thereafter at intervals not to exceed 500 flight hours, until accomplishment of the requirements in paragraph (b) of this AD.

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

Terminating Action for Repetitive Inspections

(b) For airplanes specified in paragraph (a) of this AD, within 6,000 flight hours or 24 months after the effective date of this AD, whichever occurs first: Replace the drain tube assemblies of the slat track housings of the wings (including general visual inspection and repair) per Part III of the Accomplishment Instructions of Boeing Service Bulletin 767–57A0060, Revision 1, dated December 31, 1998. Any applicable repair must be accomplished prior to further flight. Accomplishment of this paragraph terminates the repetitive inspections required by paragraph (a) of this AD.

Rework of Bonding Jumper Assemblies

(c) For airplanes listed in Boeing Service Bulletin 767–57–0068, dated September 16, 1999; within 5,000 flight cycles or 22 months after the effective date of this AD, whichever occurs first: Rework the bonding jumper assembly of the drain tube assemblies of the slat track housing of the wings (including general visual inspection and repair) per the Accomplishment Instructions of the service bulletin. Any applicable repair must be accomplished prior to further flight. Accomplishment of this paragraph terminates the requirements of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permit

(e) Special flight permits may be issued per 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 actions shall be done in accordance with Boeing Service Bulletin 767–57A0060, Revision 1, dated December 31, 1998, and Boeing Service Bulletin 767–57–0068, dated September 16, 1999; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on August 28, 2001.

Issued in Renton, Washington, on July 12, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18016 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–327–AD; Amendment 39–12331; AD 2001–14–20]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100 and –200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 737–100 and –200 series airplanes, that requires repetitive inspections to find fatigue cracking in the main deck floor beams located at certain body stations, and repair, if necessary. This AD also provides for optional terminating action for the repetitive inspections. This AD is prompted by reports of incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their design life goal. This AD relates to the recommendations of the Airworthiness Assurance Task Force assigned to review Model 737 series airplanes, which indicate that, to assure long term continued operational safety, various structural inspections should be accomplished. The actions specified by this AD are intended to prevent failure of the main deck floor beams at certain body stations due to fatigue cracking, which could result in rapid decompression and consequent reduced controllability of the airplane.

DATES: Effective August 28, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 28, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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: Scott Fung, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1221; fax (425) 227–1181.

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 all Boeing Model 737–100 and –200 series airplanes was published in the **Federal Register** on February 15, 2001 (66 FR 10390). That action proposed to require repetitive inspections to find fatigue cracking in the main deck floor beams located at certain body stations, and repair, if necessary. That action also proposed to provide for optional terminating action for the repetitive inspections.

Comments

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

Extend Compliance Time

One commenter asks that the compliance time for the detailed visual inspection specified in paragraph (a) of the proposal be extended. The commenter states that the service bulletin specified in the proposed rule is listed in Boeing Document D6–38505, which is titled ''The Aging Airplane Service Bulletin Structural Modification and Inspection Program,'' hereinafter referred to as the ''Boeing Document.'' The commenter notes that previous ADs issued against bulletins included in this document contain provisions to minimize the impact of the ADs. To be consistent with previous ADs, the commenter suggests that a 15-month phase-in period be implemented before the issuance of this proposed rule.

The FAA concurs. This final rule relates to the recommendations of the Airworthiness Assurance Task Force assigned to review Model 737 series airplanes, which indicate that, to assure long term continued operational safety, various structural inspections should be accomplished per the Boeing Document. To be consistent with the other inspections required by the Aging Airplane Program, we have extended the compliance time in paragraph (a) of this AD to within 6,000 flight cycles or 15 months after the effective date of this AD, whichever occurs later.

The same commenter asks that the initial inspection specified in paragraph (a) of the proposed rule be done within 10,000 flight cycles after the effective date of the AD, instead of within 6,000 flight cycles. The commenter states that, due to the fact that the proposed rule requires a repetitive inspection interval that must be accomplished at a 'C' check

interval, and the inspection area is not readily available, most operators will do the terminating action instead of the repetitive inspections. The commenter suggests that an initial 10,000-flight-cycle threshold be added to the rule that would allow operators to modify the floor structure without the 'C' check inspections. The commenter adds that it is doing the proposed inspections at a 4-year interval, and this interval is adequate to find and address cracks before they reach critical length. Additionally, at no time has the commenter found a crack that caused any risk of failure of the main deck floor beam. The commenter notes that the evident level of urgency of the proposed rule is unwarranted and adds that the referenced service bulletin has been a topic of the 737 Structures Task Group since 1993 with no significant findings presented to the industry to support an urgent, accelerated inspection program.

The FAA does not concur. Insufficient data were submitted to support the commenter's request. We are unable to validate that the level of urgency for the unsafe condition as specified in the service bulletin is unwarranted, because the data submitted does not include all the airplanes affected by this final rule. Additionally, the necessity for the inspection was established by a review conducted by the 737 Structures Working Group. As the commenter shows no correlation between a 4-year interval or 10,000 flight cycles, we have determined that no change to the final rule is necessary in this regard.

A second commenter, the manufacturer, asks that the repetitive inspection interval specified in paragraph (a)(2)(i) of the proposal be changed from every 3,000 flight cycles to every 6,000 flight cycles. The commenter states that the repetitive inspection interval specified in the referenced service bulletin was changed following an investigation by the manufacturer that showed that inspecting every 6,000 flight cycles adequately addresses the unsafe condition.

The FAA concurs. The commenter provided documentation from the 737 Structures Working Group that supports an extension of the repetitive inspection interval. Paragraph (a)(2)(i) of the final rule has been changed accordingly.

Clarify Terminating Action

One commenter asks for clarification that repairs done per the referenced service bulletin terminate the repetitive inspections. The FAA concurs as this clarification is consistent with the referenced service bulletin. Paragraph (c) of the final rule has been revised accordingly.

Clarify Applicability

One commenter, the manufacturer, asks that the Applicability section of the proposed rule be changed to, ''All Model 737–100 and ''200 series passenger airplanes.''

The FAA partially concurs. Model 737–200C series airplanes have a different structure in the areas specified in the proposed rule, and are not subject to the inspection requirements; however, 737–200C airplanes are not listed in the applicability of the proposed rule. The requested change is consistent with the effectivity specified in the referenced service bulletin; however, identifying the airplanes as ''passenger'' is not sufficient. Some passenger airplanes have been converted to freighters per a supplemental type certificate, and are still subject to the unsafe condition. The Summary section of the final rule has been changed to ''certain'' Model 737–100 and –200 series airplanes, and the Applicability section has been changed to add, ''as listed in the referenced service bulletin,'' for clarification.

Revise Preamble Language

One commenter asks that the Summary and Discussion sections of the proposed rule be changed to include information addressing the recommendations of the Airworthiness Assurance Task Force as published in the Boeing Document. The commenter states that, in AD 2000–07–12, amendment 39–11666 (65 FR 19310, May 16, 2000), the Discussion section gave significant detail explaining the purpose of the Aging Airplane Programs and why an AD was written against the service bulletin. The commenter adds that both sections should refer to the Boeing Document to reinforce the link between the proposal and the Aging Airplane Programs.

While the FAA concurs with these comments in principle and acknowledges that the description of the Aging Airplane Programs could have been more specific in the Summary and Discussion sections, the Discussion section is not restated in this final rule. The intent of the Summary section of the final rule is to provide a brief explanation of the unsafe condition and the action necessary to prevent failure of the main deck floor beams at certain body stations due to fatigue cracking. However, we have included information addressing the recommendations of the Airworthiness Assurance Task Force in the Summary section of the final rule.

Allow Previously Approved Repairs

One commenter asks that previously installed approved repairs exceeding the service bulletin repair size terminate the inspections specified in paragraph (a) of the proposed rule. The commenter states that many operators have already done the inspections and repairs per the Boeing Document instead of the referenced service bulletin. The commenter adds that the proposed AD requires that all repairs not installed per the service bulletin be submitted to the FAA for approval. To ease the burden of approving previously installed repairs, the commenter suggests that paragraph (b) of the proposal should be changed to add, ''* * * previously installed approved repairs exceeding the service bulletin repair size are considered terminating action for the inspections.''

The FAA partially concurs. Previously approved repairs have been subject to analysis prior to acceptance as terminating action. Such repairs can be, in addition to the repairs described in the service bulletin, considered satisfactory and eliminate the need for reinspection in that area. The repairs do not have to be larger than the repairs described in the service bulletin to meet these conditions. However, installation of a local repair would eliminate the need for reinspection in the repaired area only. Paragraph (d) of this AD has been changed to add that the previously approved alternative methods of compliance (AMOC) of such repairs, issued for AD 90–06–02, amendment 39–6489 (55 FR 8372, March 7, 1990), and AD 93–08–04, amendment 39–8551 (58 FR 25546, April 27, 1993), are approved for this final rule.

Revised Service Bulletin/Withdraw Proposed Rule

Three commenters ask that a revised service bulletin be used for doing the actions specified in the proposed rule. One commenter asks that Boeing Service Bulletin 737–57–1210, Revision 1, be referenced in the proposed rule as the appropriate source of service information for doing of the specified actions, instead of the original issue that is now referenced. A second commenter states that it has done the modification specified in the proposed rule on approximately half of its fleet and at least eight of its airplanes have factory production changes which should negate the requirement to install modifications. The commenter adds that these changes are not identified in the service bulletin and notes that issuing an AD would be premature until the service bulletin can be revised. A third commenter asks that the proposed rule

be put on hold until the manufacturer has updated the referenced service bulletin to include repairs to address the new conditions.

The FAA does not concur with the commenters. The AD will not be revised to reference Revision 1 of the service bulletin because we cannot approve the use of a document that does not yet exist. Due to the urgency of the unsafe condition, the final rule will be issued using the original issue of the service bulletin as the appropriate source of service information for doing the specified actions. However, operators may submit a request for an AMOC to use a later service bulletin through an appropriate FAA Principal Maintenance Inspector, as provided for by paragraph (d)(1) of this AD.

Cost Impact

One commenter states that the cost and time impacts for the inspection are unrealistic. The commenter notes that, although the FAA does not consider time necessary to gain access and return the area to the previous condition, this would constitute the majority of the time required to accomplish the inspections. The commenter adds that repetitive inspections would be required every 3,000 flight cycles, which would necessitate accomplishing the inspections on a special schedule when access to the area is not normally available. The commenter estimates that it would take 16 hours to gain access and close up, so the time and cost estimate for the inspection should be greatly increased. Also, if the cost data utilized by the FAA for procurement of parts is based upon the referenced service bulletin, then the data is approximately 10 years old and should be reviewed for accuracy.

The FAA does not concur with what it infers is a request to revise the cost estimate. We stated in the Cost Impact section of the proposed rule that, ''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.'' Our position on this matter has not changed since issuance of the proposed rule. No change to the final rule is necessary in this regard.

Conclusion

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

Cost Impact

There are approximately 935 airplanes of the affected design in the worldwide fleet. The FAA estimates that 340 airplanes of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per airplane to do the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $163,200, or $480 per airplane.

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

Should an operator elect to do the optional terminating action rather than continue the repetitive inspections, it will take approximately 96 work hours per airplane to do the change, at an average labor rate of $60 per work hour. Required parts will cost between $218 and $1,426 per airplane. Based on these figures, the cost impact of this optional terminating action is estimated to be between $5,978 and $7,186 per airplane.

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:

2001–14–20 Boeing: Amendment 39–12331. Docket 2000–NM–327–AD.

Applicability: Model 737–100 and –200 series airplanes as listed in Boeing Service Bulletin 737–57–1210, dated April 4, 1991, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the main deck floor beams at certain body stations (BS) due to fatigue cracking, which could result in rapid decompression and consequent reduced controllability of the airplane, do the following:

Inspections

(a) Before the accumulation of 20,000 total flight cycles, or within 6,000 flight cycles or 15 months after the effective date of this AD, whichever occurs later: Do a detailed visual inspection to find cracking of the main deck floor beams (body buttock line 0.07) located between BS 650 and BS 730, per the

Accomplishment Instructions of Boeing Service Bulletin 737–57–1210, dated April 4, 1991. If no cracking is found, do the requirements in paragraph (a)(1) or (a)(2) of this AD at the applicable times specified.

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

(1) If no cracking is found around BS 710 (Figure 1) or BS 727 (Figure 2), do the requirements in either paragraph (a)(1)(i) or (a)(1)(ii) of this AD.

(i) Repeat the detailed visual inspection at intervals not to exceed 6,000 flight cycles until accomplishment of the change specified in paragraph (c) of this AD. Or

(ii) Before further flight, do a one-time eddy current inspection for cracking of the fastener holes. If no cracking is found, before further flight, install the change at BS 710 (Figure 6) or BS 727 (Figure 7), as applicable, per the Accomplishment Instructions of the service bulletin. Doing the change ends the repetitive inspections for that area.

(2) If no cracking is found at BS 650 through BS 675 (Figure 8), do the requirements in either paragraph (a)(2)(i) or (a)(2)(ii) of this AD.

(i) Repeat the detailed visual inspection at intervals not to exceed 6,000 flight cycles until accomplishment of the change specified in paragraph (c) of this AD. Or

(ii) Before further flight, do a one-time eddy current inspection for cracking of the fastener holes. If no cracking is found, before further flight, install the change at BS 663 (Figure 9) per the Accomplishment Instructions of the service bulletin. Doing the change ends the repetitive inspections for that area.

Repair

(b) If any cracking is found during any inspection required by paragraph (a) of this AD, before further flight, either do the repair per the Accomplishment Instructions of Boeing Service Bulletin 737–57–1210, dated April 4, 1991, or do the change specified in paragraph (c) of this AD. Where the service bulletin specifies to contact Boeing for repair instructions: Before further flight, repair per a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings. For a repair method to be approved by the Manager, Seattle ACO, as required by this paragraph, the Manager's approval letter must specifically reference this AD.

Optional Terminating Action

(c) Accomplishment of the main deck floor beam change in the applicable areas (BS 710 (Figure 6), BS 727 (Figure 7), or BS 650 through 675 (Figure 9)), as specified in the Accomplishment Instructions of Boeing Service Bulletin 737–57–1210, dated April 4, 1991; or repair of the applicable area per the service bulletin; ends the repetitive inspections for that area.

Alternative Methods of Compliance

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

(2) Alternative methods of compliance, approved previously in accordance with AD 90–06–02, amendment 39–6489 (55 FR 8372, March 7, 1990), and AD 93–08–04, amendment 39–8551 (58 FR 25546, April 27, 1993), are approved as alternative methods of compliance with this AD.

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

Special Flight Permits

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

Incorporation by Reference

(f) Except as provided by paragraph (b) of this AD, the actions shall be done in accordance with Boeing Service Bulletin 737–57–1210, dated April 4, 1991. 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on August 28, 2001.

Issued in Renton, Washington, on July 12, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18017 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–336–AD; Amendment 39–12332; AD 2001–14–21]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42–200, –300, –320, and –500 Series Airplanes, and Model ATR72 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42–200, –300, –320, and –500 series airplanes and Model ATR72 series airplanes, that requires temporarily revising the Airplane Flight Manual (AFM) to add tests of the engine fire protection system and conducting those tests prior to each flight. This amendment also requires replacement of defective engine fire handles with serviceable fire handles, which terminates the revision of the AFM and the repetitive tests of the engine fire protection system. These actions are necessary to prevent intermittent improper functioning of the engine fire handles, due to a machining defect of the control shaft bore guide, which could result in malfunction of the trigger (squib), and failure to activate one of the two engine fire extinguishers. This action is intended to address the identified unsafe condition.

DATES: Effective August 28, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 28, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, 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, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, 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 all Aerospatiale Model ATR42–200, –300, –320, and –500 series airplanes and all Model ATR72 series airplanes was published in the **Federal Register** on March 29, 2001 (66 FR 17101). That action proposed to require temporarily revising the Airplane Flight Manual (AFM) to add tests of the engine fire protection system and conducting those tests prior to each flight. That action also proposed to require replacement of defective engine fire handles with serviceable fire handles, which would terminate the revision of the AFM and the repetitive tests of the engine fire protection system.

Comments

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

Change Applicability

One commenter asks that the applicability section, as specified in the proposed rule, be changed to exclude airplanes that do not have the affected engine fire handles, or that have already complied with the proposed rule. The commenter provides specific serial numbers for the affected airplanes and part numbers for the engine fire handles.

The FAA concurs that the applicability as specified in the final rule can be changed to some extent; however, it would be confusing to operators to list all the part numbers and serial numbers not affected by the final rule. Therefore, we have changed the applicability to specify the following: Model ATR42–200, –300, –320, and –500 series airplanes equipped with Labinal engine fire handles, as listed in Avions de Transport Regional Service Bulletin ATR42–26–0023 Revision 1, dated September 14, 2000; and Model ATR72 series airplanes equipped with Labinal engine fire handles, as listed in ATR72–26–1014 Revision 1, dated September 14, 2000. We also have changed the preamble to specify ''certain'' airplanes instead of ''all'' airplanes.

Clarify Unsafe Condition

One commenter asks that the unsafe condition, as written in the proposed rule, be changed to describe how the problem could affect the operation of the fire extinguisher system. The commenter states the unsafe condition as written could be interpreted as a failure of the system to provide a source for extinguishing a fire in the engine zone. In the case of improper functioning of the fire handles, there is a potential to make contact with one of the two sets of switches. In the most serious situation, this could result in the malfunction of the trigger (squib) to activate one of the two engine fire extinguishers. The second fire extinguisher remains operative and can be triggered, provided it is still armed. The commenter adds that this is the reason for the pre-flight test of the trigger for the fire extinguisher system, and asks that the unsafe condition be clarified.

The FAA agrees with the commenter. The unsafe condition has been clarified in the applicable sections of the final rule.

Revised Service Information

The manufacturer has advised the FAA that, since the issuance of the proposed rule, it has issued Avions de Transport Regional Service Bulletin ATR42–26–0023, Revision 1, dated September 14, 2000 (for Aerospatiale Model ATR42 series airplanes); and Avions de Transport Regional Service Bulletin ATR72–26–1014, Revision 1, dated September 14, 2000 (for Model ATR72 series airplanes). The manufacturer requests that the final rule be revised to require accomplishment of the actions in accordance with these new revisions of the service bulletins.

The FAA agrees with the manufacturer's request. We have reviewed Revision 1 of these service bulletins, and find that they contain minor changes from the original versions (which were cited as the appropriate sources of service information for accomplishment of the actions in the proposed rule). Therefore, paragraphs (c) and (d) of the final rule have been revised to require accomplishment of the actions in accordance with Revision 1 of the applicable service bulletin due to minor changes in paragraphs 1.C.(2) and 1.C.(3) of the Planning Information specified. A note also has been added to give credit for inspections and repairs accomplished prior to the effective date of this AD in accordance with the original issue of the service bulletin.

Change Paragraph (a)

One commenter asks that the wording in paragraph (a) of the proposed rule be changed from ''* * * may be accomplished * * *'' to ''* * * will be accomplished * * *.'' The commenter states that the repetitive tests of the engine fire protection system are covered by inserting a copy of the AD into the Normal Procedures section of the AFM. The commenter adds that since this is temporary mandated action until accomplishment of the terminating action, no specific temporary revision of the AFM is required.

The FAA does not agree. Inserting this AD into the AFM is one way to comply with the final rule requirements. However, the operator has the option of accomplishing the terminating action specified in paragraph (c) of the final rule instead of accomplishing the temporary revision specified in paragraph (a) of the final rule. No change to the final rule is necessary in this regard.

Withdraw Proposed Rule

One commenter asks that the proposed rule be withdrawn. The commenter states that all its affected airplanes have already complied with the requirements of the proposed AD. Therefore, the commenter requests that the FAA withdraw the proposed AD.

The FAA does not agree. We acknowledge that the manufacturer has stated that all the actions have been accomplished on all U.S.-registered airplanes, as specified in Labinal Special Inspection Service Bulletin 26–26–11–001, dated June 2000 (one source of service information specified in the final rule). However, if a U.S. operator were to purchase an airplane that does not have a U.S. registration, there would not be a U.S. AD to mandate the required actions. We have determined that it is necessary to issue a final rule to prevent an inadvertent installation of an engine fire handle having part number (P/N) 19–51–41 or P/N 19–51–51 and having a serial number listed in paragraph 1.C.(2) of the Planning Information of Avions de Transport Regional Service Bulletin ATR42–26–0023, dated July 7, 2000, or Revision 1, dated September 14, 2000 (for ATR42 series airplanes); or ATR72–26–1014, dated July 7, 2000, or Revision 1, dated September 14, 2000 (for Model ATR72 series airplanes). Therefore, no change to the final rule is necessary.

Conclusion

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

Cost Impact

The FAA estimates that 69 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the temporary revision of the AFM, at an average labor rate is $60 per work hour. Based on these figures, the cost impact of the temporary revision of the AFM on U.S. operators is estimated to be $4,140, or $60 per airplane.

It will take approximately 1 work hour per airplane to accomplish the pre-flight test of the engine fire protection system, at an average labor cost of $60. Based on these figures, the cost impact of the test on U.S. operators is estimated to be $4,140, or $60 per airplane, per test.

It will take approximately 2 work hours per airplane to accomplish the inspection for defective engine fire handles, at an average labor cost of $60. Based on these figures, the cost impact of the inspection on U.S. operators is estimated to be $8,280, or $120 per airplane.

The cost impact figures discussed above are 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:

2001–14–21 Aerospatiale: Amendment 39–12332. Docket 2000–NM–336–AD.

Applicability: Model ATR42–200, –300, –320, and –500 series airplanes equipped with Labinal engine fire handles, as listed in Avions de Transport Regional Service Bulletin ATR42–26–0023, Revision 1, dated September 14, 2000; and Model ATR72 series airplanes equipped with Labinal engine fire handles, as listed in ATR72–26–1014, Revision 1, dated September 14, 2000; certificated in any category.

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

To prevent improper function of the engine fire handles, due to a machining defect of a control shaft bore guide, which could result in malfunction of the squib (trigger), and failure to activate one of the two engine fire extinguishers, accomplish the following:

Temporary Revision of the Aircraft Flight Manual (AFM)

(a) Within 10 days from the effective date of this AD: Revise the Normal Procedures section of the FAA-approved AFM by inserting the following. This may be accomplished by inserting a copy of this AD into the AFM.

''Before each flight

Engine 2 fire protection

Depress SQUIB TEST pushbutton and check that both AGENT SQUIB lights illuminate.

Engine 1 fire protection

Depress SQUIB TEST pushbutton and check that both AGENT SQUIB lights illuminate.''

Test of Engine Fire Protection System

(b) After accomplishing paragraph (a) of this AD and prior to each flight thereafter: Perform a test of the engine fire protection system, in accordance with the temporary revision of the AFM specified in paragraph (a) of this AD, until accomplishment of paragraph (c) of this AD.

Terminating Action

(c) Within 21 months from the effective date of this AD: Remove the engine fire handles and inspect them to determine the serial number, in accordance with Avions de Transport Regional Service Bulletin ATR42–26–0023, Revision 1, dated September 14, 2000 (for Aerospatiale Model ATR42 series airplanes); or ATR72–26–1014, Revision 1, dated September 14, 2000 (for Model ATR72 series airplanes); and accomplish paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) For any engine fire handle having a serial number listed in paragraph 1.C.(2) of the Planning Information of the applicable service bulletin that is not excepted: Perform the Labinal Special Inspection Service Bulletin 26–26–11–001, dated June 2000.

(2) For any engine fire handle having a serial number identified in paragraph 1.C.(2) of the Planning Information of the applicable service bulletin that is excepted: Re-install the fire handles, in accordance with the applicable service bulletin.

Note 2: Inspections and repairs accomplished prior to the effective date of this AD in accordance with Avions de Transport Regional Service Bulletin ATR42–26–0023, dated July 7, 2000, or ATR72–26–1014, dated July 7, 2000, are considered acceptable for compliance with the applicable action specified in this amendment.

Note 3: After accomplishment of paragraph (c)(1) or (c)(2) of this AD, the temporary revision to the AFM required by paragraph (a) of this AD may be removed from the AFM, and the pre-flight tests of the engine fire protection system required by paragraph (b) of this AD may be discontinued.

Spare Parts

(d) As of the effective date of this AD, no person may install an engine fire handle having part number (P/N) 19–51–41 or P/N 19–51–51 and having a serial number that is not excepted, as listed in paragraph 1.C.(2) of the Planning Information of Avions de Transport Regional Service Bulletin ATR42–26–0023, Revision 1, dated September 14, 2000 (for ATR42 series airplanes); or ATR72–26–1014, Revision 1, dated September 14, 2000 (for Model ATR72 series airplanes); unless the engine fire handle has been inspected and repaired in accordance with the applicable service bulletin.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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

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

Incorporation by Reference

(g) Except as provided by paragraphs (a) and (b) of this AD: The actions shall be done in accordance with Avions de Transport Regional Service Bulletin ATR42–26–0023, Revision 1, dated September 14, 2000; Avions de Transport Regional Service Bulletin ATR72–26–1014, Revision 1, dated September 14, 2000; or Labinal Special Inspection Service Bulletin 26–26–11–001, dated June 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 Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, 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 directives 2000–282–050(B) and 2000–281–078(B), both with an effective date of July 8, 2000.

Effective Date

(h) This amendment becomes effective on August 28, 2001.

Issued in Renton, Washington, on July 12, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18018 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–38–AD; Amendment 39–12334; AD 2001–14–23]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR72–101, –201, –102, –202, –211, and –212 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR72–101, –201, –102, –202, –211, and –212 series airplanes, that requires a one-time inspection of harness route 2P and the pitch control cable for wire chafing, corrective action, if necessary; and replacement of the clamp retaining the power supply cable loom of the green circuit hydraulic pump at frame 28 with a smaller clamp in a different orientation. This action is necessary to prevent the chafing of electrical wires, which could cause a short circuit and failure of the elevator control cable and the green system hydraulic pump, resulting in reduced controllability of the airplane and consequent injury to the crew and passengers. This action is intended to address the identified unsafe condition.

DATES: Effective August 28, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 28, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, 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: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; 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 Aerospatiale Model ATR72–101, –201, –102, –202, –211, and –212 series airplanes was published in the **Federal Register** on April 26, 2001 (66 FR 20946). That action proposed to require replacement of the clamp retaining the power supply cable loom of the green circuit hydraulic pump at frame 28 with a smaller clamp in a different orientation.

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 expresses concern that the final rule be issued as quickly as possible.

The FAA concurs, and the final rule is issued as proposed.

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 as proposed.

Cost Impact

The FAA estimates that 60 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection and replacement, and that the average labor rate is $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the actions required by this AD on U.S. operators is estimated to be $3,600, or $60 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:

2001–14–23 Aerospatiale: Amendment 39–12334. Docket 2001–NM–38–AD.

Applicability: Model ATR72–101, –201, –102, –202, –211, and –212 series airplanes; certificated in any category; except those on which Modification 3719 has been performed.

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 chafing of electrical wires, which could cause a short circuit and failure of the elevator control cable and the green system hydraulic pump, resulting in reduced controllability of the airplane and consequent injury to the crew and passengers, accomplish the following:

Inspection and Corrective Action

(a) Within 25 days after the effective date of this AD: Perform a general visual inspection of harness route 2P and the pitch control cable for chafing, in accordance with Avions de Transport Regional Service Bulletin ATR72–92–1004, dated January 26, 2001.

(1) If no chafing is found, no further action is required by this paragraph.

(2) If any chafing of the harness route 2P or the pitch control cable is found during the inspection, prior to further flight, replace the applicable part with a new or serviceable part in accordance with Avions de Transport Regional Service Bulletin ATR72–92–1004, dated January 26, 2001.

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

Replacement

(b) Within 25 days after the effective date of this AD: Remove the oversized clamp (20 mm), part number (P/N) NSA935807–20, at frame 28, which retains power supply cables loom 2P for the green circuit hydraulic pump, and install a 16 mm clamp, P/N NSA935807–16, with new orientation, in accordance with Avions de Transport Regional Service Bulletin ATR72–92–1004, dated January 26, 2001.

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 3: 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 actions shall be done in accordance with Avions de Transport Regional Service Bulletin ATR72–92–1004, dated January 26, 2001. 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 Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, 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 4: The subject of this AD is addressed in French airworthiness directive 2001–056–055(B), dated February 7, 2001.

Effective Date

(f) This amendment becomes effective on August 28, 2001.

Issued in Renton, Washington, on July 12, 2001.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18020 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–159–AD; Amendment 39–12335; AD 2001–15–01]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727, 737, 757–200, 757–200CB, and 757–300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 727, 737, 757–200, 757–200CB, and 757–300 series airplanes. This AD requires modification of the latch assembly of the escape slides. For certain airplanes, this AD also requires installation of a cover assembly on the trigger housing of the inflation cylinder on the escape slides. This action is necessary to prevent failure of an escape slide to deploy or inflate correctly, which could result in the slide being unusable during an emergency evacuation and consequent injury to passengers or airplane crewmembers. This action is intended to address the identified unsafe condition.

DATES: Effective August 28, 2001.

The incorporation by reference of certain publications listed in the

regulations is approved by the Director of the Federal Register as of August 28, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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: Keith Ladderud, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2780; fax (425) 227–1181.

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 Boeing Model 727, 737, 757–200, 757–200CB, and 757–300 series airplanes was published in the **Federal Register** on February 15, 2001 (66 FR 10384). That action proposed to require modification of the latch assembly of the escape slides. For certain airplanes, that action also proposed to require installation of a cover assembly on the trigger housing of the inflation cylinder on the escape slides.

Comments

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

Support for the Proposed Rule

One commenter supports the proposed rule.

Identify Additional Affected Airplane Model

One commenter requests that the FAA revise the proposed rule to identify an additional affected airplane model. The commenter states that Boeing Model 737–200C airplanes are included in the effectivity listing of Boeing Service Bulletin 737–25–1405, dated May 25, 2000, but points out that these airplanes were not identified in the proposed rule with Model 737–100, –200, –300, –400, and –500 series airplanes.

The FAA concurs with the commenter's request. Though the FAA inadvertently failed to refer to Model 737–200C series airplanes separately from Model 737–200 series airplanes in the proposed rule, these airplanes are affected by this AD. Therefore, the ''Cost Impact'' section, the applicability statement, and Table 1 of this final rule have been revised to specifically identify Model 737–200C series airplanes along with the other airplane models affected by this AD.

Allow Installation of Unmodified Slide Latch

One commenter requests that the FAA remove paragraph (b) from the proposed AD. (That paragraph, the ''Spares'' paragraph, would prohibit installation of certain escape slide assemblies or escape latch assemblies after the effective date of this AD.) The commenter states that an operator may replace an escape slide on an airplane at any time due to a maintenance discrepancy or the slide reaching its overhaul threshold. The commenter notes that, on certain fleets, the slide latch is part of the complete escape slide assembly; therefore, the latch is replaced when a new slide is installed. The commenter states that, by not allowing the installation of a non-modified latch prior to the compliance time required by the proposed AD, the operator's entire spares inventory of escape slides would have to be modified according to the proposed AD before the AD becomes effective.

The FAA concurs with the commenter's request. Operators must comply with the requirements of this AD by the specified compliance time. If an operator must install a slide, it is their responsibility to ensure that all affected parts of that slide conform to the requirements of this AD by the compliance deadline. Accordingly, paragraph (b) of the proposed rule has not been included in this final rule. (Operators should note, however, that once an airplane has been modified according to this AD, the airplane cannot be modified in any way that negates accomplishment of the actions in this AD—i.e., a modified latch assembly cannot be replaced with an unmodified assembly.)

Consider Impact of Previously Issued AD

One commenter states that the FAA did not adequately consider AD 90–12–11 R1, amendment 39–6683, when it proposed this AD. The commenter points out that AD 90–12–11 R1 requires repetitive inspections of all Boeing Model 727, 737, and 757 series airplanes with escape slides having release cables installed. Escape slides with such release cables installed do not have the split ring assembly that the proposed AD would require to be replaced on certain airplanes. The commenter further notes that Boeing has issued certain service bulletins that provide instructions for replacing release cables on escape slides with release chains, which eliminates the need for the inspections required by AD 90–12–11 R1. The commenter states that it operates some airplanes that have not been modified according to these service bulletins, so the airplanes are still equipped with escape slides with release cables (and without the split ring assembly). The commenter asks whether the FAA intends to require the installation of escape slides with release chains on all subject airplanes as part of this AD, or if escape slides with release cables are still considered to be acceptable, provided that the airplanes continue to be repetitively inspected according to AD 90–12–11 R1.

The FAA concurs that clarification is necessary with regard to the requirements of AD 90–12–11 R1. The modification of the escape slide latch assembly required by this AD involves two actions for certain airplanes. The first action involves replacement of existing spring pins with new spring pins. While AD 90–12–11 R1 requires repetitive inspections of the slide release latch assembly for frayed or broken cables, that AD does not require inspections for corrosion of the spring pins because the spring pins cannot be properly inspected for corrosion. Therefore, the replacement of the existing spring pins with new spring pins is necessary for all airplanes subject to this AD. The second action that is part of the modification involves replacement of the existing split ring which attaches the chain assembly to the latch block assembly, with a clevis. In response to the commenter's concern, the FAA finds that an operator of an airplane subject to the requirement to replace the split ring with a clevis may not be required to do this replacement if the airplane is equipped with a release cable instead of a release chain. Operators of airplanes equipped with a release cable instead of a release chain may request approval of an alternative method of compliance under the provisions of paragraph (b) of this AD, as long as the airplane is receiving the repetitive inspections required by AD 90–12–11 R1. Operators should note that Note 1 of this AD applies to airplanes modified, altered, or repaired in the area subject to the requirements of this AD. Due to the fact that Note 1 already addresses this circumstance, no change to this AD is necessary in this regard.

Extend Compliance Time for Certain Airplanes

One commenter requests that the FAA extend the compliance time from 18 months to 36 months for the actions required by this AD on Boeing Model 737–600, –700, and –800 series airplanes. The commenter notes that, as the FAA stated in the proposed rule, the 18-month compliance time for these airplanes is based on the degree of urgency associated with installation of a cover assembly on the trigger housing of the inflation cylinder on the escape slides, as specified in Boeing Special Attention Service Bulletin 737–25–1403, dated May 4, 2000. The commenter states that some operators have already accomplished that service bulletin, and other airplanes are not subject to the actions in that service bulletin because they are equipped with different escape slides. The commenter states, for these airplanes, the compliance time for accomplishment of the modification of the slide latch assembly described in Boeing Service Bulletin 737–25–1404, dated May 25, 2000, should be 36 months.

The FAA does not concur with the commenter's request to extend the compliance time. The commenter notes that, for certain airplanes as listed in Boeing Service Bulletin 737–25–1404, that service bulletin specifies accomplishment of Boeing Special Attention Service Bulletin 737–25–1403 as an integral part of the other actions in that service bulletin. For this reason, the FAA finds that it is necessary to mandate accomplishment of Boeing Service Bulletin 737–25–1404 within 18 months after the effective date of this AD, as proposed. However, the FAA notes that operators of airplanes on which Boeing Special Attention Service Bulletin 737–25–1403 has been accomplished may request approval of an alternative method of compliance or adjustment of the compliance time under the provisions of paragraph (b) of this AD. No change to the final rule is necessary in this regard.

Allow Use of Solid Spring Pin

The modification of the escape slide latch assembly for all airplanes subject to this AD involves replacement of existing spring pins with new spring pins made from corrosion-resistant material. One commenter requests that the FAA approve the use of a new, solid spring pin with both ends staked as an alternative to the spring pin of hollow-roll design that is specified in the service bulletins. The commenter states that the spring pin specified in the service bulletins may allow for collection of water in the pin which could lead to corrosion. The commenter states that a solid pin will provide the corrosion prevention needed to ensure the integrity of the pin and operation of the slide latch and will provide a level of safety equivalent to that provided by the pin specified in the service bulletins.

The FAA does not concur with the commenter's request to allow use of a solid pin with staked ends. The FAA notes that the latch assembly housing is a forged part and is made of hard, corrosion-resistant steel. If solid spring pins are installed and staked at both ends, it may be possible for these pins to bend or be insufficiently staked, which could result in an unacceptable latch assembly. Therefore, the FAA finds that the spring pins must be replaced with the new pins specified in the applicable service bulletin. No change to the final rule is necessary in this regard.

Require Replacement of Latch Assemblies With New Assemblies

One commenter states that the escape slide latch assemblies that are subject to this AD should not be reworked as allowed by the proposed rule, but, rather, should be replaced with new latch assemblies. The commenter is concerned about modifying the existing latches due to the critical nature of these latches.

The FAA does not concur with the commenter's request. The FAA does not consider the modifications in the referenced service bulletins technically challenging, and expects that operators should be able to accomplish such modifications. No change to the final rule is necessary in this regard.

Adjust Cost Impact Information

One commenter states that, because the proposed AD results from a design defect, replacement parts for the modification of the escape slide latch assembly should be supplied at no cost to the operators. The commenter makes no specific request for a change to the proposed rule. The FAA acknowledges this comment, but the FAA cannot mandate which party should bear the cost of replacement parts. This issue must be negotiated between the operator and the manufacturer. No change to the final rule is necessary in this regard.

Conclusion

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

Cost Impact

There are approximately 5,759 Model 727, 737, 757–200, 757–200CB, and 757–300 airplanes of the affected design in the worldwide fleet. The FAA estimates that 2,906 airplanes of U.S. registry will be affected by this AD. The following table shows the estimated cost impact for airplanes affected by this AD. ''Action 1'' is the modification of the escape slide latch assembly, and ''Action 2'' is the installation of a cover assembly on the trigger housing of the inflation cylinder on the escape slide. The average labor rate is $60 per work hour. The estimated cost impact is as follows:

Models/series	Action	U.S.-registered airplanes	Work hours per airplane (estimated)	Parts cost (estimated maximum)	Cost per airplane (estimated)	Maximum fleet cost (estimated)
727	1	955	2	$1,068	$1,188	$1,134,540
737–100, –200, –200C, –300, –400, –500	1	1,156	2	1,192	1,312	1,516,672
737–600, –700, –800	1	277	2	1,424	1,544	427,688
737–600, –700, –800	2	277	4	Free	240	66,480
757–200, –200CB, –300	1	518	3	1,602	1,782	923,076

The cost impact figures discussed above are 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:

2001–15–01 Boeing: Amendment 39–12335. Docket 2000–NM–159–AD.

Applicability: The following airplanes, certificated in any category:

Model	As listed in	Service bulletin date
727–100 and 727–200 series	Boeing Service Bulletin 727–25–0294	May 25, 2000.
737–100, –200, –200C, –300, –400, and –500 series	Boeing Service Bulletin 737–25–1405	May 25, 2000.
737–600, –700, and –800 series	Boeing Special Attention Service Bulletin 737–25–1403	May 4, 2000.
737–600, –700, and –800 series	Boeing Service Bulletin 737–25–1404	May 25, 2000.
757–200 and –200CB series	Boeing Service Bulletin 757–25–0217	May 25, 2000.
757–300 series	Boeing Service Bulletin 757–25–0218	May 25, 2000.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of an escape slide to deploy or inflate correctly, which could result in the slide being unusable during an emergency evacuation and consequent injury to passengers or airplane crewmembers, accomplish the following:

Modification

(a) At the schedule specified in the following table, do the actions in the ''Do these actions'' column, per the service bulletin specified in the ''As listed in'' column:

TABLE 1.—REQUIRED ACTIONS

For model	As listed in	Dated	Do these actions	No later than
727–100 and 727–200 series.	Boeing Service Bulletin 727–25–0294.	May 25, 2000	Modify the escape slide latch assembly.	36 months after the effective date of this AD.
737–100, –200, –200C, –300, –400, and –500 series.	Boeing Service Bulletin 737–25–1405.	May 25, 2000	Modify the escape slide latch assembly.	36 months after the effective date of this AD.
737–600, –700, and –800 series.	Boeing Special Attention Service Bulletin 737–25–1403.	May 4, 2000	Install a cover assembly on the trigger housing of the inflation cylinder on the escape slides.	18 months after the effective date of this AD.
737–600, –700, and –800 series.	Boeing Service Bulletin 737–25–1404.	May 25, 2000	Modify the escape slide latch assembly.	18 months after the effective date of this AD.
757–200 and –200CB series.	Boeing Service Bulletin 757–25–0217.	May 25, 2000	Modify the escape slide latch assembly.	36 months after the effective date of this AD.
757–300 series	Boeing Service Bulletin 757–25–0218.	May 25, 2000	Modify the escape slide latch assembly.	36 months after the effective date of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

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

Incorporation by Reference

(d) The actions shall be done in accordance with Boeing Service Bulletin 727–25–0294, dated May 25, 2000; Boeing Special Attention Service Bulletin 737–25–1403, dated May 4, 2000; Boeing Service Bulletin 737–25–1404, dated May 25, 2000; Boeing Service Bulletin 737–25–1405, dated May 25, 2000; Boeing Service Bulletin 757–25–0217, dated May 25, 2000; and Boeing Service Bulletin 757–25–0218, dated May 25, 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on August 28, 2001.

Issued in Renton, Washington, on July 13, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18137 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–331–AD; Amendment 39–12337; AD 2001–15–03]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

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

DATES: Effective August 28, 2001.

The incorporation by reference of Boeing Alert Service Bulletin 747–53A2427, Revision 2, October 5, 2000, as listed in the regulations, is approved by the Director of the Federal Register, as of August 28, 2001.

The incorporation by reference of Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998; and Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999; as listed in the regulations, was approved previously by the Director of the Federal Register as of June 5, 2000 (65 FR 25281, May 1, 2000).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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: Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–08–21, amendment 39–11707 (65 FR 25281, May 1, 2000), which is applicable to all Boeing Model 747 series airplanes, was published in the **Federal Register** on April 19, 2001 (66 FR 20111). The action proposed to continue to require repetitive inspections to detect cracking of the forward and aft inner chords and the splice fitting of the forward inner chord of the station 2598 bulkhead, and repair, if necessary. The action also proposed to add repetitive inspections of an expanded inspection area, which would end the inspections specified in the existing AD, and to limit the applicability of the existing AD.

Comments

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

Conclusion

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

Cost Impact

There are approximately 1,115 Model 747 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 258 airplanes of U.S. registry will be affected by this AD.

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

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

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

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

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States,

or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11707 (65 FR 25281, May 1, 2000) and by adding a new airworthiness directive (AD), amendment 39–12337, to read as follows:

2001–15–03 Boeing: Amendment 39–12337. Docket 2000–NM–331–AD. Supersedes AD 2000–08–21, Amendment 39–11707.

Applicability: Model 747 series airplanes, line numbers 1 through 1307 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

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

Restatement of Requirements of AD 2000–08–21

Initial Inspection

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

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

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

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

Repetitive Inspections

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

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

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

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

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

Repair

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

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

New Requirements of This AD

Repetitive Inspections

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

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

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

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

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

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

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

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

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

Repair

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

Alternative Methods of Compliance

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

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

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

Special Flight Permits

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

Incorporation by Reference

(i) Except as provided by paragraphs (d) and (f) of this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998; Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999; or Boeing Alert Service Bulletin 747–53A2427, Revision 2, dated October 5, 2000; as applicable.

(1) The incorporation by reference of Boeing Alert Service Bulletin 747–53A2427, Revision 2, dated October 5, 2000, is approved by the Director of the Federal Register as of August 28, 2001.

(2) The incorporation by reference of Boeing Alert Service Bulletin 747–53A2427, dated December 17, 1998; and Boeing Alert Service Bulletin 747–53A2427, Revision 1, dated October 28, 1999; was approved previously by the Director of the Federal Register as of June 5, 2000 (65 FR 25281, May 1, 2000).

(3) Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(j) This amendment becomes effective on August 28, 2001.

Issued in Renton, Washington, on July 13, 2001.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–18139 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–02FR]

Establishment of Class E Airspace: Greensburg, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Greensburg, PA. An Area Navigation (RNAV), based on the Global Positioning System (GPS), Helicopter Point in Space Approach (GPS 029) at Westmoreland Hospital Heliport, Greensburg, PA has made this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to protect aircraft executing the approach to the Westmoreland Hospital Heliport.

EFFECTIVE DATE: 0901 UTC Sept. 6, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On April 4, 2001 a notice of proposed rulemaking to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace extending upward from 700 feet Above Ground Level (AGL) for an RNAV, Helicopter Point in Space Approach to the Westmoreland Hospital Heliport, Greensburg, PA was published in the **Federal Register** (66 FR 17827–17828).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before May 4, 2001. No comments to the proposal were received. The rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83.

Class E airspace areas designations for airspace 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 in the order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting Instrument Flight Rules (IFR) operations at the Westmoreland Hospital Heliport, Greensburg, PA.

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 will not have 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—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 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.

* * * * *

AEA PA E5 Greensburg, PA [NEW]

Westmoreland Hospital Heliport, Greensburg, PA
Point in Space Coordinates
(Lat. 40°17′14″ N., long. 79°33′12″ W.)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the Point in Space serving the Westmoreland Hospital Heliport.

* * * * *

Issued in Jamaica, New York on July 2, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–18225 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–01FR]

Establishment of Class E Airspace: Hagerstown, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Hagerstown, MD. Controlled airspace extending upward from the surface is needed to accommodate operations under Instrument Flight Rules (IFR) at the airport when the Air Traffic Control Tower (ATCT) is not in operation.

EFFECTIVE DATE: 0901 UTC July 12, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On February 28, 2001, a notice of proposed rulemaking to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing Class E airspace extending upward from the surface to and including 3200 feet MSL within a 4.1 mile radius of Washington County Regional Airport was published in the **Federal Register** (66 FR 12741–12742). The Class E2 airspace area is effective during the specific dates and times when the Class D airspace is not in effect.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before March 30, 2001. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83.

Class E airspace areas designations for airspace extending upward from the surface of the earth are published in paragraph 6002 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 in the order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) provides controlled Class E airspace extending upward from the surface for aircraft conducting IFR operations at the Washington County Regional Airport, Hagerstown, MD at times when the ATCT is closed.

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 will not have 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—[AMENDED]

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

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

§ 71.1 [Amended]

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 6002 Class E Airspace Areas extending upward from the surface of the earth.

* * * * *

AEA MD E2 Hagerstown, MD (NEW)

Washington County Regional Airport, Hagerstown, MD
(Lat. 39°42′28″ N., long. 77°43′46″ W.)

That airspace extending upward from the surface to and including 3,200 feet MSL within a 4.1 mile radius of Washington County Regional Airport. The Class E2 area is effective during the specific dates and time when the Class D airspace is not in effect.

* * * * *

Issued in Jamaica, New York on July 2, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–18229 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–06FR]

Establishment of Class E Airspace: Kane, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Kane, PA. Development of an approach, based on the Global Positioning System (GPS), Helicopter Point in Space Approach (GPS 006), for the Kane Community Hospital Heliport, Kane, PA has made this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain aircraft executing the approach to the Kane Community Hospital Heliport.

EFFECTIVE DATE: 0901 UTC Sept 6, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, 1 Aviation Plaza, Jamaica, New York 11434–4809, telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On April 18, 2001 a notice of proposed rulemaking proposing to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace extending upward from 700 feet Above Ground Level (AGL) for a GPS, Helicopter Point in Space Approach to the Kane Community Hospital Heliport, Kane, PA was published in the **Federal Register** (66 FR 19909).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA on or before May 4, 2001. No comments to the proposal were received. The rule is adopted as proposed. The coordinates for this airspace docket are based on North American Datum 83.

Class E airspace areas designations for airspace 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, 200 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 in the order.

The Rule

The amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) provides controlled Class E airspace extending upward from 700 feet above the surface for aircraft conducting Instrument Flight Rules (IFR) operations at the Kane Community Hospital Heliport, Kane, PA.

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 will not have 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—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 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 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.

* * * * *

AEA PA E5 Kane, PA [NEW]

Kane Community Hospital Heliport, Kane, PA
(Lat. 40°40′16″ N., long. 78°49′04″ W)
Point in Space Coordinates
(Lat. 41°39′58″ N., long. 79°52′09″ W)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of the Point in Space for the SIAP serving the Kane Community Hospital Heliport.

* * * * *

Issued in Jamaica, New York on July 2, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–18233 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–13–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1000

Statement of Organization and Functions

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission is amending its statement of organization and functions to reflect the transfer of the National Injury Information Clearinghouse from the Office of Information Services to the Directorate for Epidemiology.

EFFECTIVE DATE: July 24, 2001.

FOR FURTHER INFORMATION CONTACT: Joseph F. Rosenthal, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 301–504–0980.

SUPPLEMENTARY INFORMATION: The reference to the Clearinghouse in section 1000.26, Office of Information Services, is being moved to section 1000.27, Directorate for Epidemiology.

Since this rule relates solely to internal agency management, pursuant to 5 U.S.C. 553(b) notice and other public procedures are not required and it is effective immediately upon publication in the **Federal Register**. Further, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612, and, thus, is exempt from the provisions of the Act.

List of Subjects in 16 CFR Part 1000

Organization and functions (government agencies).

Accordingly, Part 1000 is amended as follows:

PART 1000—[AMENDED]

1. The authority citation for part 1000 continues to read as follows:

Authority: 5 U.S.C. 552(a).

2. In section 1000.26, remove the last sentence.

3. In section 1000.27, add at the end the sentence ''It administers the National Injury Information Clearinghouse.''

Dated: July 19, 2001.

Todd Stevenson,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 01–18412 Filed 7–23–01; 8:45 am]

BILLING CODE 6335–01–U

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200 and 240

[Release No. 34–44569, File No. S7–12–01]

RIN 3235–AI19

Extension of Comment Period on Interim Final Rules on Definition of Terms in and Specific Exemptions for Banks, Savings Associations, and Savings Banks Under Sections 3(a)(4) and 3(a)(5) of the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Interim final rules; extension of comment period.

SUMMARY: The Securities and Exchange Commission (''Commission'') is extending the comment period for its interim final rules that define certain terms used in, and grant exemptions from, the definitions of ''broker'' and ''dealer'' under the Securities Exchange Act of 1934, contained in Release No. 34–44291, 66 FR 27760 (May 18, 2001).[1] The original comment period ended July 17, 2001. The new deadline for submitting public comments is September 4, 2001.

DATES: Public comments are due on or before September 4, 2001.

ADDRESSES: 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. S7–12–01. 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 St., NW., Washington, DC 20549. Electronically submitted comments will be posted on the Commission's Internet web site (http://www.sec.gov).

FOR FURTHER INFORMATION CONTACT: Catherine McGuire, Chief Counsel; Lourdes Gonzalez, Assistant Chief Counsel; Linda Stamp Sundberg, Banking Fellow; Patricia Albrecht, Special Counsel; or Joseph Corcoran, Attorney, (202) 942–0073, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549–1001.

SUPPLEMENTARY INFORMATION: On May 11, 2001, the Securities and Exchange Commission issued interim final rules to address the functional exceptions for banks from the new definitions of ''broker'' and ''dealer'' that were added to the Exchange Act by the Gramm-Leach-Bliley Act. The rules are designed to provide guidance on, and to grant exemptive relief, from the new definitions. The deadline for submitting public comments established by the adopting release was July 17, 2001. The Commission has received requests to extend the deadline so that commenters have more time to address the issues raised by the interim final rules. The Commission believes that it is appropriate to give commenters additional time and, therefore, we are extending the comment period to September 4, 2001.

Dated: July 18, 2001.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–18356 Filed 7–23–01; 8:45 am]

BILLING CODE 8010–01–P

[1] We are simultaneously issuing an order further extending until May 12, 2002 the compliance dates for banks, savings associations, and savings banks with respect to the broker-dealer registration requirements contained in the Gramm-Leach-Bliley Act. The text of the order will be available on the Commission's website at http://www.sec.gov.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–01–020]

Drawbridge Operating Regulation; Lake Pontchartrain, LA

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 governing the operation of the north bascule span of the US 11 bridge across Lake Pontchartrain between New Orleans and Slidell, Orleans and St. Tammany Parishes, Louisiana. This deviation allows the north bascule span to remain closed to navigation from 6 a.m. until noon and from 1 p.m. until 7 p.m. on August 6, 7, and 8, 2001. This temporary deviation was issued to allow for the installation of a new submarine cable underneath the north bascule span of the bridge. At all other times during this period, only the north leaf of the north bascule span will open for the passage of vessel traffic.

DATES: This deviation is effective from 6 a.m. on Monday, August 6, 2001 through 7 p.m. on Wednesday, August 8, 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), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana, 70130–3396. The Bridge Administration Branch of the Eighth Coast Guard District maintains the public docket for this temporary deviation.

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

SUPPLEMENTARY INFORMATION: The north bascule span of the US 11 bridge across Lake Pontchartrain, between New Orleans and Slidell, has a vertical clearance of 13 feet above mean high water in the closed-to-navigation position and unlimited in the open-to-navigation position. Navigation on the waterway consists of tugs with tows, fishing vessels, sailing vessels, and other recreational craft. The Louisiana Department of Transportation and Development requested a temporary deviation from the normal operation of the drawbridge in order to accommodate the installation of a new submarine cable beneath the north bascule span. During the closure period, traffic will be able to pass through the north leaf of the span between noon and 1 p.m. and from 7 p.m. until 6 a.m. Emergency repairs to the south leaf of the north bascule span are ongoing and will be completed by 4 p.m. on August 30, 2001. Scaffolding beneath the south leaf has reduced the vertical clearance by approximately two feet.

This deviation allows the north channel bascule span of the US 11 bridge across Lake Pontchartrain, between New Orleans and Slidell, Orleans and St. Tammany Parishes, Louisiana, to be maintained in the closed-to-navigation position from 6 a.m. until noon and from 1 p.m. until 7 p.m. on August 6, 7, 8, 2001.

Dated: July 12, 2001.

Roy J. Casto,

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

[FR Doc. 01–18397 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD13–01–010]

RIN 2115–AA97

Safety Zone; Seafair Blue Angels Performance, Lake Washington, WA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on the waters of Lake Washington, Seattle, Washington. The Coast Guard is taking this action to safeguard the participants and spectators from the safety hazards associated with the Seafair Blue Angels Performance. Entry into this zone is prohibited unless authorized by the Captain of the Port, Puget Sound or his designated representatives.

DATES: This rule is effective from 8:30 a.m. on August 2, 2001, through 3 p.m. (Pacific Daylight Time) on August 5, 2001.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the U.S. Coast Guard Marine Safety Office Puget Sound, 1519 Alaskan Way South, Building 1, Seattle, Washington 98134. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Paul Stocklin, c/o Captain of the Port Puget Sound, (206) 217–6232.

SUPPLEMENTARY INFORMATION:

Background and Purpose

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 airshow poses several dangers to the public including excessive noise and objects falling from any accidents. Accordingly, prompt regulatory action is needed in order to provide for the safety of spectators and participants during the event. If normal notice and comment procedures were followed, this rule would not become effective until after the date of the event. Temporary regulations of similar size and duration have been in place for the past several years and have not generated significant controversy.

Discussion of Rule

The Coast Guard is adopting a temporary safety zone regulation on the waters of Lake Washington, Seattle, Washington, for the Seafair Blue Angels Performance. The Coast Guard has determined it is necessary to close the area in the vicinity of the air show in order to minimize the dangers that low-flying aircraft present to persons and vessels. These dangers include, but are not limited to, excessive noise and the risk of falling objects from any accidents associated with low flying aircraft. In the event that aircraft require emergency assistance, rescuers must have immediate and unencumbered access to the craft. The Coast Guard, through this action, intends to promote the safety of personnel, vessels, and facilities in the area. Entry into this zone will be prohibited unless authorized by the Captain of the Port or his representative. This safety zone will be enforced by Coast Guard personnel. The Captain of the Port may be assisted by other federal, state, or local agencies.

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 expectation is based on the fact that the regulated area established by the regulation would encompass an area near the middle of Lake Washington, not frequented by commercial navigation. The regulation is established for the benefit and safety of the recreational boating public, and any negative recreational boating impact is offset by the benefits of allowing the Blue Angels to fly. For the above reasons, the Coast Guard does not anticipate any significant economic impact.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit this portion of Lake Washington during the time this regulation is in effect. The zone will not have a significant economic impact due to its short duration and small area. The only vessels likely to be impacted will be recreational boaters and small passenger vessel operators. The event is held for the benefit and entertainment of those above categories. Because the impacts of this proposal are expected to be so minimal, the Coast Guard certifies under 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) that this final rule will not have a significant economic impact on a substantial number of small entities.

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 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 person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Collection of Information

This rule will 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 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 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) of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. A Categorical Exclusion is provided for temporary safety zones of less than one week in duration. This rule establishes a temporary safety zone of limited duration that will be within the one-week timeframe.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

Final Rule

For the reasons set out 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. Add a temporary § 165.T13–004 to read as follows:

§ 165.T13–004 Safety Zone, Seafair Blue Angels Performance, Seattle, WA.

(a) *Location.* The following is a safety zone: All waters of Lake Washington, Washington State, enclosed by the following points: The northwest corner of Faben Point at 47°35′34.5″ N, 122°15′13W; thence to 47°35′48″ N, 122°15′45″ W; thence to 47°36′02.1″ N, 122°15′50.2″ W; thence to 47°35′56.6″ N, 122°16′29.2″ W; thence to 47°35′42″ N, 122°16′24″ W; thence to the east side of the entrance to the west highrise of the Interstate 90 bridge; thence easterly along the south side of the bridge to a point 1130 yards east of the western terminus of the bridge; thence southerly to a point in Andrews Bay at 47°33′06″ N, 122°15′32″ W; thence northeast along the shoreline of Bailey Peninsula to its northeast point at 47°33′44″ N, 122°15′04″ W; thence easterly along the east-west line drawn tangent to Bailey Peninsula; thence northerly along the shore of Mercer Island to the point of origin. (Datum: NAD 1983)

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, no person or vessel may enter or remain in the zone except for participants in the event, supporting personnel, vessels registered with the event organizer, or other vessels authorized by the Captain of the Port or his designated representatives.

(c) *Applicable dates.* This section applies from 8:30 a.m. until 3 p.m., Pacific Daylight Time, on August 2, 3, 4 and 5, 2001.

Dated: July 10, 2001

L.R. Radziwanowicz,

Commander, U.S. Coast Guard, Acting Captain of the Port, Puget Sound.

[FR Doc. 01–18396 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–15–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 11–01–013]

RIN–2115–AE84

Regulated Navigation Area; San Francisco Bay, California

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is changing the boundary for the portion of the Oakland Harbor Regulated Navigation Area (RNA) that lies just due north of Anchorage 8. By a separate rulemaking, the Coast Guard is increasing the size of Anchorage 8. To avoid having Anchorage 8 encroach on the Oakland Harbor RNA, this interim rule simply designates new boundary lines for the Oakland Harbor RNA to coincide with the new Anchorage 8 boundaries. This rule also corrects the coordinates for the northern boundary of the Oakland Harbor RNA that is inaccurately listed in the current RNA regulation.

DATES: This interim rule is effective July 24, 2001. Comments must be received on or before August 23, 2001.

ADDRESSES: Comments may be mailed or hand-delivered to: Commander (pmc–3), Eleventh Coast Guard District, Bldg. 50–6, Coast Guard Island, Alameda, CA 94501–5100. The Commander (pmc–3), Eleventh Coast Guard District maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: LT Patricia Springer, Chief of Vessel Traffic Management, Eleventh Coast Guard District, Building 50–6, Coast Guard Island, Alameda, CA 94501–5100, phone (510) 437–2951, e-mail *pspringer@d11.uscg.mil.*

SUPPLEMENTARY INFORMATION:

Request for Comments

Although this regulation is published as an interim rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure the regulation is both reasonable and workable.

The Coast Guard encourages all interested persons to participate in this

interim rulemaking by submitting written data, views, or arguments. Persons submitting comments should identify this rulemaking (CGD 11–01–013), the specific section of the rule to which each comment applies, and the reason for each comment. All comments and attachments must be submitted in an unbound format, no larger than 8½ × 11 inches, suitable for copying. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. All comments and other materials referenced in this notice will be available for inspection and copying at the Coast Guard location under **ADDRESSES**, between 6:30 a.m. and 4 p.m. Monday through Friday except Federal holidays. The Coast Guard will consider all comments and material received during the comment period and may change this rule in view of them.

Public Meeting

The Coast Guard plans no public hearing. Interested persons may request a public hearing by writing to the Coast Guard at the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid in this rulemaking, the Coast Guard will hold a public hearing at a time and place to be announced by a later notice in the **Federal Register**.

Regulatory Information

The Coast Guard did not publish a notice of proposed rulemaking (NPRM) for this regulation, however the Coast Guard did publish an NPRM and a Final Rule regarding Anchorage 8 on February 28, 2001 (66 FR 12742) and June 26, 2001 (66 FR 33833), respectively, both of which have an effect on the Oakland Harbor RNA. The newly expanded Anchorage 8 inadvertently overlapped the boundary line for the Oakland Harbor RNA.

The Coast Guard believes that decreasing the size of the RNA to compensate for the increase in the size of Anchorage 8 will not affect any significant operation in the vicinity of the Oakland Harbor. The correction to the northern boundary of the Oakland Harbor RNA will simply align the coordinates in the RNA regulation with what has already been accurately charted by the National Oceanic and Atmospheric Administration (NOAA) on their 50th edition of chart 18650, dated January of 2001. Both of these changes are required immediately in order to prevent confusion among the public and to maintain the highest levels of safety within the RNA and Anchorage 8. Publishing an NPRM in this istuation is impracticable and contrary to the public interest. Therefore, under 5 U.S.C. 553(b)(3)(B), the Coast Guard finds that good cause exists for not publishing an NPRM for this Interim Final Rule.

Under 5 U.S.C. 553(d)(3), the Coast Guard also finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The new Anchorage 8 boundary becomes effective as of July 26, 2001. In order to enforce properly the anchorage regulations along with the RNA regulations, and to avoid public confusion and unsafe conditions in the waterway, these rules need to coincide, as closely as possible, in their effective dates.

Background and Purpose

As discussed in the Regulatory Information section, there have been both an NPRM and a Final Rule published in the **Federal Register** on the changes of Anchorage 8, which in turn requires a change to the Oakland Harbor RNA. Over time, demands of waterway usage in the San Francisco Bay have led to the need for increases in anchorage grounds. Anchorage 8 was one of the anchorages recently requested by the mariners to be modified to make better use of available water. Such a change has resulted in Anchorage 8 area protruding into the nearby Oakland Harbor RNA, necessitating an adjustment to the boundary designation of the RNA. No comments were received on the Anchorage 8 regulation change that objected on the grounds that the Oakland Harbor RNA would need to be reduced. Additionally, the reduction in the RNA will not result in any adverse effect to waterway users.

The northern boundary coordinates in the regulation for the Oakland Harbor RNA was recently discovered to be off by approximately 30 to 200 yards. This rulemaking will correct the points listed in the RNA regulation, accurately reflecting the alignment of the northern boundary of the Oakland Harbor RNA with the Bar Channel and what has already been charted by NOAA.

Discussion of Interim Rule

This Interim Rule incorporates an administrative change to correct the boundary line of the affected Oakland Harbor RNA to coincide with the new boundaries of Anchorage 8. While Anchorage 8 will increase in size by approximately 2,300 square feet to the northwest, the Oakland Harbor RNA lying just north of this anchorage will decrease in size by the same amount. The regulations that apply to vessels within this RNA will still remain the same.

This Interim Rule also incorporates an administrative change to correct the mis-printed coordinates in the current RNA regulation for the northern boundary of the Oakland Harbor RNA. The corrected coordinates will reflect what has already been charted by NOAA.

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. It has been exempted from review by the Office of Management and Budget under that order. It is not ''significant'' under the Department of Transportation Regulatory Policies and Procedures (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the 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 rule is merely re-designating the boundary lines of the Oakland Harbor RNA to coincide with the recently published Anchorage 8 boundary change and to correct a mistake on the northern boundary coordinates of the RNA.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' may include small businesses and not-for profit organizations that are independently owned and operated and are not dominant in their respective fields, and governmental jurisdictions with populations less than 50,000. This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule, if adopted, is not expected to have a significant economic impact on any substantial number of small entities. If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule will have a significant impact on it, please submit a comment. In your comment, explain why you think it qualifies and how and to what

degree this rule would economically affect it.

Assistance for Small Entities

In accordance with 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 Interim Rule so that they can better evaluate its effects on them and participate in the rule making process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact the U.S. Coast Guard using information in Addresses above.

Collection of Information

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

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 13132 and has determined it does not have implications of federalism under that order.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538), requires Federal agencies to assess the effects of their regulatory actions not specifically required by law. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such expenditure, the effects of this rule are discussed 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 has considered the environmental impact of this rule and concluded that under Commandant Instruction M16475.1C, Figure 2–1, paragraph 34(g), reducing the size of an RNA 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 recordkeeping requirements, Waterways.

For the reasons set out in the preamble, the Coast Guard amends Part 165 of Title 33, Code of Federal Regulations, 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. Amend § 165.1114 by revising paragraph (c)(7) to read as follows:

§ 165.1114 San Francisco Bay Region, California—regulated navigation area.

* * * * *

(7) *Oakland Harbor RNA.* The following is a regulated navigation area—The waters bounded by a line connecting the following coordinates, beginning at:

37° 48′ 40″ N, 122° 19′ 58″ W; thence to
37° 48′ 50″ N, 122° 20′ 02″ W; thence to
37° 48′ 29″ N, 122° 20′ 39″ W; thence to
37° 48′ 13″ N, 122° 21′ 26″ W; thence to
37° 48′ 10″ N, 122° 21′ 39″ W; thence to
37° 48′ 20″ N, 122° 22′ 12″ W; thence to
37° 47′ 36″ N, 122° 21′ 50″ W; thence to
37° 47′ 52″ N, 122° 21′ 40″ W; thence to
37° 48′ 03″ N, 122° 21′ 00″ W; thence to
37° 47′ 48″ N, 122° 19′ 46″ W; thence to
37° 47′ 55″ N, 122° 19′ 43″ W; thence returning along the shoreline to the point of the beginning.

Datum: NAD 83

* * * * *

Dated: July 16, 2001.

E.R. Riutta,

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

[FR Doc. 01–18395 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 197

[FRL–7017–5]

RIN 2060–AG14

Public Health and Environmental Radiation Protection Standards for Yucca Mountain, Nevada

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: On June 13, 2001, we, the Environmental Protection Agency (EPA), published in the **Federal Register** a document establishing the public health and environmental radiation protection standards for Yucca Mountain, Nevada. One section of the preamble was inadvertently omitted. This document adds that section.

DATES: Effective on July 24, 2001.

FOR FURTHER INFORMATION CONTACT: Ray Clark, Office of Radiation and Indoor Air, U.S. Environmental Protection Agency, Washington, D.C. 20460–0001; telephone 202–564–9310.

SUPPLEMENTARY INFORMATION: We published a document in the **Federal Register** of June 13, 2001, (66 FR 32073) establishing the public health and environmental radiation protection standards for Yucca Mountain, Nevada. In the Regulatory Analysis section, the certification required under the Regulatory Flexibility Act was inadvertently omitted.

In FR Doc. 01–14626 (66 FR 32073), make the following corrections:

(1) On page 32131, column one, Section H entitled ''Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Fairness Act of 1996 (SBREFA), 5 U.S.C. 3501–20'' is corrected to read:

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, agencies must prepare and make available for public comment an initial regulatory flexibility analysis assessing the impact of a rule upon ''small entities'' (5 U.S.C. 603). ''Small entities'' include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000 (5 U.S.C. 601). However, the requirement to prepare a regulatory flexibility analysis does not apply if the Administrator certifies that the rule will not, if promulgated, have a significant economic impact upon a substantial number of small entities (5 U.S.C. 605(b)). The rule today would establish requirements that apply only to the Department of Energy. Therefore, it does not apply to small entities. Accordingly, I hereby certify that the rule will not have a significant economic impact upon a substantial number of small entities.

(2) A new section K is added to read:

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, 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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the right or obligations of non-agency parties. (5 U.S.C. 804(3)). We are not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability.

Dated: July 18, 2001.

Christine Todd Whitman,

Administrator.

[FR Doc. 01–18407 Filed 7–23–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket No. 96–45; FCC 01–195]

Federal-State Joint Board on Universal Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts rules that will extend the deadline for receipt of non-recurring services. The Commission also adopts a rule that will establish a deadline for the implementation of non-recurring services for certain qualified applicants who are unable to complete implementation by the September 30 deadline.

DATES: This document contains information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of this document.

FOR FURTHER INFORMATION CONTACT: Katherine Tofigh, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400, TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in CC Docket No. 96–45 released on June 29, 2001. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, SW., Washington, DC 20554.

I. Introduction

1. In this *Report and Order,* we adopt a rule proposed in the Further Notice of Proposed Rulemaking (*NPRM*), 66 FR 23204, May 8, 2001, to provide additional time for recipients under the schools and libraries universal service support mechanism to implement contracts or agreements with service providers for non-recurring services. We adopt a rule that will extend the deadline for receipt of non-recurring services from June 30, to September 30 following the close of the funding year. Further, we adopt a rule that will establish a deadline for the implementation of non-recurring services for certain qualified applicants who are unable to complete implementation by the September 30 deadline. We find that the amended rules will provide schools and libraries with more time to install non-recurring services, and thereby make greater use of their universal service discounts.

2. In the *NPRM,* the Commission also sought comment on its rule addressing the allocation of discounts for schools and libraries under the federal universal service mechanism when there is insufficient funding to support all requests for internal connections. Specifically, the Commission sought comment on whether to modify the rule to give funding priority to requests for internal connections made by individual schools and libraries that did not receive funding commitments for internal connections during the previous funding year. After consideration of the proposals, we conclude that we will not revise the Commission's rules of priority for Funding Year 4 of the schools and libraries universal service mechanism.

II. Discussion

A. Modification of Implementation Schedule for Non-Recurring Services

1. Extension of Installation Deadline for Non-Recurring Services

The Commission sought comment in the *NPRM* regarding a modification to our rules relating to the deadline for implementation of non-recurring services. Non-recurring services are funding requests with a one-time cost listed on Block 5 of an applicant's FCC Form 471. We conclude that it is reasonable for schools and libraries to have additional time to implement non-recurring services, given the fact that many of these services must be installed during the summer months when classes are not in session. Therefore, we adopt a rule change that would allow schools and libraries to implement non-recurring services by September 30, following the close of the funding year.

As noted in each year of the schools and libraries program, the Commission has extended the deadline for receipt of non-recurring services. Non-recurring services often involve the installation of equipment or wiring, for which schools and libraries incur a one-time cost. As a result, many non-recurring services need to be performed while students are not in school or during a time period that will modify our rule to permanently minimize disruptions for classrooms and students. We now find that it is appropriate to extend the deadline from June 30 to September 30. The extended

deadline is more realistic, and appropriately takes into consideration the needs of program participants.

We note that this rule change does not affect the twelve-month funding year for non-recurring and recurring services. Rather, this rule change only affects the deadline for receiving non-recurring services. In addition, we do not increase the amount that schools and libraries may receive for non-recurring services for each program year. Instead, we are merely providing schools and libraries with additional time in which to complete their receipt of these discounted non-recurring services.

2. Limited Extension for Qualified Applicants

In the *NPRM,* the Commission also sought comment regarding a rule that would further extend the deadline for implementation of non-recurring services for schools and libraries that are unable to meet the original deadline due to circumstances beyond their control. We adopt the proposed rule, thereby extending the deadline for implementation of non-recurring services for certain qualified applicants who are unable to meet the September 30 deadline. Applicants may qualify for the extension, based on satisfaction of one of four criteria. Subsequently, the Administrator will calculate a revised implementation deadline, based on the date that the applicant satisfies one of the criteria.

We believe the revised rule will ensure that schools and libraries have a reasonable and predictable deadline for implementation of non-recurring services. External circumstances, like delayed funding decisions or manufacturing problems, can create situations where deadlines are both impractical and unreasonable. Adoption of the proposed rule will set in place a predictable mechanism to recalculate the implementation deadline in certain limited circumstances. Furthermore, consistent with the Commission's commitment to providing support for schools and libraries, we believe that this action will increase the likelihood that schools and libraries may successfully utilize discounts available from the schools and libraries universal service mechanism.

Specifically, under the revised rule, applicants will qualify for an extension of the implementation deadline for non-recurring services if they satisfy one of the following criteria: (1) Applicants whose funding commitment decision letters are issued by the Administrator on or after March 1 of the funding year for which discounts are authorized; (2) applicants who receive service provider change authorizations or service substitution authorizations from the Administrator on or after March 1 of the funding year for which discounts are authorized; (3) applicants whose service providers are unable to complete implementation for reasons beyond the service provider's control; or (4) applicants whose service providers are unwilling to complete installation because funding disbursements are delayed while the Administrator investigates their application for program compliance.

Should an applicant satisfy one of the four criteria, March 1 is the key date for calculating the extended deadline. If one of the conditions is satisfied before March 1 (of any year), the applicant will have until the subsequent September 30 to complete implementation. If one of the conditions is satisfied after March 1, the applicant will have until September 30 of the following year to complete implementation. Therefore, if an applicant receives authorization for a service provider change on February 27, 2002 (before March 1), the deadline for receipt of non-recurring services will be September 30, 2002. By contrast, for funding commitments made in April 2002 for Funding Year 4 applications (after March 1), the deadline for receipt of non-recurring service will be September 30, 2003.

The Administrator will consider whether criteria (1) and (2) have been satisfied, respectively, based on the date that the funding commitment decisions are issued, or service provider changes or service substitutions are authorized. The revised deadline for implementation of non-recurring services will then be determined, based on the date that one of these events occurs.

Similar to the requirements outlined in the *November 2000 Extension Order,* applicants who wish to satisfy criteria (3) should submit documentation to the Administrator requesting relief on these grounds on or before the original non-recurring services deadline. The revised deadline will be calculated based on the date of the Administrator's decision relating to the explanation. For example, if an entity is awarded discounts for internal connections in Funding Year 4, and installation is delayed due to circumstances beyond its control, it will need to file with the Administrator an explanation and evidence of the delay on or before September 30, 2002. If the Administrator grants an extension before March 1, 2003, they will have until September 30, 2003 to complete installation.

Furthermore, we recognize that there may be a wide range of situations under criteria (3) in which an applicant through no fault of its own is unable to complete installation by the applicant's original September 30 implementation deadline. Circumstances beyond the service provider's control may include manufacturing delays and natural disasters. Commenters suggested that the Commission further clarify the type of events that may satisfy criteria (3). Because we are unable to anticipate every type of circumstance that may arise under criteria (3), we instead direct the Administrator to address such situations on a case by case basis, consistent with the reasoning set forth in this *Report and Order.*

With regard to criteria (4), applicants must certify to the Administrator that its service provider was unwilling to deliver or install non-recurring services before the expiration of the original non-recurring services installation deadline, because the Administrator had withheld payment for those services on a properly-submitted invoice for more than 60 days after the submission of the invoice. Applicants must make this certification on or before the original non-recurring services installation deadline. The revised implementation date will be calculated based on the date that the funds are released by the Administrator.

We conclude that a rule change will ensure schools and libraries are not penalized when they are not responsible for missing the installation deadline. Additionally, implementation of this policy will provide clarity to the Administrator and applicants by establishing a certain deadline for installation. Ultimately, this rule gives all schools and libraries the opportunity to schedule implementation of non-recurring services over the summer months.

3. Extension of Competitive Bidding Rules

In addition, we adopt a rule granting a limited extension of the Commission's competitive bidding rules for contracts for non-recurring services. Under this rule, contracts for non-recurring services may be voluntarily extended to coincide with the appropriate deadline for implementation. Parties may not, however, extend other contractual provisions beyond the dates established by the Commission's rules without complying with the competitive bidding process. This action will ensure equitable treatment for recipients of discounts for non-recurring services.

B. Funding Priority for Internal Connections

In the *NPRM,* the Commission also sought comment on two options relating to the Commission's rules of priority and the distribution of support for internal connections. The Commission determined it was appropriate to consider revising the rules of priority because of heavy demand in Funding Year 4 of the schools and libraries universal service mechanism. In April, the Administrator estimated that after funding priority one services (telecommunications services and Internet access) in Funding Year 4, there would not be enough funds available to fund priority two requests (internal connections) from the poorest schools and libraries, who qualify for a 90% discount under the schools and libraries discount matrix.

The first proposal in the *NPRM* was to maintain the Commission's rules as currently written, which direct that the remaining funds be prorated by discount band. The second proposal was to give funding priority to requests for internal connections made by individual schools and libraries that did not receive funding commitments for internal connections during the previous funding year. After consideration of two proposals regarding the distribution of support for internal connections, we now conclude that we will not revise the rules of priority relating to the funding of internal connections for Funding Year 4 of the schools and libraries program. Therefore, under the current rules, the Administrator will allocate the available funds among applicants in the 90 percent discount level on a pro rata basis, so that each such applicant in Funding Year 4 receives a portion of the amount requested.

The overwhelming majority of commenters expressed concern about revising the rules of priority during Funding Year 4, after the application process had closed. In fact, commenters suggested that they would have structured their technology plans differently had they been aware of the proposed rules of priority. Furthermore, commenters emphasized the need for predictability and raised operational questions regarding implementation of the rule in the current funding year. Given the strong concerns voiced by the schools and libraries community, we agree that the Commission should not revise its rules of priority for Funding Year 4 of the schools and libraries universal service mechanism.

Several commenters supported giving funding priority to requests for internal connections made by individual schools and libraries that did not receive funding commitments for internal connections during the previous funding year. Those commenters believed that the proposed rules would enable many needy schools and libraries, who have not previously been awarded discounts, the opportunity to receive funding for internal connections. The Commission is strongly committed to ensuring that discounts continue to go to schools and libraries that are economically disadvantaged. Based on the current record, we conclude it is not reasonable to revise the rule for Funding Year 4 applications. We will continue to consider the operational and other implementation issues raised by commenters for future funding years.

II. Procedural Matters

A. Paperwork Reduction Act

4. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1995 (PRA) and found to impose new or modified reporting and/or recordkeeping requirements or burdens on the public. Implementation of these new or modified reporting and/or recordkeeping requirements will be subject to approval by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date.

B. Final Regulatory Flexibility Analysis

5. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *NPRM.* The Commission sought written public comments on the proposals in the *NPRM,* including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA, as amended.

1. Need for, and Objectives of, the Rules

6. We modify our rules to provide additional time for recipients under the schools and libraries universal service support mechanism to implement contracts or agreements with service providers for non-recurring services. First, we extend the deadline for receipt of non-recurring services from June 30, to September 30 following the close of the funding year. Second, we establish a deadline for the implementation of non-recurring services for certain qualified applicants who are unable to complete implementation by the September 30 deadline.

7. The Commission also sought comment on its rule addressing the allocation of discounts for schools and libraries under the federal universal service mechanism when there is insufficient funding to support all requests for internal connections. After consideration, the Commission will not revise the Commission's rules of priority for Funding Year 4 of the schools and libraries universal service mechanism.

2. Summary of Significant Issues Raised by the Public Comments in Response to the IRFA

8. The Commission received no comments directly addressing the IRFA.

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

9. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of 1992, there were approximately 275,801 small organizations. ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 governmental entities in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96 percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (96 percent) are small entities.

10. Under the schools and libraries universal service support mechanism, which provides support for elementary and secondary schools and libraries, an elementary school is generally ''a non-profit institutional day or residential

school that provides elementary education, as determined under state law.'' A secondary school is generally as ''a non-profit institutional day or residential school that provides secondary education, as determined under state law,'' and not offering education beyond grade 12. For-profit schools and libraries, and schools and libraries with endowments in excess of $50,000,000, are not eligible to receive discounts under the program, nor are libraries whose budgets are not completely separate from any schools. Certain other statutory definitions apply as well. The SBA has defined as small entities elementary and secondary schools and libraries having $5 million or less in annual receipts. In funding year 2 (July 1, 1999 to June 20, 2000) approximately 83,700 schools and 9,000 libraries received discounts under the schools and libraries universal service mechanism. Although we are unable to estimate with precision the number of these entities that would qualify as small entities under SBA's definition, we estimate that fewer than 83,700 schools and 9,000 libraries would be affected annually by the rules promulgated in this Order, under current operation of the program.

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

11. We adopt a rule that will require certain applicants, outlined in criteria (3) and (4) to submit information to the Administrator in order to qualify for an extension of the deadline for installation of non-recurring services. Under criteria (3), applicants whose service providers are unable to complete implementation for reasons beyond the service provider's control must submit documentation to the Administrator requesting relief on these grounds. In order to comply with the requirements for criteria (4), applicants must certify to the Administrator that its service provider was unwilling to deliver or install non-recurring services before the expiration of the original non-recurring services installation deadline, because the Administrator had withheld payment for those services on a properly-submitted invoice for more than 60 days after the submission of the invoice.

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

12. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance and reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or part thereof, for small entities.

13. The Commission adopts two administrative modifications relating to the deadline for implementation of non-recurring services. First, the Commission extends the deadline for implementation of non-recurring services from June 30 of each funding year to September 30. Second, the Commission establishes an extended deadline for certain qualified applicants who are unable to meet the September 30 deadline. We believe that the extension of the deadline for the installation of non-recurring services has the same impact on small and large entities. Further, we believe that the extension of the deadline has no adverse or disparate effect on small or large entities. We previously determined that this was a situation that we needed to evaluate alternatives, had there been any concern expressed about the impact on small entities. After consideration, we conclude that all impact is beneficial and all impact is the same for small and large entities.

14. In the *NPRM,* the Commission also sought comment relating to the allocation of discounts for schools and libraries when there is insufficient funding to support all requests for internal connections. We conclude in this *Report and Order* that we will not revise the Commission's rules of priority for Funding Year 4 of the schools and libraries universal service mechanism. Because the Commission promulgates no additional final rules with respect to the rules of priority, there is no impact on small businesses to consider.

15. Report to Congress: The Commission will send a copy of this *Report and Order,* including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of the *Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the *Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

D. Ordering Clauses

16. Pursuant to sections 1–4, 201–205, 218–220, 254, 303(r), and 403 of the Communications Act of 1934, as amended, that the amendments to part 54 of the Commission's rules, as described in this *Report and Order* are adopted, and section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

17. This document which contains information collection requirements that have not been approved by the Office of the Management Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of this section.

18. It is further ordered that the Commission's Consumer Information Bureau, Reference Information Center, SHALL SEND a copy of this *Report and Order,* including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 54

Communications common carriers, Libraries, Reporting and recordkeeping requirements, Schools, Telecommunications, Telephone.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Final Rules

For the reason discussed in the preamble, the Federal Communications Commission amends 47 CFR part 54 as follows:

PART 54—UNIVERSAL SERVICE

1. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 1, 4(I), 201, 205, 214, and 254 unless otherwise noted.

Subpart F—Universal Service Support for Schools and Libraries

2. Amend § 54.507 by revising paragraph (d) to read as follows:

§ 54.507 Cap.

* * * * *

(d) *Annual filing requirement.* Schools and libraries, and consortia of such eligible entities shall file new funding requests for each funding year no sooner than the July 1 prior to the start of that funding year. Schools, libraries, and eligible consortia must use recurring services for which discounts have been committed by the Administrator within the funding year for which the discounts were sought. The deadline for implementation of non-recurring services will be

September 30 following the close of the funding year. An applicant may request and receive from the Administrator an extension of the implementation deadline for non-recurring services if it satisfies one of the following criteria:

(1) The applicant's funding commitment decision letter is issued by the Administrator on or after March 1 of the funding year for which discounts are authorized;

(2) The applicant receives a service provider change authorization or service substitution authorization from the Administrator on or after March 1 of the funding year for which discounts are authorized;

(3) The applicant's service provider is unable to complete implementation for reasons beyond the service provider's control; or

(4) The applicant's service provider is unwilling to complete installation because funding disbursements are delayed while the Administrator investigates their application for program compliance.

* * * * *

[FR Doc. 01–18385 Filed 7–23–01; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[Docket OST–1999–6189]

Organization and Delegation of Powers and Duties; Delegations to the Commandant, United States Coast Guard

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Secretary of Transportation is publishing delegations to the Commandant, United States Coast Guard, of authorities governing vessels, seamen, and maritime liability. These authorities are codified in Title 46 United States Code, Subtitles II and III. In addition, this change corrects an erroneous reference in the authority 1168 citation for the regulations or organization and delegation of power and duties in the Code of Federal Regulations.

EFFECTIVE DATE: July 24, 2001.

FOR FURTHER INFORMATION CONTACT: Karen Adams, Office of Standards Evaluation and Development (G–MSR–2), (202) 267–6819, U.S. Coast Guard, 2100 Second Street SW., Washington D.C. 20593–0001.

SUPPLEMENTARY INFORMATION: The Secretary of Transportation, as Secretary of the Department in which the Coast Guard is operating, is vested with various authorities governing vessels, seamen (under subtitle II), and maritime liability (under subtitle III) of title 46, United States Code. Section 2104 of title 46 explicitly authorizes the Secretary to delegate all subtitle II authorities to officers, employees, and members of the Coast Guard. In addition, the Coast Guard is primarily responsible for performing many of the Secretary's functions regarding maritime liabilities in subtitle III.

The authorities and functions listed in this rule have traditionally been performed by the Coast Guard, which has the personnel, facilities, expertise, and experience to carry out these traditional functions for the Secretary. The current regulation lists new delegations in title 49, Code of Federal Regulations, of these traditional functions of the U.S. Coast Guard, which had been inadvertently omitted from previous delegations listed in § 1.46. Subparagraphs (1), (2), (4)–(7), and (10) in section 1.46(uu), as well as section 1.46(vv), although limited by subparagraphs (vv)(1)–(2), represent new delegations of such traditional Coast Guard functions. Subparagraphs (3), (8), and (9) in section 1.46(uu) are merely reformatted versions of previous delegations. Delegations of these authorities and functions were generally listed in 49 CFR 1.46 in the order issued, making it difficult to locate a particular delegation without scanning the entire list. The current change publishes all subtitle II and III delegations in a comprehensive form by U.S. Code designation, and specifically identifies any reserved or excepted authorities. Section 1.46 paragraphs rendered unnecessary have been reserved for future use.

With respect to Title II delegations affecting vessels and seamen, established in § 1.46(uu): In subparagraph (1), the Secretary delegates his authority found in Part A (Chapters 21 and 23, codified at 46 U.S.C. 2101–2115 and 2301–2306) dealing with various authority issues with respect to seamen and the operation of vessels, generally. In subparagraph (2), the Secretary delegates his authority found in Part B (Chapters 31–47, codified at 46 U.S.C. 3101–3103; 3201–3205; 3301–3318; 3501–3506; 3701–3719; 3901–3902; 4101–4106; 4301–4311; 4501–4508; and 4701–4705) dealing with regulation of vessels, management of vessels, inspection of vessels, carriage of passengers, carriage of liquid bulk dangerous cargo, carriage of animals, uninspected vessels, recreational vessels, uninspected commercial fishing industry vessels, and abandoned barges, respectively. In subparagraph (3), the Secretary delegates his authority found in Part C (Chapter 51, codified at 46 U.S.C. 5101–5116) dealing with safe load lines for vessels. In subparagraph (4), the Secretary delegates his authority found in Part D (Chapters 61–63, codified at 46 U.S.C. 6101–6104 and 6301–6308) dealing with reporting and investigating marine casualties, respectively. In subparagraph (5), the Secretary delegates his authority found in Part E (Chapters 61–77, codified at 46 U.S.C. 7101–7114; 7301–7319; 7501–7506 and 7701–7705) dealing with licenses & certificates of registry, merchant mariner documents, issuing procedures, as well as suspension and revocation procedures, respectively. In subparagraph (6), the Secretary delegates his authority found in Part F (Chapters 81–93, codified at 46 U.S.C. 8101–8105; 8301–8304; 8501–8503; 8701–8704; 8901–8906; 9101–9102; and 9301–9308) dealing with general authority issues, masters and officers, state and federal pilots, unlicensed personnel (including tankermen and aliens), small vessel manning standards, tank vessel manning standards, and Great Lakes pilotage, respectively. In subparagraph (7), the Secretary delegates his authority found in Part G (Chapters 101–115, codified at 46 U.S.C. 10101–10104; 10301–10321; 10501–10509; 10601–10603; 10701–10711; 10901–10908; 11101–11112; 11201–11204; 11301–11303; and 11501–11507) dealing with reports and reporting requirements, foreign and intercoastal voyages, coastwise voyages, personal effects of deceased seamen, unseaworthiness proceedings, protection and relief for seamen, merchant mariner benefits, official logbooks, as well as offenses and penalties, respectively. In subparagraph (8), the Secretary delegates his authority found in Part H (Chapters 121–125, codified at 46 U.S.C. 12101–12124; 12301–12309; and 12501–12507) dealing with documentation of vessels, numbering of undocumented vessels, and the Vessel Identification System (VIS), respectively. In subparagraph (9), the Secretary delegates his authority found in Part I (Chapter 131, codified at 46 U.S.C. 13101–13110) dealing with interaction with state recreational boating safety programs. In subparagraph (10), the Secretary delegates his authority found in Part J (Chapters 141–147, codified at 46 U.S.C. 14101–14104; 14301–14307; 14501–14504;

14511–14513; 14521–14522; and 14701–14702) dealing with the measurement of vessels, including conventions in measurement, regulatory measurement (general, formal, and simplified), as well as applicable penalties, respectively.

With respect to Title III delegations affecting maritime liability, established in § 1.46(vv), the Secretary delegates all his authority found in Subtitle III (Chapters 301 and 313, codified at 46 U.S.C. 30101 and 31301–31343) with the exception of the two narrow instances, which are noted. In subparagraph (1), the Secretary retains exclusive authority with respect to his statutory authority under 46 U.S.C. 31308 to foreclose a lien as a mortgagee where the mortgage is covered by Title XI of the Merchant Marine Act of 1936, codified at 46 U.S.C. 1271–1280a. In subparagraph (2), the Secretary retains exclusive authority with respect to his statutory authority under 46 U.S.C. 31329(c) and (d) pertaining to actions with respect to mortgagees and other purchasers of vessels by court order. Finally, the current authority citation for Part 1 of Title 49, Code of Federal Regulations includes a typographical error referring to ''49 U.S.C. 2104(a),'' which should have read ''49 U.S.C. 322.'' This rule corrects that error.

This rule will enhance the public's understanding of the authorities delegated to the Commandant. It does not substantially change the organization or authorities of the Department of Transportation or the Coast Guard.

We publish this rule as a final rule, effective on the date of publication. Because these amendments relate to departmental management, organization, procedure, and practice, notice and comment are unnecessary under 5 U.S.C. 553(b). Further, because this rule does not substantially change the authorities or functions of the Department or the Coast Guard, the Secretary finds good cause under 5 U.S.C. 553(d)(3) for the final rule to be effective on the date of publication in the **Federal Register**.

List of Subjects in 49 CFR Part 1

Authority delegations (Government agencies), Organization and functions (Government agencies).

For the reasons discussed in the preamble, the Office of the Secretary amends 49 CFR part 1 as follows:

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

1. Revise the authority citation for part 1 to read as follows:

Authority: 49 U.S.C. 322; Public Law 101–552, 104 Stat. 2744; 28 U.S.C. 2672; 31 U.S.C. 3711(a)(2); 46 U.S.C. 2104(a).

2. In § 1.46, remove and reserve paragraphs (n)(1), (n)(6), (ss), (zz), (ccc), (ddd), (eee), (fff), (ggg), and (mmm) and revise paragraphs (uu) and (vv) to read as follows:

§ 1.46 Delegations to Commandant of the Coast Guard.

* * * * *

(uu) Carry out the functions and exercise the authorities vested in the Secretary by subtitle II of Title 46, United States Code, ''Vessels and Seaman'' as amended through Public Law 105–394, 112 Stat. 3627, as follows:

(1) Part A, General Provisions, Section 2101 to end, without exception;

(2) Part B, Inspection and Regulations, Section 3101 to end, except the authority under Section 3316(a) to appoint Government representatives to the executive committee of the American Bureau of Shipping; which is retained by the Secretary; and the authority under Section 4508 to establish, and appoint members to, the Commercial Fishing Industry Vessel Advisory Committee. Note that the authority under Section 3101 to suspend provisions of this part is vested in the President and is not redelegated;

(3) Part C, Load Lines of Vessels, Section 5101 to end, without exception;

(4) Part D, Marine Casualties, Section 6101 to end, without exception;

(5) Part E, Merchant Seaman Licenses, Certificates, and Documents, Part 7101 to end, without exception;

(6) Part F, Manning of Vessels, Section 8101 to end, except the authority to require federal pilots on the Saint Lawrence Seaway, which under Section 8503(c) may only be delegated to the Saint Lawrence Seaway Development Corporation, and the authority under Section 9307 to establish, and appoint members to, a Great Lakes Pilotage Advisory Committee, which is retained by the Secretary;

(7) Part G, Merchant Seaman Protection and Relief, Section 10101 to end, without exception;

(8) Part H, Identification of Vessels, Section 12101 to end, except that administration of Section 12102(c) with respect to fishing vessels 100 feet or greater in registered length has been delegated to the Maritime Administrator in accordance with the American Fisheries Act, Public Law 105–277, 112 Stat. 268, Section 203(c);

(9) Part I, State Boating Safety Programs, Section 13101 to end, except the authority under 46 U.S.C. 13110 to appoint members to the National Boating Safety Advisory Council, which is retained by the Secretary; and

(10) Part J, Measurement of Vessels, Section 14101 to end, without exception.

(vv) Carry out the functions and exercise the authorities vested in the Secretary by 46 United States Code Subtitle III, ''Maritime Liability'' as amended through Public Law 105–394, except the following authorities:

(1) Section 31308, which authorizes the Secretary to foreclose on certain liens when the Secretary of Commerce or Transportation is a mortgagee; and

(2) Sections 31329(c) and (d), which authorize the Secretary to take certain actions with respect to mortgagees and other purchasers of vessels by court order.

* * * * *

Issued in Washington, DC, this 12th day of July, 2001.

Norman Y. Mineta,

Secretary of Transportation.

[FR Doc. 01–18304 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 578

[Docket No. NHTSA–2001–9779]

RIN 2127–AI24

Motor Vehicle Safety: Criminal Penalty Safe Harbor Provision

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This final rule implements Section 5(b) of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act. Section 5(b) added a new section, which provides for criminal liability in circumstances where a person violates reporting requirements with the intention of misleading the Secretary of Transportation (Secretary) with respect to safety-related defects in motor vehicles or motor vehicle equipment that have caused death or serious bodily injury. To encourage the correction of incorrect or incomplete information that was reported or should have been reported to the Secretary, Section 5

includes a ''safe harbor'' provision that offers protection from criminal prosecution to persons who meet certain criteria. To qualify for this protection, the person must have lacked knowledge at the time of the violation that the violation would result in an accident causing death or serious bodily injury, and must correct any improper reports or failures to report to the Secretary within a reasonable time. This rule establishes what constitutes a ''reasonable time'' and a sufficient manner of ''correction,'' for such improper reports and failures to report information to the Secretary.

DATES: *Effective Date:* This final rule is effective August 23, 2001. *Petitions:* Petitions for reconsideration must be received on or before September 7, 2001.

ADDRESSES: You may submit petitions for reconsideration in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590. You may also submit your petitions for reconsideration electronically by logging onto the Dockets Management System website at http://dms.dot.gov. Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically. Regardless of how you submit your petition for reconsideration, include the docket number of this document on it. You may call Docket Management at 202–366–9324. You may visit the Docket from 10:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Steven Cohen, Office of Chief Counsel, NCC–10, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590, Telephone (202) 366–5263, Fax: 202–366–3820.

SUPPLEMENTARY INFORMATION:

I. Background

On November 1, 2000, the TREAD Act, Public Law 106–414, was enacted in response, in part, to congressional concerns related to manufacturers' inadequate reporting to NHTSA of information regarding possible defects in motor vehicles and motor vehicle equipment, including tires. The TREAD Act expands 49 U.S.C. 30166, Inspections, investigations, and records, and provides for the Secretary to issue various rules thereunder. The authority to carry out Chapter 301 of Title 49 United States Code, under which the rules directed by the TREAD Act are to be issued, has been delegated to NHTSA's Administrator pursuant to 49 CFR 1.50.

Section 5(b) of the TREAD Act, adds a new section, 49 U.S.C. 30170, to Chapter 301. Section 30170(a)(1) establishes criminal liability for a ''person who violates section 1001 of title 18 with respect to the reporting requirements of [49 U.S.C.] section 30166, with the specific intention of misleading the Secretary with respect to motor vehicle or motor vehicle equipment safety related defects that have caused death or serious bodily injury to an individual * * * .'' Section 1001 of title 18 provides that whoever ''* * * knowingly and willfully—(1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry'' in a matter within the jurisdiction of the federal government is subject to a fine and imprisonment.

Section 30170(a)(2)(A) contains a ''safe harbor'' provision, which states that a

> person described in paragraph (1) [of 49 U.S.C. 30170(a)] shall not be subject to criminal penalties * * * if (1) at the time of the violation, such person does not know that the violation would result in an accident causing death or serious bodily injury; and (2) the person corrects any improper reports or failure to report within a reasonable time.

This safe harbor applies only to criminal liability related to 49 U.S.C. 30170(a)(1). Section 30170(a)(2)(B) requires the Secretary to ''establish by regulation what constitutes a reasonable time for the purposes of [49 U.S.C. 30170(a)(2)(A)] and what manner of correction is sufficient for the purposes of [49 U.S.C. 30170(a)(2)(A)].''

On December 26, 2000 NHTSA promulgated an interim final rule on the reasonable time and manner of correction provision (65 FR 81414). The interim final rule provides violators of 49 U.S.C. 30170 who are seeking to qualify for the statute's safe harbor protection with a ''reasonable time'' period of 21 days, starting on the date of the report or the date that the report was due to be sent to or received by NHTSA. It also provides that the ''correction'' of an improper report or failure to report will be sufficient under the statute's safe harbor provision if it satisfies two requirements. First, the violator must submit to NHTSA's Chief Counsel a signed and dated document identifying (1) each previous improper report, (2) each failure to report for which protection is sought, and (3) the specific predicates under which the improper or omitted report should have been provided. Second, the violator must submit to NHTSA the complete and correct information or, if the person cannot do so, provide a detailed description of that information and/or the content of those documents and the reason why the violator cannot provide them to NHTSA.

Comments were received from the Tire Association of North America (TANA); Lawrence F. Henneberger, on behalf of the Motor and Equipment Manufacturers Association (MEMA) and the Original Equipment Suppliers Association (OESA); and Michael J. McKale, of Delphi Automotive Systems (Delphi), a MEMA and OESA member supporting the comment submitted by MEMA and OESA. None of the comments strongly oppose the interim final rule. However, various comments suggested that NHTSA define the term ''violation,'' that the ''reasonable time'' period should begin to toll upon discovery of the improper or misleading report, not the date of the report to NHTSA or the day it was due to be submitted to NHTSA, and that correction submitters be allowed more time, at least 30 days, under NHTSA's ''reasonable time'' interpretation. The agency has reviewed these comments and addresses them below.

II. Discussion

A. Defining the Term ''Violation''

The comment from MEMA/OESA, which is supported by Delphi, urges NHTSA to define the term ''violation,'' as used in 49 CFR 578.7(a)(1), in the rule itself. MEMA/OESA's rationale for this change is that the TREAD Act's criminal provision, 49 U.S.C. 30170, includes by reference the crime of knowingly and willfully making false statements to a Federal authority, as laid out at 18 U.S.C. 1001. It asserts that the current format requires motor vehicle industry operatives, some of whom have limited levels of legal support, to parse two statutes to determine if a criminal ''violation'' may have occurred and, if so, whether the ''safe harbor'' provision in TREAD is applicable. MEMA/OESA attempts to advance its position by noting that there is no guidance in the rule for ''a manufacturer that, through inadvertence or mistake, and without the intention to do so, has omitted relevant information from a required report to NHTSA which the manufacturer subsequently discovers.'' MEMA/OESA recognizes that ''[t]his situation does not create criminal exposure,'' but fears that ''the interim safe harbor provision, with its references to 'any improper (i.e. incorrect, incomplete, or misleading)

report,' could be read to imply that inadvertently 'improper' reports also raise criminal issues.''

NHTSA declines to engage in rulemaking with respect to the definition of ''violation.'' The elements of such a violation are defined by the courts, rather than NHTSA. Consistent with statutory direction, the purpose of this rule is limited to establishing by regulation what constitutes a ''reasonable time'' and a sufficient manner of ''correction'' under 49 U.S.C. 30170(a)(2). The fact that a statute or regulation references another statute or regulation does not dictate rulemaking or create an excessive burden on those who would otherwise submit a false report. Therefore, no definition of ''violation'' will be added to 49 CFR 578.4.

B. When To Start the ''Reasonable Time'' Clock

TANA commented that the ''reasonable time'' period to correct any improper reports or failures to report to NHTSA should run ''from the date of discovery of the improper report, not the date the report was due'' because ''[i]t could be weeks or months before an individual discovers a mistake or omission in a report.'' TANA also notes that the Environmental Protection Agency (EPA)'s Audit Policy, which NHTSA cited in the interim final rule for the criminal penalty safe harbor provision, uses ''discovery'' to start the clock it uses when deciding whether a violator qualifies for the EPA's limited safe harbor protections. TANA argues that ''if NHTSA is truly basing this interim final rule on the framework adopted by EPA's regulations, the same terminology and time frame should be utilized.''

NHTSA did not base the interim final rule on the framework adopted by EPA's audit policy, published at 65 FR 19618 (April 11, 2000), although NHTSA did utilize EPA's time frame. EPA's audit policy and NHTSA's Criminal Penalty Safe Harbor rule generally deal with different kinds of underlying violations. EPA's policy focuses on civil penalties. In general, EPA may seek or impose civil penalties for environmental violations on a ''strict liability'' basis. The violator need not have any knowledge of the violations. Since the violator may not have known of the violation, EPA's policy provides an open window for reporting by allowing disclosure within a stated time period after the entity discovered that a violation occurred. In a criminal prosecution context, EPA's policy may be applied in making a ''no recommendation for criminal prosecution.'' However, EPA's incentive has limited applicability in this context and ''will not be available, for example, where corporate officials are consciously involved in or willfully blind to violations, or conceal or condone noncompliance'' or where the violation(s) cause serious harm to human health or the environment. 65 FR at 19620, 19623, 19625. Finally, EPA's policy was developed, in part, to promote self auditing, which would detect violations.

In contrast to the EPA's policy, the TREAD Act's safe harbor provision was written to apply to criminal activities, including willful concealment. The violator will have known about the violation, because the TREAD Act criminal provision includes the predicate violation of 18 U.S.C. 1001, which has a ''knowingly and willfully'' standard. Thus, there is no need or basis for a discovery element. Accordingly, the time period will run from date of the improper report to NHTSA or the date of the failure to report to NHTSA.

C. Changing the Time Period From 21 Days to 30 or More Days

MEMA/OESA, supported by Delphi, also proposes increasing the ''reasonable time'' period from 21 days to ''at least 30 calendar days,'' especially since the interim final rule requires that NHTSA be in receipt of the correction submission by the end of the 21 days. MEMA/OESA's rationale for this change is that there are ''wide disparities in size, sophistication and legal support among motor vehicle and vehicle parts manufacturers,'' and it may take extra time for a smaller industry participant to consult with corporate or individual counsel about the implications of submitting the corrected information and admitting a felony violation. MEMA/OESA recognizes that 21 days may be reasonable time to make a correction where there is only limited civil penalty exposure (e.g., the EPA's Audit Policy is used only to determine civil penalties based on the gravity of the violation, not penalties based on the violator's economic benefit and/or any criminal penalties), but it argues that at least 30 calendar days are required in situations involving criminal liability exposure, as here. MEMA/OESA urges that 49 CFR 578.7(b) be amended accordingly.

In adopting the 21-day time period in the interim final rule, NHTSA considered its own rules and experiences with the current motor vehicle and motor vehicle equipment defects program, as well as comparable safe harbor policies used by other federal agencies, to delineate what constitutes a ''reasonable time'' in a safe harbor rule that requires a person to correct any improper reports or failure to report. NHTSA attempted to reach a balance that still satisfied the agency's motor vehicle safety mission under Chapter 301 by minimizing the time that NHTSA is performing its safety responsibilities using an incorrect or incomplete factual record. We sought a time period that would be short enough to address public safety concerns and to generate an urgency in the violator designed to compel potential correctors to come forward before the time period expires, and yet not be so short as to discourage corrective actions that otherwise would have been taken or be unusable in real world situations.

Even though we do not agree with all of MEMA/OESA's reasoning, NHTSA has decided to adopt MEMA/OESA's request to increase the 21-day period to 30 days. Based on our experiences and the EPA's reported experiences under its Audit Policy, we believe that 21 days ordinarily would be a sufficient time for violators to correct their improper actions. Nonetheless, we are willing to make reasonable accommodations in light of concerns of small businesses, and the requested nine additional days would not significantly undercut the agency's ability to perform its public safety mission. Therefore, the ''reasonable time'' period for corrections of improper reports or failures to report will be not more than thirty (30) calendar days after the date of the report to the agency or the failure to report, as the case may be.

Regulatory Analyses and Notices

1. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking was not reviewed under Executive Order 12866, ''Regulatory Planning and Review.'' This rulemaking is not considered ''significant'' under the Department of Transportation's regulatory policies and procedures. The impacts of this rule are expected to be so minimal as not to warrant preparation of a full regulatory evaluation because this provision only involves a safe harbor for criminal sanctions associated with a criminal provision that NHTSA does not expect to be invoked often.

2. Regulatory Flexibility Act

We have also considered the impact of this notice under the Regulatory Flexibility Act. I certify that this rule

will have no significant economic impact on a substantial number of small entities. As stated above, this provision only involves a safe harbor for criminal penalties which NHTSA does not expect to be invoked often.

3. National Environmental Policy Act

We have analyzed this proposal for the National Environmental Policy Act and determined that it would not have any significant impact on the quality of the human environment.

4. Paperwork Reduction Act

NHTSA has determined that this imposes new collection of information burdens within meaning of the Paperwork Reduction Act of 1995 (PRA). NHTSA began the process of requesting a 3-year clearance for this collection when we published the interim final rule in the **Federal Register** (65 FR 81414), and provided a 60-day public comment period for the issues listed in OMB regulations 5 CFR 1320.8(d)(i)–(iv). Concurrently, pursuant to 5 CFR 1320.13, Emergency Processing, NHTSA asked the Office of Management and Budget (OMB) for a temporary emergency clearance for this collection. This emergency PRA approval was granted on January 25, 2001 and is effective through June 30, 2001. Because no PRA-related comments were received by NHTSA or OMB, NHTSA has submitted a request for a 3-year clearance for this collection to OMB.

5. Executive Order 13132 (Federalism)

Executive Order 13132 on ''Federalism'' requires us 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.'' The Executive Order defines this phrase to include regulations ''that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This rule, which defines terms in a safe harbor provision for criminal penalties for a person who acts with the specific intention of misleading the Secretary regarding safety defects in motor vehicles or motor vehicle equipment, will not have 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, as specified in Executive Order 13132. This rule making does not have those implications because it applies to those persons who are required by 49 U.S.C. 30166 to provide information to NHTSA.

6. Civil Justice Reform

This rule does not have a retroactive or preemptive effect. Judicial review of the rule may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

7. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Public Law 104–4) requires agencies to prepare a written assessment of the cost, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribunal governments, in the aggregate, or by the private sector, of more than $100 million annually. Because this rule will not have a $100 million annual effect, no Unfunded Mandates assessment is necessary and one will not be prepared.

Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Have we organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments.

Submission of Petitions

How Can I Influence NHTSA's Thinking on This Rule?

In developing this rule, we tried to address the public comments and anticipated concerns of all our stakeholders. We welcome your views on all aspects of this rule. If you believe that NHTSA should reconsider any aspect of this rule, please follow the suggestions below:

Explain your views and reasoning as clearly as possible.

- Provide solid information to support your views.
- If you estimate potential numbers of reports or costs, explain how you arrived at the estimate.
- Tell us which parts of the rule you support, as well as those with which you disagree.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Refer your comments to specific sections of the rule, such as the units or page numbers of the preamble, or the regulatory sections.
- Be sure to include the name, date, and docket number with your petition.

How Do I Prepare and Submit a Petition?

Your petition must be written and in English. To ensure that it is correctly filed in the Docket, please include the docket number of this document in your petition.

Your petition must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Petition may also be submitted to the docket electronically by logging onto the Dockets Management System website at http://dms.dot.gov. Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically.

How Can I Be Sure That My Petition Was Received?

If you wish Docket Management to notify you upon its receipt of your petition, enclose a self-addressed, stamped postcard in the envelope containing your petition. Upon receiving your petition, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel (NCC–30), NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT.** In addition, you should submit two copies, from which you have deleted the claimed confidential

business information, to Docket Management at the address given above under **ADDRESSES.** When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will the Agency Consider Late Petitions?

We will consider all petitions that Docket Management receives before the close of business on the closing date indicated above under **DATES.** To the extent possible, we will also consider petitions that Docket Management receives after that date. If Docket Management receives a petition late, we will consider that petition as an informal suggestion for future rulemaking action.

How Can I Read the Petitions Submitted by Other People and Other Materials Relevant to This Rulemaking?

You may view the materials in the docket for this rulemaking on the Internet. These materials include the written comments submitted by other interested persons and the preliminary regulatory evaluation prepared by this agency. You may read them at the address given above under **ADDRESSES.** The hours of the Docket are indicated above in the same location.

You may also see the comments and materials on the Internet. To read them on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (http://dms.dot.gov/).

(2) On that page, click on ''search.''

(3) On the next page (http://dms.dot.gov/search/), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–2000–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

(4) On the next page, which contains docket summary information for the materials in the docket you selected, click on the desired comments. You may download the comments.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments.

List of Subjects in 49 CFR Part 578

Motor vehicle safety, Penalties, Reporting and recordkeeping requirements.

Accordingly, the interim final rule amending 49 CFR Part 578, which was published at 65 FR 81414 on December 26, 2000, is adopted as a final rule with the following changes:

PART 578—CIVIL AND CRIMINAL PENALTIES

1. The authority citation for part 578 continues to read as:

Authority: Pub. L. 101–410, Pub. L. 104–134, Pub. L. 106–414, 49 U.S.C. 30165, 49 U.S.C. 30170, 30505, 32308, 32309, 32507, 32709, 32710, 32912, and 33115; delegation of authority at 49 CFR 1.50.

2. Amend § 578.7 by revising paragraph (b) to read as follows:

§ 578.7 Criminal safe harbor provision.

* * * * *

(b) *Reasonable time.* A correction is considered to have been performed within a reasonable time if the person seeking protection from criminal liability makes the correction to any improper (i.e., incorrect, incomplete, or misleading) report not more than thirty (30) calendar days after the date of the report to the agency and corrects any failure to report not more than thirty (30) calendar days after the report was due to be sent to or received by the agency, as the case may be, pursuant to 49 U.S.C. 30166, including a regulation, requirement, request or order issued thereunder. In order to meet these reasonable time requirements, all submissions required by this section must be received by NHTSA within the time period specified in this paragraph, and not merely mailed or otherwise sent within that time period.

* * * * *

Issued on: July 17, 2001.

L. Robert Shelton,

Executive Director.

[FR Doc. 01–18248 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–59–P

Proposed Rules

Federal Register
Vol. 66, No. 142
Tuesday, July 24, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–20]

Establishment of Class E Airspace; Stafford, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Stafford County Airport, (RMN) Stafford, VA. The opening of the newly constructed airport in Stafford, VA and the development of Standard Instrument Approach Procedures (SIAP) to serve flights operating into the airport during Instrument Flight Rules (IFR) conditions make this action necessary. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contact aircraft executing an approach. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before August 23, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 01–AEA–20, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809. An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809: telephone: (718) s553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AEA–20''. The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket closing both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace area at Stafford, VA. Opening of a new airport with newly developed SIAPs makes this action necessary. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAPs. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface 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 would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed 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 would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have 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

Airpsace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 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 Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and

effective September 16, 2000, is proposed to be amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 Feet or More Above the Surface of the Earth.

* * * * *

AEA VA E5, Stafford, VA [NEW]

Stafford Community Airport
(Lat. 38°23′53″ N, long. 77°27′26″ W.)

That airspace extending upward from 700 feet above the surface within a 6.2 mile radius of the Stafford County Airport, Stafford, VA excluding Special Use Airspace (SUA)

* * * * *

Issued in Jamaica, New York on July 2, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–18228 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01–AEA–19]

Modification of Class E Airspace; Pittsburgh, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend Class E airspace at Pittsburgh, PA. Cancellation of the airspace surrounding the Pittsburgh Metro Airport, PA, following its closure, created an area of non-controlled airspace between the Pittsburgh International and Allegheny County Airports, Pittsburgh, PA. To Insure continuous protection for flights operating in the area under Instrument Flight Rules it is necessary to extend the Class E airspace area.

DATES: Comments must be received on or before August 23, 2001.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 01–AEA–19, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

An informal docket may be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY 11434–4809: telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–AEA–19.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket closing both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, 1 Aviation Plaza, Jamaica, NY, 11434–4809, Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an action to amend part 71 of the Federal Aviation Regulations (14 CFR part 71). Pittsburgh, PA. Following the closure of the Pittsburgh Metro Airport the Class E airspace associated with it was cancelled creating a void area in the Class E Airspace area. To insure continuous coverage for flights operating under Instrument Flight Rules (IFR) this action provides the needed additional Class E Airspace area.

Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface 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 would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed 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 would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have 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).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; EO 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 Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is proposed to be amended as follows:

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

* * * * *

AEA PA E5, Pittsburgh, PA [Revised]

Greater Pittsburgh International Airport, Pittsburgh, PA
(Lat 40°29′29″N., long. 80°13′57″W.)
Allegheny County, Airport, PA
(Lat 40°21′16″N., long. 79°55′48″W.)
STARG OM
(Lat 40°29′15″N., long. 80°22′14″W.)

That airspace extending upward from 700 feet above the surface within a 7.9 mile radius of Greater Pittsburgh International Airport and within 3.1 miles each side of the Greater Pittsburgh Runway 10R localizer course extending from the 7.9-mile radius to 5.7 miles west of the STARG OM and within a 8.5-mile radius of Allegheny County Airport.

* * * * *

Issued in Jamaica, New York on June 1, 2001.

F.D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 01–18232 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 183

[Docket No. FAA–2001–10177; Notice No. 01–09]

Resource Utilization Measure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public meeting and request for comments.

SUMMARY: This document announces a public meeting to comment on proposed measures to use Aircraft Certification Service (the Service) resources more efficiently. Due to increasing public and industry demands, the Service foresees a shortage in available resources. Therefore, the Service is considering how to modify its workload. The Service has examined how to reduce the current workload through streamlining efforts and shift limited resources to more safety-critical activities. The proposals represent remedial measures we are considering.

DATES: The public meeting will be held on August 28 and 29, 2001, at 9:00 a.m., in Arlington, Virginia. Registration will begin at 8:30 a.m. on each day. Comments must be received on or before October 22, 2001.

ADDRESSES: The public meeting will be held at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia 22202; telephone (703) 920–3230, facsimile (703) 271–5212.

Persons who are unable to attend the meeting and wish to submit written comments may mail their comments (clearly marked with the docket number) in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC–200), Docket No. FAA–2001–10177, Room 915G, 800 Independence Avenue, SW., Washington, DC 20591, or deliver in person to Room 915G at the same address. Comments submitted must be marked: ''Docket No. FAA–2001–10177.'' Comments may be examined in Room 915G on weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. Comments may also be sent electronically to the following Department of Transportation Docket Management System Internet address: *http://dms.dot.gov.* If you wish us to acknowledge receipt of your comments, include a pre-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2001–10177.'' The postcard will be date stamped and mailed to you. All comments received will be filed in the docket. The docket is available for public inspection before and after the comment closing date. The Administrator, in determining whether to go forward with a proposed rulemaking, will consider all comments received on or before the closing date. Late-filed comments will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Requests to present a statement at the public meeting and questions regarding the logistics of the meeting should be directed to Mr. Walter Dillon, International Airworthiness Programs Staff, AIR–4, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8027, facsimile (202) 267–5364. Technical questions should be directed to Mr. Victor Powell, Aircraft Engineering Division, AIR–100, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–9564, facsimile (202) 267–5340; and Mr. Randall J. Carter, Production and Airworthiness Certification Division, AIR–200, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8923, facsimile (202) 267–5580.

SUPPLEMENTARY INFORMATION: The public meeting will be held at the Crystal Gateway Marriott, 1700 Jefferson Davis Highway, Arlington, Virginia 22202; telephone (703) 920–3230, facsimile (703) 271–5212. Hotel reservations should be made in advance. A block of rooms has been reserved at the hotel at the Government per diem rate of $119.00 per night. Persons wishing to attend the public meeting are encouraged to make reservations at the Crystal Gateway Marriott by August 10, 2001, to take advantage of the special room rates. When making reservations, persons should contact the hotel directly using the telephone or facsimile numbers listed above and should indicate that they will be attending the Federal Aviation Administration public meeting.

The purpose of the meeting is for the FAA to (1) discuss with the public the proposed requirement that organizations that employ two or more Designated Manufacturing Inspection Representatives (DMIRs) to establish an Organizational Designated Airworthiness Representative (ODAR), (2) discuss with the public prioritizing all incoming type certification projects based on the completeness of the applicant's up-front planning, (3) discuss with the public the proposed elimination of certain one only Supplemental Type Certificates (STC) for foreign registered aircraft, (4) discuss with the public the impact of prohibiting U.S. manufacturers from using suppliers from non-bilateral agreement countries, and (5) hear comments from the public on these issues.

The agenda for the meeting will include:

Day One:

- Discuss proposal of elimination of certain one only Supplemental Type Certificates (STC) for foreign registered aircraft.
- Discuss proposal to prioritize all incoming type certification projects based on the completeness of the applicant's up-front planning.
- Public presentations.

Day Two:

- Discuss the impact of prohibiting U.S. manufacturers from using suppliers from non-bilateral agreement countries.
- Discuss the impact requiring organizations that employ two or more Designated Manufacturing Inspection Representatives (DMIRs) to establish an Organizational Designated Airworthiness Representative (ODAR).
- Public presentations.
- Responses to questions and open discussion of identified issues.

Participation at the Public Meeting

Requests from persons who wish to present oral statements at the public meetings should be received by the FAA no later than August 24, 2001. Such

requests should be submitted to Mr. Walter Dillon, International Airworthiness Programs Staff, AIR–4, as listed in the section above titled **FOR FURTHER INFORMATION CONTACT** and should include a written summary of oral remarks to be presented and an estimate of time needed for the presentation. Requests received after the date specified above will be scheduled if there is time available during the meeting; however, the names of those individuals may not appear on the written agenda. The FAA will prepare an agenda of speakers and presenters and make the agenda available at the meeting. To accommodate as many speakers as possible, the amount of time allocated to each speaker may be less than the amount of time requested. Persons requiring audiovisual equipment should notify the FAA when requesting to be placed on the agenda.

Availability of Notice

Internet users may reach the FAA's Web page at *http://www.faa.gov*, the **Federal Register** Web page at *http://www.access.gpo.gov/su docs*, or the Department of Transportation Docket Management System Web page at *http://dms.dot.gov* for access to recently published rulemaking documents. Anyone can obtain a paper copy of this document by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number or docket number of this document. Persons interested in being placed on the mailing list for future Advance Notice of Proposed Rulemaking (ANPRM's) and Notices of Proposed Rulemaking (NPRM's) should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Proposal 1. Require organizations that employ two or more Designated Manufacturing Inspection Representatives (DMIRs), to establish an Organizational Designated Airworthiness Representative (ODAR). This proposal can be implemented using existing procedures in FAA Order 8100.8, Designee Management Handbook.

Title 14 of the Code of Federal Regulations (CFR), part 183, Representatives of the Administrator, allows the designation of private persons to act as a representative of the Administrator in examining, inspecting, and testing persons and aircraft for the purpose of issuing airman and aircraft certifications.

A DMIR is an individual appointed in accordance with § 183.31 who is employed by a Production Approval Holder (PAH), or a PAH's approved supplier, to act as a representative of the Administrator. The DMIR is responsible for performing authorized functions concerning products and parts that are produced and controlled by their employer's production approval in accordance with applicable requirements. The FAA managing office is responsible for training, counseling, supervising, monitoring, tracking, and maintaining records for each DMIR to confirm the representative is performing the assigned functions in accordance with the appropriate regulations, policies, and procedures.

An ODAR is an organization appointed in accordance with § 183.33 to act as a representative of the Administrator. The Service can appoint an ODAR at PAH facilities, including PAH approved supplier facilities. Each ODAR includes an authorized management focal point that is responsible for day-to-day management and oversight of the ODAR. The ODAR is responsible for performing all authorized functions concerning products and parts that are produced and controlled under its organizational designation in accordance with applicable requirements. Unlike an individual DMIR, the ODAR as a whole must meet all qualifications for the authorized functions identified in its approved procedure manual. The ODAR is responsible for assuring that the individual authorized representatives identified in the ODAR procedures manual continue to meet the FAA qualifications criteria specific to the actual function they perform.

The FAA managing office is responsible to confirm that the ODAR is performing its authorized functions in accordance with the appropriate regulations, policies, and procedures. This effort is accomplished through the training, counseling, supervising, monitoring, tracking, and maintenance of records for the ODAR as a whole, rather than for each person performing an authorized function within the ODAR. The PAH's authorized management focal point performs these administrative activities, greatly reducing the FAA managing office workload.

This proposal requires an organization that employees two or more DMIRs to establish an ODAR. Implementation of this proposal will result in the FAA supervising only the organization rather than each individual DMIR. This will reduce FAA designee supervision time, and will reduce the time individual designees interface with the FAA. Currently, the FAA spends approximately 12 hours per year to supervise a DMIR, and approximately 18 hours per year to supervise an ODAR. For example, an organization with 10 DMIRs would require approximately 120 hours of FAA supervision annually. Supervision of the same organization having an ODAR would require approximately 18 hours annually.

Proposal 2. Prioritize all incoming type certification projects based on the completeness of the applicant's up-front planning.

The purpose of this proposal is to implement a process that responds to applicants' requests for certification services in priority order based on the use of Certification Process Improvement (CPI) principles. The FAA and Industry Guide to Product Certification, dated January 25, 1999, is the current guidance that will assist applicants in meeting the intent of this proposal. The CPI process recognizes applicants who employ and use technical specialists in all relevant disciplines, who maximize the use of designees, and who provide timely and complete data packages leading to certification. The process applies to type certification projects leading to a Type Certificate (TC), Supplemental Type Certificate (STC), amendment to either a TC or STC, and type design change. Aircraft Certification Offices (ACO) will prioritize certification projects using the following criteria:

Priority One. Projects from applicants with a formal CPI program already in place, including a Partnership for Safety Plan (PSP) and Project Specific Certification Plans (PSCP), based on the guidelines established in the FAA and Industry Guide to Product Certification.

Priority Two. Projects from applicants without a formal CPI program but those who incorporate CPI principles as they develop their certification program plans. This includes significant up-front planning with the FAA, employing technical specialists in all relevant disciplines, maximizing the use of designees, and providing timely and complete data leading to certification.

Priority Three. Projects from applicants that do not fall into either of the previous two categories.

Applicants that do not have a formal CPI program in place and want to qualify as a second priority would be expected to accomplish the following:

1. Develop a complete certification plan as described in Advisory Circular 21–40, Application Guide for obtaining

a Supplemental Type Certificate, or PSCP as shown in The FAA and Industry Guide to Product Certification.

2. Commit to early notification and planning with the FAA.

3. Demonstrate a high quality of compliance documentation.

4. Provide adequate staffing, including the use of appropriate designees.

5. Have a conformity management process similar to that described in FAA Notice 8110.76, Designated Engineering Representative to Designated Manufacturing Inspection Representative.

6. Demonstrate the capability to produce the product, *i.e.,* have established a system, which ensures that only products and parts conforming to the FAA approved design are produced and released to service.

Proposal 3. Eliminate certain one-only supplemental type certificates (STC) for foreign registered aircraft.

The Service is continually being requested to approve the modification of aircraft operating under the civil registration of another country. Such activity must follow the Standards of the Convention on International Civil Aviation as administered by the International Civil Aviation Organization (ICAO). Annex 6 to the Convention of International Civil Aviation requires that all modifications and repairs meet airworthiness requirements acceptable to the State of Registry. Therefore, irrespective of the State of Design of the aircraft, approval of its modification is the responsibility of the State of Registry.

The FAA does not have sufficient resources to serve as the approval authority for the global fleet and to accept workload that is not within its mandate. In a 1999 survey, FAA found that 31 percent of the STCs involving foreign registered test articles were one only approvals.

During the approval of one only STCs, FAA ACOs are finding compliance to FAA requirements and those additional requirements imposed by the State of Registry of each individual aircraft such as Joint Airworthiness Authorities, Joint Aviation Requirements. This creates additional approval workload for the FAA on products where the FAA has no direct safety role.

The FAA continues to accept U.S. STC applications for multiple STCs, using a foreign-registered prototype test article, recognizing that the STC may later be installed on a U.S. registered aircraft and that parts manufacturing oversight is the FAA's responsibility. These STC actions are considered to be in the U.S. public interest because they may be duplicated and installed on a U.S. registered aircraft.

The FAA wishes to shift full responsibility for unique modification activity back to the States of Registry, per ICAO provisions. Three exceptions to this policy are envisioned: (1) Mandated safety enhancements such as Traffic Collision Avoidance Systems (TCAS) installations; (2) diplomatic aircraft; and (3) Heads of State aircraft. In these cases the foreign State of Registry would request FAA's assistance and an appropriate process would be established whereby the Service supports the State of Registry for the proposed design change.

Proposal 4. Explore the impact of restricting U.S. manufacturers from using suppliers located in non-bilateral countries (where there is no Bilateral Airworthiness Agreement or Implementation Procedures for Airworthiness under a Bilateral Aviation Safety Agreement).

Bilateral agreements facilitate the reciprocal airworthiness certification of civil aeronautical products imported/exported between two signatory countries. A Bilateral Airworthiness Agreement (BAA) or Bilateral Aviation Safety Agreement (BASA) with Implementation Procedures for Airworthiness (IPA) provides for airworthiness technical cooperation between the FAA and its counterpart civil aviation authority. Bilateral agreements provide an alternative means for the FAA to make its determinations of compliance to U.S. airworthiness standards by making maximum practicable use of the certification system of another aviation authority.

Through bilateral agreements, the FAA recognizes the competency of the exporting authority to conduct airworthiness certification functions in a manner compatible to the FAA's. Upon request and after mutual acceptance, the FAA and the civil aviation authority may provide technical assistance to each other when significant activities are conducted in either country. These activities help avoid any undue burden imposed on either authority. Types of assistance may include, but are not limited to, determination of compliance, surveillance, and oversight.

Globalization of the aircraft manufacturing industry has created challenges for the FAA in carrying out its statutory mandate to confirm that safety and airworthiness standards for civil aircraft are being met during manufacture. Date obtained from the U.S. Department of Commerce report for fiscal year 2000 titled U.S. Imports of Civil Aerospace Products indicates that there are currently 103 countries from which the United States imports aeronautical parts. To date, the United States has 25 BAAs with only 5 BASAs with IPAs in effect.

Any FAA PAH may propose to use suppliers and manufacture parts in any country without benefit of bilateral agreements. FAA data indicates that the use of suppliers in non-bilateral countries continues to increase. In this case, the FAA cannot rely on the other country's airworthiness authority to assist the FAA and must perform supplier surveillance and designee supervision itself. One consideration for approval is that the airworthiness authority of that country may not inhibit in any manner FAA supplier surveillance or supervision in their country. However, limited FAA resources make it difficult for the FAA to perform surveillance and supervision in these countries.

In accordance with current regulations, performance of the surveillance or supervision activities must not create an undue burden for the FAA. Therefore, the FAA must make an undue burden determination before any resources can be allocated to the activity. Although the Service discourages use of suppliers in non-bilateral countries, it has provided limited support, on a case-by case basis, in the past. The FAA has reached the point where it can no longer support the use of suppliers in non-bilateral countries.

This proposal is intended to obtain feedback from U.S. manufacturers concerning the impact of restricting the use of suppliers located in non-bilateral countries.

It also encourages U.S. manufacturers to provide suggestions on alternate methods for the FAA to perform surveillance at suppliers located in non-bilateral countries.

Economic Impact

The Regulatory Flexibility Act of 1980 requires Federal agencies to consider the extent that proposed rules may have a significant economic impact on a substantial number of small entities. We are unable, at this time, to determine the cost impact of requiring DMIRs to become ODARs. Nor can we compute the loss of revenue caused by eliminating certain supplemental type certificates associated with foreign registered aircraft modifications or prohibiting suppliers in non-bilateral countries. Following a review of the comments submitted to this Notice, the Service will determine the potential costs and benefits of the options.

Likewise, at this preliminary stage, we cannot yet determine if there will be a significant economic impact to a substantial number of small entities, or what the paperwork burden might be.

Issued in Washington, DC, on July 18, 2001.

Ronald T. Wojnar,

Deputy Director, Aircraft Certification Service.

[FR Doc. 01–18310 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–44568; File No. S7–14–01]

RIN 3235–AI23

Request for Comment on the Effects of Decimal Trading in Subpennies

AGENCY: Securities and Exchange Commission.

ACTION: Concept release; request for comments.

SUMMARY: The Securities and Exchange Commission (''Commission'') seeks comment on the impact on fair and orderly markets and investor protection of trading and potentially quoting securities in an increment of less than a penny. As of April 9, 2001, all U.S. equity markets have been quoting stocks in pennies. In the past, some Nasdaq market makers and electronic communication networks (''ECNs'') traded stocks in smaller price increments than the public quote. This practice has continued in the new decimal environment, with some trades occurring in Nasdaq securities priced in subpennies. The Commission seeks comment on the effects of subpenny prices on market transparency and the operation and effectiveness of Commission and self-regulatory organization (''SRO'') rules that are dependent on trading or quoting price differentials. The Commission also seeks comment on the effects of subpenny trading on automated systems.

DATES: Comments must be received on or before September 24, 2001.

ADDRESSES: Persons wishing to submit written comments should send three copies to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following E-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. S7–14–01. Comments submitted by E-mail should include this file number in the subject line. Comment letters received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet web site (http://www.sec.gov).[1]

FOR FURTHER INFORMATION CONTACT: Any of the following attorneys in the Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549: James Brigagliano, Jo Anne Swindler, Gregory Dumark, or Kevin Campion at (202) 942–0772; Alton Harvey, Patrick Joyce, or John Roeser at (202) 942–0154.

SUPPLEMENTARY INFORMATION:

I. Introduction and Summary

The conversion from fractional to decimal pricing for consolidated quotations in all equity securities and options was successfully completed on April 9, 2001. As a result, the minimum price variation (''MPV'') for consolidated quotations in equity securities has been narrowed from 1/16 of a dollar to a penny. The decimal conversion was effected with no significant operational problems on the markets, clearing organizations, and key market participants.[2] Preliminary estimates indicate that decimal pricing has reduced quotation spreads (the difference between the highest bid quotation and the lowest offer quotation) in both exchange-traded and Nasdaq securities with manageable increases in quotation volumes.[3]

While the move from fractions to decimals was designed to simplify pricing for investors and to make our markets more competitive internationally,[4] a number of market structure and investor protection issues have been raised by this fundamental change. In particular, difficult issues have been raised in connection with the limited practice of pricing orders and trades in increments that are smaller than the MPV for quotations.

For years, some ECNs and Nasdaq market makers have permitted trading in increments smaller than the public quote. This practice has continued in the decimal environment, with approximately 4% to 6% of trades in Nasdaq securities priced in subpenny increments even though the quotations for these securities are at a penny MPV. Trading in subpennies raises difficult questions under rules based on the MPV, which markets allowing subpenny trading have attempted to address.[5] The Commission approved these measures on a pilot basis.

Before considering whether to permanently approve these measures, however, the Commission is seeking comment on their impact on market transparency, as well as the impact of subpenny trading on customer protection rules, and alternative approaches, if any.[6]

In ordering the conversion to decimals, the Commission noted that this effort might require further analyses of the impact of a small MPV on trading rules and the markets.[7] There may be a point at which the incremental costs of

[1] Personal identifying information, such as names or e-mail addresses, will not be edited from electronic submission. Submit only information that you wish to make publicly available.

[2] *See, e.g.,* Nasdaq Decimalization Impact Study (June 11, 2001) (''Nasdaq Study'') at 55. This study can be accessed at www.nasdaqnews.com.

[3] The Nasdaq Study found that, on average, quoted and effective spreads both have fallen by about 50%, with greater declines in stocks with greater trading volume and lower prices. For the most actively traded stocks, quoted spreads fell from 6.6 cents to 1.9 cents when penny increments were introduced. *Id.* at pp. 2, 15–16.

[4] *See* Securities Exchange Act Release No. 42360 (January 28, 2000), 65 FR 5004 (February 2, 2000).

[5] On April 6, 2001, the Commission approved, on a pilot basis, a rule filed by the NASD specifying the protections Nasdaq market makers must provide to customer limit orders in subpennies. *See* Securities Exchange Act Release No. 44165 (April 6, 2001), 66 FR 19268 (April 13, 2001). On April 6, 2001, the Commission also granted the Chicago Stock Exchange (''CHX''), on a pilot basis, the flexibility to compete with ECNs and Nasdaq market makers by accepting orders in Nasdaq/NM securities priced in subpenny increments while maintaining the uniform penny MPV for quotations. *See* Letter to Paul O'Kelley, Chief Operations Officer, CHX, from Annette L. Nazareth, Director, Division of Market Regulation, Commission (April 6, 2001). This letter provided CHX specialists and market makers with the same flexibility in handling subpenny orders that had been granted to ECNs and Nasdaq market makers in a no-action letter to the Nasdaq Stock Market from the Division of Market Regulation, dated July 30, 1997. *See infra* n.30. The Commission also approved on April 6 a pilot program setting forth protections that must be provided by CHX specialists and market makers for customer subpenny orders in Nasdaq/NM securities. Securities Exchange Act Release No. 44164 (April 6, 2001), 66 FR 19263 (April 13, 2000) (order approving a proposed rule change by the CHX relating to the precedence of customer limit orders on the book).

[6] The Nasdaq and CHX proposals were originally approved as pilot programs until July 9, 2001, and were recently extended until November 5, 2001. *See* Securities Exchange Act Release No. 44529 (July 9, 2001), 66 FR 37082 (July 16, 2001) (order extending the Nasdaq pilot); Securities Exchange Act Release No. 44535 (July 10, 2001), 66 FR 37251 (July 17, 2001) (order extending the CHX pilot). During this time the markets will supply the Commission staff with monthly reports on their activity in subpenny increments.

[7] *See* Securities Exchange Act Release No. 42914 (June 8, 2000), 65 FR 38010 (June 19, 2000). *See also* Securities Exchange Act Release No. 42360 (January 28, 2000), 65 FR 5004 (February 2, 2000).

reducing the MPV exceed the incremental benefits. With the conversion to decimal pricing complete, the Commission believes it is an appropriate time to seek comment on the effect of subpenny trading on Commission and SRO rules that are dependent on trading or quoting price differentials. In particular, the Commission seeks comment on the effect of subpenny trading on market transparency, customer limit orders, various price dependent rules, and automated systems.

II. Background

A. Subpenny Trading

Even before the decimal conversion, a small amount of trading in Nasdaq stocks was being effected in increments smaller than the quoting increment. For example, the Commission's Office of Economic Analysis (''OEA'') found that, in a sample of five active Nasdaq stocks on January 12, 2001, approximately 4.4% of transactions were reported in the equivalent of subpenny prices.[8] A broader review by OEA of post-conversion trading in all Nasdaq securities found little change in the level of subpenny trading. For April 9–12, 2001 (the first week in which all Nasdaq securities were priced in decimals), subpenny prices accounted for approximately 5.7% of the trades and 4.2% of the dollar volume in these stocks.[9]

The decimals study submitted by Nasdaq[10] found that with a penny increment after decimals, the incentive to submit limit orders within the quotation increment has decreased.[11] But despite the finer increment, sub-quotation level limit orders have not disappeared and continue to play an active role, especially on ECNs.[12] The study also found that the importance of limit orders at finer than the minimum tick size has decreased in a decimals environment.[13] It was also determined that the number of subpenny executions has decreased from 12.8% to 5.4% under decimals.[14] Additional statistics on subpenny trading will be available in the near future.[15]

B. The Transition to Decimal Pricing

On June 8, 2000, the Commission ordered the exchanges and the NASD to submit a plan that would phase in decimal pricing for stocks and options beginning no later than September 5, 2000, and ending by April 9, 2001.[16] In its June 8 Order, the Commission acknowledged that there was little agreement among commenters regarding the appropriate minimum quoting increment for stocks during the phase-in process, with suggestions ranging from $0.10 to $0.01. Accordingly, the Order permitted the exchanges and the NASD to select a uniform increment for stock quotations during the phase-in period of no greater than $0.05 and no less than $0.01.[17] The Decimals Implementation Plan that was submitted to the Commission by the exchanges and Nasdaq on July 24, 2000 set the MPV for equity securities quotations at a penny.[18]

The June 8 Order also directed the SROs to submit a study (jointly or separately) to the Commission sixty days after full implementation on April 9, 2001, regarding the impact of decimal pricing on systems capacity, liquidity, and trading behavior, including an analysis of whether there should be a uniform price increment for securities. In particular, the Commission stated that, if an exchange or Nasdaq wished to move to quoting stocks in an increment of less than a penny, the study should include a full analysis of the potential impact on the market requesting the change and the markets as a whole. Within thirty days after submitting the study, the exchanges and Nasdaq must individually submit for notice, comment, and Commission consideration, proposed rule changes under Section 19(b) of the Securities Exchange Act of 1934 (''Exchange Act'') to establish their individual choice of minimum increments by which equities and options are quoted on their markets.[19]

In view of the complexities of some of the issues that have been raised concerning decimal pricing, the Commission extended the deadline for the markets' studies to September 10, 2001.[20] In the interim, the Commission is soliciting the views of a wider range of commenters concerning the appropriate price increments for quotations, orders, and trading for stocks in a decimal environment. To assist commenters, we have identified and requested comments on a number of specific issues. Commenters should provide data supporting their views, including costs and benefits, whenever possible.

III. Specific Topics To Be Addressed

A. Impact of Subpenny Trading on Transparency

Market transparency—the dissemination of meaningful quote and trade information—assists investors to make informed order entry decisions

[8] OEA reviewed trading in shares of Intel Corp. (INTC), Cisco Systems, Inc. (CSCO), Dell Computer Corp. (DELL), Microsoft Corp. (MSFT) and Apple Computer, Inc. (AAPL).

[9] In exchange-listed stocks, however, the current level of subpenny trading appears to be minimal. For example, OEA reviewed trading in 148 New York Stock Exchange (''NYSE'') listed stocks over 15 trade dates from February 26 to March 16 and found that only 0.2% of the reported trades had price increments of less than a penny. All of the subpenny transactions were effected in over-the-counter (''OTC'') trading in these NYSE-listed stocks. While the overall level of subpenny trading was light for these NYSE-listed stocks, OEA found that this activity represented a relatively larger proportion (8.4% of the share volume) of OTC trading in these securities.

[10] *See* Nasdaq Study, *supra* n.2. Nasdaq explains that the bulk of its report is based on an empirical analysis of various characteristics of Nasdaq. Nasdaq explains that its general methodology is to measure and compare these characteristics two weeks before (3/26/01–4/6/01) and two weeks (4/9/01–4/20/01) after the April 9th conversion date. The subject of Nasdaq's analysis is, then, the set of stocks that converted to decimal quoting on April 9th. Nasdaq includes in its report a caveat that it attempts to measure the *initial* impact of decimals only, and that in light of the major changes it has induced, it is possible, if not likely, that the ultimate impact of decimals may take a number of months to reveal itself. Many market participants, investors as well as market intermediaries, are in the process of adapting to the new trading environment. It is also possible that some of the observed effects are due to a novelty effect. Nasdaq thus notes that what was measured in the first two weeks may be substantially different a year from now. *Id.* at 6.

[11] The study found that the percentage of limit orders entered within the minimum quotation increment has decreased from 35.1% to 14.6% under decimals. *See* Nasdaq Study at 31.

[12] The study found that only 0.5% of subpenny limit orders are routed to and kept by market makers. Nasdaq found that market makers either do not generally accept subpenny limit orders or route the orders to ECNs, with the vast majority of subpenny limit orders handled by a single ECN (95%). *Id.*

[13] Nasdaq broke down the usage of sub-increments by the price aggressiveness of limit orders relative to the prevailing NBBO. The percentages of sub-increment orders were much higher both during the pre- and post-decimal periods. In a fraction world 81% of inside-setting limit orders were quoted at finer increments, compared to just 47% under decimals. For near-the-inside limit orders, the percentage dropped from 47% to 17%. Overall, Nasdaq found that the percentages do not vary much from one day to the other. *Id.*

[14] The study found that the majority (84%) of subpenny executions involve ECNs at least one side of trades, though the percentage is lower than that for subpenny limit orders (99.5%). *Id.* at 32.

[15] Nasdaq and CHX have agreed to provide monthly data submissions to the Commission staff that should provide more information concerning subpenny order flow and trading.

[16] *See* Securities Exchange Act Release No. 42914 (June 8, 2000), 65 FR 38010 (June 19, 2000).

[17] *Id.*

[18] The minimum quotation increment for option issues quoted under $3 a contract was set at $.05 and for options issues quoted at $3 and greater it was set at a $.10.

[19] *Id.*

[20] *See* Securities Exchange Act Release No. 44336 (May 22, 2001), 66 FR 29368 (May 30, 2001) (order extending the deadline for the exchanges and SROs to submit studies and rule filings concerning the implementation of decimal pricing in equity securities and options). Nasdaq submitted a study on June 11, 2001. *See supra* n.2.

and enables broker-dealers to meet their best execution duties for their customer orders. Moreover, market transparency plays an essential role in linking dispersed markets and improving the price discovery, fairness, competitiveness, and attractiveness of U.S markets.

1. Price Clarity, Order Entry Decisions, and Quotation Management

Decimal pricing presumably has enhanced the ability of investors to understand the consolidated quotations of competing market centers. Investors can now compare prices to buy and sell stocks in dollars and cents without having to deal with prices in fractions.

Subpenny pricing, however, has the potential to undercut this price clarity in at least two ways. If the consolidated quotations used by investors do not fully reflect the subpenny orders available for execution at various price levels, the accuracy of the quotations could be compromised. In particular, the quoted spreads may not accurately reflect the true trading interest in the market.

On the other hand, if quotes were in subpennies, investors and market participants might have to deal with confusing and rapidly changing quote montages—*e.g.,* an investor might have to choose quickly between one market bidding at $10.0101 for a stock and a competing market with a bid at $10.0110.[21] In addition, as this could result in ''flickering'' quotes in miniscule price increments, issues would be raised about how broker-dealers could comply with their best execution duties for customer orders.[22] Moreover, the potential for rapidly changing consolidated quotes in miniscule increments could have implications for market rules pertaining to ''locked'' and ''crossed'' markets[23] and the Intermarket Trading System (''ITS'') Plan's ''trade-through'' provisions.[24]

2. Effects on Market Depth

Another aspect of transparency that has been affected by the decimals conversion is quotation depth. In order for investors and other market participants to make use of the price information provided by the consolidated quotation systems, there needs to be meaningful information available concerning the amount of buy or sell interest that is available at the quotations. As the minimum quoting increment has narrowed to a penny, the market depth at any particular price level (that is, the number of shares reflected at the published bid or offer) has decreased as well. For example, OEA has estimated that quote sizes in NYSE-listed securities have been reduced an average of 60% since the conversion to decimals, and preliminary analyses of Nasdaq securities show a 68% reduction in quote sizes.[25] Some firms and institutional investors have also expressed concerns that the reduction in quoted market depth may be adversely affecting their ability to execute large orders.[26] In particular, market participants have indicated that smaller trading and quoting increments have increased the risk of displaying limit orders, particularly larger limit orders, leading to a reduction in the amount of liquidity provided by such orders. In an effort to provide more information about available liquidity, the NYSE recently began disseminating ''depth indications'' and ''depth conditions'' to reflect market interest in a security below the published bid and above the published offer.[27] Market participants, however, have asserted that these measures alone are unlikely to address all of their liquidity concerns in a decimal environment, particularly where liquidity may be spread over more numerous price points if bids and offers are quoted in prices of less than a penny.

3. Order Handling Rules

In recent years, the Commission has sought to ensure the transparency benefits of the national market system through inclusion of limit orders and ECN prices in the quote.[28] One area in which ECNs have offered their customers added flexibility has been in the price increments accepted for their orders. As discussed above, even before the decimal conversion, some ECNs permitted their customers to enter orders in penny and subpenny increments or their equivalents (*e.g.,* in increments as small as 1/256 of a dollar). When the Commission's Order Handling Rules brought ECNs into the national market system framework, some accommodation was necessary for ECN price increments. Accordingly, the Commission staff permitted orders in small increments held by ECNs and OTC market makers to be rounded to the nearest price increment accepted by the Nasdaq system.[29] While the Commission originally believed that rounding indicators should be provided in the public quotes under these circumstances, market participants claimed that this was not feasible due to the then-current limitations in quotation systems and vendor displays. Accordingly, the Commission staff provided a no action letter in 1997 to Nasdaq for ECNs and market makers to handle orders priced in increments

[21] It could also raise order handling and systems issues, particularly because displays have physical limits. *See* discussion at Part 3, *infra.*

[22] The Nasdaq Study found that the number of inside quote *price-only* updates (a.k.a. ''quote flickering'') went up 90% for the final-phase stocks, similar to what was found before with the pilot stocks. The results confirmed Nasdaq's prior expectation that as tick-size goes down, the inside quote would flicker more often as market participants compete at less cost for the inside positions. *See* Nasdaq Study, *supra* n.2 at 12.

[23] In a locked market, the best bid price equals the best ask price; in a crossed market, the best bid price exceeds the best ask price. The Nasdaq Study found that there are more instances of locked or crossed markets under decimals. The study notes that due to the more frequent changes of inside quotes, many quote updates may have locked or crossed the other side inadvertently. *See* Nasdaq Study, *supra* n.2 at 2.

[24] The ITS Plan includes a trade-through rule protecting displayed bids and offers for ITS-eligible exchange-listed securities. *See* Securities Exchange Act Release No. 17703 (April 9, 1981).

[25] The Nasdaq Study found that displayed depth has decreased by two-thirds under decimals. The total amount of cumulative displayed depth near the inside has likewise fallen, though by a much smaller percentage. *See* Nasdaq Study, *supra* n.2 at 2.

[26] *See* letter to Richard A. Grasso, Chairman, NYSE, from Craig S. Tyle, General Counsel, Investment Company Institute, dated March 1, 2001.

[27] *See* Securities Exchange Act Release No. 44084 (March 16, 2001), 66 FR 16307 (March 23, 2001) (NYSE Rule 60).

[28] On August 28, 1997, the Commission adopted Rule 11Ac1–4 (''Limit Order Display Rule'') and amendments to Rule 11Ac1–1 (''Quote Rule'') under the Exchange Act. *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996) (17 CFR 240.11Ac1–4; 17 CFR 240.11Ac1–1) The Limit Order Display Rule requires the display of certain customer limit orders priced better than an OTC market maker's or specialist's quote, or when the limit order adds to the size associated with such quote if that quote is at the national best bid or offer (''NBBO''). The Quote Rule generally requires the collection and public dissemination of the best bid, best offer, and size for each market quoting a security covered by the rule, as well as the consolidation and public dissemination of those markets' quotations. The Quote Rule also requires an OTC market maker or specialist to make publicly available any superior prices that the market maker or specialist privately quotes through an ECN. Alternatively, an OTC market maker or specialist can deliver better priced orders to an ECN without changing its public quote if that ECN: (1) Ensures that the best prices market markers and specialists have entered in the ECN are communicated to the public quotation system; and (2) provides brokers and dealers with equivalent access to those orders entered by market makers and specialists into the ECN. In addition, the ''ECN Display Alternative'' allows an ECN to act as a voluntary intermediary in communicating to the public quotation system the best price and size of orders that specialists and market makers enter into the ECN. *See also* Rule 301(b)(3), 17 CFR 240.301(b)(3) (order display and access to certain alternative trading systems).

[29] Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996).

smaller than 1/16 in Nasdaq securities without having consolidated quotations reflect that bids or offers had been rounded.[30] Following the complete conversion to decimal pricing with a penny minimum increment for consolidated quotations on April 9, 2001, the flexibility to handle subpenny orders in Nasdaq/NM securities, including continued quote displays without rounding indicators, was temporarily extended to CHX specialists and market makers.[31]

Now that the decimal conversion has been completed, the Commission believes that it would be appropriate to reevaluate the interim measures that were implemented to preserve the benefits of the Order Handling Rules.

4. Scenarios To Be Addressed

As discussed above, if subpenny bids and offers are not reflected in the public quote, this may reduce the accuracy of the quotation for investors. On the other hand, the possible incorporation of subpenny prices into the consolidated quotes could potentially undercut some of the gains from decimal pricing in terms of pricing clarity, and could significantly complicate order entry decisions and the markets' quoting and trading rules based on meaningful quoting increments. Subpenny pricing could also potentially exacerbate difficulties faced by investors in determining the market depth at or near the NBBO. Moreover, the routine use of subpenny increments for trading and quoting could reduce the value of displaying limit orders, perhaps leading to a reduction in market liquidity. The Commission, therefore, seeks comment on the impact of subpenny trading and possible subpenny quoting on market transparency and liquidity. Commenters should address their comments to two mutually independent scenarios under which subpenny trading might be accommodated, as described below.

Rounding Scenario. If the exchanges and Nasdaq accept orders in subpenny increments, should they round the quotations to display the orders in whole penny increments? If so:

1. What effect would this practice have on price discovery, price competition, liquidity, transparency, trading costs, and execution quality?

2. How would investors monitor executions and execution quality?

3. How would this practice affect different market participants? Would this practice promote or hinder institutional participation?

4. Would this practice encourage or impede competition among multiple markets?

5. If rounding is maintained, have the quotation systems, vendors, and others developed sufficient capability to accommodate rounding indicators to reflect subpenny orders? If so, would rounding indicators be beneficial for investors and the markets?

6. What other alternatives should the Commission consider? *Inclusion Scenario.* Alternatively, if the exchanges and Nasdaq accept orders in subpenny increments, should they display consolidated quotes in subpenny increments? If so:

7. How small should the allowable quotation increment be?

8. At what point would the quoting increment be so small as to be economically insignificant for order entry decisions (including best execution duties owed by broker-dealers to customer orders)?

9. What impact would this practice have on the displayed quote size and the overall depth of the markets, and how should this be addressed? Would increased display of the limit order book help to alleviate concerns about transparency?

10. What effect would this practice have on price discovery, price competition, liquidity, transparency, trading costs, and execution quality?

11. Would this practice affect the ability of investors to monitor executions and execution quality?

12. How would it affect the exchanges' and Nasdaq's ability to maintain fair and orderly markets? Consider the impact on quoting and trading rules, such as rules addressing locked and crossed markets and intermarket trade-throughs.

13. How would this practice affect institutional participation in the markets?

14. How would this practice affect competition among multiple markets?

Finally, the Commission invites public comment on any other market transparency and liquidity issues raised by subpenny trading.

B. Order Priority

Markets use priority rules to determine which orders are filled first.[32] The highest bids and the lowest offers are filled before orders with inferior prices. Historically, traders were required to make an economically significant contribution to the price of a security to gain priority over other traders.[33]

Subpenny orders may significantly affect priority rules and order submission strategy. For example, a trader may post a best bid of $10.00 in a security, while another trader may gain priority by bidding $10.001 in the same security. By offering price improvement of $0.001, the other trader gains priority over the trader who bid $10.00.[34]

There are many potential behavioral effects of such activity on the markets. Investors may use floor brokers to shield their orders from being publicly displayed or they may increasingly use market orders. Investors may seek to trade more in automated systems that offer greater confidentiality by not displaying their orders.

15. Should there be a minimum trading increment that requires a trader to make an economically significant change to the quoted price of a security in order to obtain priority over another order? If so, what should that increment be? Should all market participants be subject to the same trading increment?

16. Should the minimum increment used to establish priority over other orders be dependent upon the security price or quotation spread?

C. Effects of Subpenny Trading on Other Price Dependent Rules

1. Customer Limit Order Protection

Commission and SRO rules provide customer limit orders with priority over specialist and market maker orders at the same price on the exchanges and on Nasdaq. Rule 11a1–1(T)[35] under the Exchange Act requires exchange members to grant priority to any bid or offer at the same price for the account of a person who is not a member. Exchanges have generally applied the basic requirements of Rule 11a1–1(T) to specialists as well as all other members of the exchange.[36]

[30] *See* Letter to Robert Aber, Vice President and General Counsel, Nasdaq, from Richard R. Lindsey, Director, Division of Market Regulation (July 31, 1997). While the orders were rounded for quotation purposes, the trades were reported and printed in the actual price increments.

[31] *See* discussion in Part I, *supra.*

[32] For example, the NYSE Rule 71 gives precedence to the highest bid and the lowest offer.

[33] *See* Lawrence Harris, *Decimalization: A Review of the Arguments and Evidence* (April 1997).

[34] Arguably, if the price of the security declines, the trader who offered price improvement of $0.001 will suffer a loss. However, it is possible that this trader could sell the security to the trader who bid $10.00 and limit his loss to $0.001 per share.

[35] 17 CFR 240.11a1–1(T).

[36] For example, NYSE Rule 92(b) prohibits NYSE members from trading for their own account at the same price as an unexecuted customer limit order. Rule 92(b) states that no member shall ''(1) personally buy or initiate the purchase of any security on the Exchange for any such account, at or below the price at which he personally holds or has knowledge that his member organization holds an unexecuted limited price order to buy such

Continued

The rules under Section 11(a) do not address ''stepping ahead'', *i.e.,* transactions by market professionals trading for their own account at prices better than customer limit orders. However, exchange rules, in effect, establish a *de facto* ''stepping-ahead'' increment because exchanges generally set the exchange minimum quoting *and* trading increments. Therefore, for a member to trade ahead of a customer limit order, the member must improve the price by the minimum increment. In the current decimals environment, that increment has been a penny. As discussed above, CHX recently amended its rules to accept orders in Nasdaq/NM securities in subpenny increments while maintaining a uniform penny MPV for quotations. Allowing CHX to take orders and trade in subpenny increments in Nasdaq/NM securities has, in effect, altered the *de facto* ''stepping ahead'' increment to a subpenny for some CHX orders outside the NBBO.

NASD's Manning Interpretation requires the execution of a customer limit order upon the execution of a proprietary trade at a price that would satisfy the customer limit order.[37] For example, the Interpretation requires market makers who want to trade ahead of customer limit orders to trade at a price $0.01 better than the customer limit order priced at or better than (inside) the best displayed inside market. For customer limit orders priced outside the best displayed inside market, a market maker must trade at a price at least equal to the next superior minimum quotation increment.[38]

The Interpretation previously had required a market maker to protect all limit orders within $0.01 of the price at which it sought to trade for its proprietary account.[39] Nasdaq modified its rule because of certain anomalies that occurred under the earlier Interpretation when market makers elected to accept customer limit orders in price increments smaller than a penny. For example, the operation of the Interpretation was problematic where the market was $10.00 to $10.01 and the market maker accepted a customer limit order to buy 100 shares at $9.994. If the market maker then sought to buy 1,000 shares at $10.00 on a proprietary basis, it would be obligated to execute the customer limit order at $9.994 as well as all other customer limit orders to buy it accepted and priced above $9.990 and up to $10.00, up to a total of 1,000 shares.[40] Customers may have been submitting subpenny orders within a penny of a market maker's bid, *i.e.,* ''stepping-behind'' the bid by less than a penny, in order to obtain execution of their limit buy orders at a price less than the best bid.[41]

Subpenny trading may have an adverse effect on the operation of ''customer first'' rules and the use of limit orders.[42] Further, to the extent that ''stepping-behind'' activity is facilitated by subpenny orders, it may discourage market making. Therefore, the Commission solicits comment on how subpenny orders and trades should be treated under the limit order protection rules. In particular, the Commission seeks commenters' views in response to the following questions:

17. Is price improvement by less than $0.01 an economically sufficient amount for specialists or market makers to be able to ''step-ahead'' of customer limit orders?[43] If not, what amount of price improvement would be considered economically sufficient in order to ''step-ahead'' of a customer limit order?

18. Should the minimum price improvement increment for ''stepping-ahead'' be dependent upon the minimum trading or quoting increment in a market? If so, how should this minimum increment be determined? Alternatively, should the ''stepping-ahead'' increment be dependent upon the security price or quotation spread?

19. Who should the ''stepping-ahead'' minimum increment apply to, *e.g.,* specialists, market makers, floor brokers, or other market participants? Would imposing a minimum ''stepping-ahead'' increment on these individuals benefit non-professional customers?

20. If ''customer first'' provisions continue to incorporate the minimum pricing increment in each market, will customers seek alternative means of displaying their orders to avoid ''stepping-ahead'' activity or will they use automated systems which do not display orders? Will these reactions cause or result in greater market fragmentation, *i.e.,* the trading of orders in multiple locations without interaction among those orders?[44] Will customer responses differ between market structures?

2. Effect of Trading in Subpennies on Short Sale Regulation

Rule 10a–1 was adopted in 1938 under the Exchange Act and was designed to prevent short selling in a declining market. A short sale is the sale of a security that the seller does not own or that the seller owns but does not deliver.[45] In order to deliver the security to the purchaser, the short seller will borrow the security, typically from a broker-dealer or an institutional investor. The short seller later closes out the position by returning the security to the lender, typically by purchasing equivalent securities on the open market. In general, short selling is utilized to profit from an expected downward price movement, or to hedge the risk of a long position in the same security or in a related security.

Rule 10a–1 generally applies to short sales in any security registered on a national securities exchange (''listed securities'') if trades of the security are reported pursuant to an ''effective transaction reporting plan'' and if information as to such trades is made available in accordance with such plan on a real-time basis to vendors of market transaction information.[46] Rule 10a–

security in the unit of trading for a customer, or (2) personally sell or initiate the sale of any security on the Exchange for any such account at or above the price at which he personally holds or has knowledge that his member organization, holds an unexecuted limited price order to sell such security in the unit trading for a customer.'' Pursuant to Section 11(b) and Rule 11b–1 under the Act, the NYSE applies the provisions of Rule 92(b) to specialists since they are allowed to trade for their own accounts.

[37] NASD IM–3220–2—Trading Ahead of Customer Limit Order.

[38] *See supra* n.5. Nasdaq does not specify a minimum trading increment.

[39] *See* Securities Exchange Act Release No. 44030 (March 2, 2001), 66 FR 14235 (March 9, 2001) (order approving Nasdaq proposed rule change to the Manning Interpretation adopting a $0.01 price improvement standard for securities quoting in decimals).

[40] A firm that executes in front of customer limit orders that are owed Manning protection is obligated to fill such limit orders for a total amount of shares equal to the number of shares traded on a proprietary basis by the firm. NASD's Notice to Members 95–43 (June 1995).

[41] Further, these anomalies may occur in situations in which the market maker is not affirmatively trading in front of customer orders but may instead have its displayed quotes accessed by other market participants.

[42] Limit orders are a very important source of price information and market liquidity. A customer uses a limit order to obtain an execution at the limit price or better. By submitting a limit order, the customer competes for a better price than the market is offering, or limits the price that the investor will accept. As a result, limit orders provide liquidity to those who demand immediate execution. *See* Kenneth A. Kravajecz, *A Specialist's Quoted Depth and the Limit Order Book,* 54 J. Fin. 747, 749 (1999).

[43] While the Commission seeks comments on the effects of subpenny trading, it is nonetheless aware that decimal trading in a penny increment presents many of the same questions. *See* Norris, *Big Board Will Study Effects of Decimal Trading,* The New York Times, Feb. 17, 2001, at C1. However, our request is generally limited to subpenny trading activity as a means to complement the Decimals Study.

[44] *See* Securities Exchange Act Release No. 42450 (February 23, 2000), 65 FR 10577 (February 28, 2000).

[45] *See* Rule 3b–3 under the Exchange Act, 17 CFR 240.3b–3.

[46] Rule 10a–1 uses the term ''effective transaction reporting plan'' as defined in Rule 11Aa3–1 (17 CFR

1(a)(1) provides that, subject to certain exceptions, a listed security may be sold short: (i) At a price above the price at which the immediately preceding sale was effected (plus tick), or (ii) at the last sale price if it is higher than the last different price (zero-plus tick). Conversely, short sales are not permitted on minus ticks or zero-minus ticks, subject to narrow exceptions. The operation of these provisions is commonly described as the ''tick test.''

The Commission adopted the ''tick test'' to achieve three objectives: (i) Allowing relatively unrestricted short selling in an advancing market; (ii) preventing short selling at successively lower prices, thus eliminating short selling as a tool for driving the market down; and (iii) preventing short sellers from accelerating a declining market by exhausting all remaining bids at one price level, causing successively lower prices to be established by long sellers.

The NASD's short sale rule, Rule 3350, prohibits short sales by NASD members in Nasdaq/NM securities at or below the current best (inside) bid as shown on the Nasdaq screen when that bid is lower than the previous best (inside) bid (this is commonly referred to as the ''bid test''). Stated differently, this rule requires a short sale to be effected at a price above the current bid in a declining market. Until recently, the rule did not specify how much above the current bid a ''legal'' short sale must be. On March 2, 2001, the Commission approved a Nasdaq rule change, on a pilot basis, that amended Rule 3350 in light of decimalization.[47] Specifically, Rule 3350 presently requires that when the current best bid in an NMS security is lower than the preceding best bid in that security, a ''legal'' short sale must be executed at a price at least $0.01 above the current best bid.

In approving an amendment to Rule 3350, we noted that transactions based on very small price changes could undermine the operation of short sale regulation.[48] While the Commission stated that a $0.01 increment standard for short sales was a reasonable approach during the initial stages of the conversion to decimal pricing, we required Nasdaq to submit a study analyzing the operation of the short sale rule as amended.

In this Release, we ask commenters to focus specifically on the actual or potential impact of subpenny trading on short sale regulations in answering the following questions:

21. Would short sale rules that operate off a minimum price increment, such as Rule 10a–1 and NASD Rule 3350, be less effective if the minimum up ''tick'' or up ''bid'' required were less than a penny? If so, would these rules be sufficient to protect investors?

22. Should the minimum price increment used for short sale regulation be dependent upon the minimum trading or quoting increment? If so, how should this minimum increment be determined? Alternatively, should the increment used for short sale regulation be dependent upon security price or quotation spread?

23. Would subpenny trading increase the frequency of price changes, *i.e.,* rapid trade and quote changes, and make it more difficult to effect a short sale on the proper ''tick'' or ''bid''? If so, what steps should be taken to address the problem?[49]

D. Automated Systems Issues

At each stage of the decimal phase-in of stocks and options, no significant problems were reported with regard to systems operations or capacity at the markets, clearing organizations, or major broker-dealers. The Commission is nevertheless concerned that a widespread transition to quoting, trading, or reporting of stocks in increments of less than a penny could result in system issues that could compromise essential market and broker-dealer operations or disrupt the successful transition to decimals. The Commission seeks information related to the readiness of the industry's automated systems to handle potential quoting, trading, and reporting securities in increments of less than a penny and options on those stocks.[50]

24. Are the automated systems at the exchanges, Nasdaq, the clearing organizations, broker-dealers, and vendors currently capable of handling trading, reporting, or quoting stocks and options in subpennies? If not, how long would it take to prepare these systems for subpennies?

25. If system changes need to be made to accommodate subpenny trading, reporting, or quoting, what types and scope of changes would need to be made (*e.g.,* hardware and software) and how much time would be required? What are the associated costs and benefits?

26. What is the anticipated impact on industry systems capacity associated with trading, reporting, or quoting of stocks and options in subpennies?

IV. General Issues for Comment

We have identified a number of specific issues for comment regarding the effect of subpenny trading on the operation and effectiveness of Commission and SRO rules. In discussing these issues, commenters should consider the possibility and advisability of allowing trading in subpennies, but limiting the operation of price dependent rules (such as ''stepping-ahead,'' short sales, and order priority rules) to increments in whole pennies.

We recognize that given the complexity and diversity of today's markets there may be other subpenny-related issues not identified above. Accordingly, we solicit comments on the following general questions regarding subpenny trading behavior:

27. Are there any other market issues associated with subpenny trading that have not been addressed in this Release? If so, please provide a description of the issues and, where possible, provide specific examples of the trading behavior that gives rise to the issue.

28. If the minimum trading increment is less than a penny, should there be a limit on this increment? Is there a practical or logical limit to the number of decimal places in our trading market?

29. One of the perceived benefits of decimal trading was that decimal prices would be easier for investors to understand than fractional prices. Would allowing trading and possibly quoting in very fine increments increase investor confusion?

30. Would vendors and reporting services, *i.e.,* news-wires and newspapers, have the capability to handle such quotes or trades?

Dated: July 18, 2001.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–P

240.11Aa3–1) under the Exchange Act. *See* 17 CFR 240.10a–1(a)(1)(i).

[47] *See* Securities Exchange Act Release No. 44030 (March 2, 2001), 66 FR 14235 (March 9, 2001).

[48] *Id.* at n.16.

[49] The Commission is considering possible rule changes to address short selling in a decimals environment as a part of its overall review of Rule 10a–1. *See* Securities Exchange Act Release No. 42037 (October 20, 1999), 64 FR 57996 (October 28, 1999) (concept release soliciting public comment on the regulation of short sales).

[50] As discussed, *supra,* options priced above $3 trade in 10-cent increments, and options priced at $3 or less trade in 5-cent increments. In the Decimals Study, the Commission anticipates that the industry will address whether the minimum increment on options should be less than the current nickel and dime increments. *See supra* n.20.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[FRL–7017–4]

RIN 2090–AA14

Project XL Site-Specific Rulemaking for the Ortho-McNeil Pharmaceutical, Inc. Facility in Spring House, Pennsylvania

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing this rule to implement a pilot project under the Project XL program that would provide site-specific regulatory flexibility under the Resource Conservation and Recovery Act (RCRA), as amended, for the Ortho-McNeil Pharmaceutical, Inc. (OMP) facility in Spring House, Pennsylvania. The principal objective of this XL project is to determine whether regulatory oversight by the Nuclear Regulatory Commission (NRC) or NRC Agreement States under authority of the Atomic Energy Act (AEA) is sufficient to ensure protection of human health and the environment regarding the management of certain small volumes of mixed wastes (i.e., RCRA hazardous wastes that are also radioactive) that are both generated and treated in an NRC-licensed pharmaceutical research and development laboratory. Specifically, this XL project will allow for the treatment (through high-temperature catalytic oxidation) of small volumes of low-level mixed wastes (LLMW) to destroy the organic portion of the waste, generating a residual (in which the hazardous organic constituents are no longer detected) that can be managed as a low-level radioactive waste (i.e., no longer designated as a RCRA mixed waste and thus, no longer subject to RCRA regulatory requirements). If, as a result of this XL project, the Agency determines that certain small volumes of mixed wastes generated and managed in a research and development facility under NRC oversight need not also be subject to RCRA hazardous waste regulations to ensure protection of human health and the environment, EPA may consider adopting the approach on a national basis.

To implement this XL project, this proposed rule, when finalized, will provide a site-specific exclusion from the regulatory definition of hazardous waste for the mixed wastes generated and treated in OMP's research and development laboratory. The terms of the overall XL project are contained in a Final Project Agreement (FPA) which is included in the docket for this proposal. A draft version of the FPA was the subject of a Notice of Availability published in the **Federal Register** on September 1, 2000 (65 FR 53297) in which EPA solicited comment. The FPA was signed on September 22, 2000 by representatives of EPA, the Pennsylvania Department of Environmental Protection, and Ortho-McNeil Pharmaceutical. This proposed rule, when finalized, will allow for the implementation of the FPA.

DATES: *Public Comments:* Comments on the proposed rule and/or FPA must be received on or before August 23, 2001. All comments should be submitted in writing to the address listed below.

Public Hearing: Commenters may request a public hearing by August 7, 2001, during the public comment period. Commenters requesting a public hearing should specify the basis for their request. If EPA determines that there is sufficient reason to hold a public hearing, it will do so by August 14, 2001, during the last week of the public comment period. Requests for a public hearing should be submitted to the address below. If a public hearing is scheduled, the date, time, and location will be available through a **Federal Register** notice or by contacting Mr. Charles Howland at the U.S. EPA Region III office, at the address below.

ADDRESSES: *Comments:* Written comments should be mailed to the RCRA Information Center Docket Clerk (5305W), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460. Please send an original and two copies of all comments, and refer to Docket Number F–2001–OMPP–FFFFF.

Request for a Hearing: Requests for a hearing should be mailed to the RCRA Information Center Docket Clerk (5305G), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, D.C. 20460. Please send an original and two copies of all comments, and refer to Docket Number F–2001–OMPP–FFFFF. A copy should also be sent to Mr. Charles Howland at U.S. EPA Region III. Mr. Howland may be contacted at the following address: U.S. Environmental Protection Agency, Region III (3OR00), 1650 Arch Street, Philadelphia, PA, 19103–2029, (215) 814–2645.

Viewing Project Materials: A docket containing the proposed rule, Final Project Agreement, supporting materials, and public comments is available for public inspection and copying at the RCRA Information Center (RIC), located at Crystal Gateway, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RIC is open from 9:00am to 4:00pm Monday through Friday, excluding Federal holidays. The public is encouraged to phone in advance to review docket materials. Appointments can be scheduled by phoning the Docket Office at (703) 603–9230. Refer to RCRA docket number F–2001-OMPP-FFFFF. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost 15 cents per page. Project materials are also available for review for today's action on the World Wide Web at *http://www.epa.gov/projectxl/.*

A duplicate copy of the docket is available for inspection and copying at U.S. EPA Library, Region III, 1650 Arch Street, Philadelphia, PA 19107 during normal business hours. Persons wishing to view the duplicate docket at the Philadelphia location are encouraged to contact Mr. Charles Howland in advance, by telephoning (215) 814–2645.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Howland, U.S. Environmental Protection Agency, Region III (3OR00), 1650 Arch Street, Philadelphia, PA, 19103–2029. Mr. Howland can be reached at (215) 814–2645 (or *howland.charles@epa.gov*). Further information on today's action may also be obtained on the World Wide Web at *http://www.epa.gov/projectxl/.*

SUPPLEMENTARY INFORMATION: All other hazardous wastes generated and/or managed at the OMP facility remain subject to current RCRA Subtitle C regulations. Similarly, mixed wastes generated in other pharmaceutical research and development facilities remain subject to current RCRA regulations. This pilot project is intended to assess the appropriateness of the dual oversight (i.e., concurrent RCRA and AEA regulatory controls) exerted over the small volumes of mixed wastes generated and treated at this pharmaceutical research and development facility and to characterize those factors that may determine whether mixed wastes generated and treated in similar circumstances should also be excluded from the regulatory definition of hazardous wastes (and thus, RCRA regulatory control) by providing such regulatory flexibility on a national basis (in effect, deferring regulatory oversight of these specific types of mixed wastes to NRC or NRC Agreement States). The pilot project will also provide the Agency additional data regarding the performance of the on-site, bench-scale high-temperature catalytic

oxidation unit used to treat the mixed wastes, which will also be considered as part of any future determination regarding the implementation of the regulatory flexibility on a national basis.

The exclusion from the regulatory definition of hazardous waste for the mixed wastes generated at this Ortho-McNeil Pharmaceutical facility will remain in effect only for the five-year term of this XL project. The five-year term begins upon the effective date of the final rulemaking promulgated to allow for the XL project to be implemented.

Today's proposed rulemaking will not in any way affect the provisions or applicability of any other existing or future regulations.

EPA is soliciting comments on this rulemaking. EPA will publish responses to comments in a subsequent final rule, or in a ''Response to Comments'' document that will be included in the docket for the final rule. The XL project will enter the implementation phase when the final rule (or other legal mechanism) is promulgated by EPA and the Pennsylvania Department of Environmental Protection (PADEP).

Outline of Today's Proposal

The information presented in this preamble is organized as follows:

I. Authority

EPA is publishing this proposed regulation under the authority of sections 2002, 3001, 3002, 3003, 3006, 3007, 3010, 3013, and 7004 of the Solid Waste Disposal Act of 1970, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6912, 6921, 6922, 6923, 6926, 6927, 6930, 6934, and 6974).

II. Overview of Project XL

The Final Project Agreement (FPA) sets forth the intentions of EPA, PADEP, and the OMP Spring House, PA facility with regard to a project developed under Project XL, an EPA initiative that allows regulated entities to achieve better environmental results with limited regulatory flexibility. This proposed regulation, along with the FPA (contained in the docket for this proposal), will facilitate implementation of the project. Project XL—''eXcellence and Leadership''— was announced on March 16, 1995, as a central part of the National Performance Review and the Agency's effort to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). Project XL provides a limited number of private and public regulated entities an opportunity to develop their own pilot projects to request regulatory flexibility that will result in environmental protection that is superior to what would be achieved through compliance with current and reasonably-anticipated future regulations. These efforts are crucial to EPA's ability to test new strategies that reduce regulatory burden and promote economic growth while achieving better environmental and public health protection. EPA intends to evaluate the results of this and other Project XL projects to determine which specific elements of the projects, if any, should be more broadly applied to other regulated entities for the benefit of both the environment and the economy.

Under Project XL, participants in four categories—facilities, industry sectors, governmental agencies and communities—are offered the flexibility to develop common sense, cost-effective strategies that will replace or modify specific regulatory requirements, on the condition that they produce and demonstrate superior environmental performance.

The XL program is intended to encourage EPA to experiment with potentially promising regulatory approaches, both to assess whether they provide benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects allow EPA to proceed more quickly than would be possible when undertaking changes on a nationwide basis. As part of this experimentation, EPA may try out approaches or legal interpretations that depart from, or are even inconsistent with, longstanding Agency practice, so long as those interpretations are within the broad range of discretion enjoyed by the Agency in interpreting the statutes that it implements. EPA may also modify rules, on a site-specific basis, that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute.

Adoption of such alternative approaches or interpretations in the context of a given XL project does not, however, signal EPA's willingness to adopt that interpretation as a general matter, or even in the context of other XL projects. It would be inconsistent with the forward-looking nature of these pilot projects to adopt such innovative approaches prematurely on a widespread basis without first determining whether they are viable in practice and successful in the particular projects that embody them. Furthermore, as EPA indicated in announcing the XL program, EPA expects to adopt only a limited number of carefully selected projects. These pilot projects are not intended to be a means for piecemeal revision of entire programs. Depending on the results in these projects, EPA may or may not be willing to consider adopting the alternative interpretation again, either generally or for other specific facilities.

EPA believes that adopting alternative policy approaches and interpretations, on a limited, site-specific basis and in connection with a carefully selected pilot project, is consistent with the expectations of Congress about EPA's role in implementing the environmental

statutes (provided that the Agency acts within the discretion allowed by the statute). Congress' recognition that there is a need for experimentation and research, as well as ongoing re-evaluation of environmental programs, is reflected in a variety of statutory provisions, such as section 8001 of RCRA.

XL Criteria

To participate in Project XL, applicants must develop alternative environmental performance objectives pursuant to eight criteria: superior environmental performance; cost savings and paperwork reduction; stakeholder involvement and support; test of an innovative strategy; transferability; feasibility; identification of monitoring, reporting and evaluation methods; and avoidance of shifting risk burden. The XL projects must have the full support of the affected Federal, State, local and tribal agencies to be selected.

For more information about the XL criteria, readers should refer to the two descriptive documents published in the **Federal Register** (60 FR 27282, May 23, 1995 and 62 FR 19872, April 23, 1997), and the December 1, 1995 ''Principles for Development of Project XL Final Project Agreements'' document. For further discussion as to how the OMP XL project addresses the XL criteria, readers should refer to the Final Project Agreement available from the EPA RCRA docket or Region III library (see **ADDRESSES** section of today's preamble).

XL Program Phases

The Project XL program is compartmentalized into four basic developmental phases: the initial pre-proposal phase where the project sponsor comes up with an innovative concept that they would like EPA to consider as an XL pilot project; the second phase where the project sponsor works with EPA and interested stakeholders in developing an XL proposal; the third phase where EPA, local regulatory agencies, and other interested stakeholders review the XL proposal; and the fourth phase where the project sponsor works with EPA, local regulatory agencies, and interested stakeholders in developing a Final Project Agreement and legal mechanism. After promulgation of the final rule (or other legal mechanism) that provides the flexibility required for the XL pilot project, and after the Final Project Agreement has been signed by all designated parties, the XL pilot project proceeds onto implementation and evaluation.

Final Project Agreement

The Final Project Agreement (FPA) is a written voluntary agreement between the project sponsor and regulatory agencies. The FPA contains a detailed description of the proposed pilot project. It addresses the eight Project XL criteria, and the expectation of the Agency that the XL project will meet those criteria. The FPA identifies performance goals and indicators that the project is yielding the expected environmental benefits, and specifically addresses the manner in which the project is expected to produce superior environmental benefits. The FPA also discusses the administration of the FPA, including dispute resolution and termination. The FPA for this XL project is available for review in the docket for today's action, and also is available on the World Wide Web at *http://www.epa.gov/projectxl/.*

III. Overview of the OMP XL Pilot Project

EPA is today requesting comments on the proposed rule to implement key provisions of this Project XL initiative. Today's proposed rule would facilitate implementation of the FPA that has been developed by EPA, the Pennsylvania Department of Environmental Protection (PADEP), the Ortho-McNeil Pharmaceutical Spring House, PA facility, and other stakeholders. Today's proposed rule, when finalized, will automatically become effective under Pennsylvania State law in accordance with the Commonwealth's hazardous waste program, as described further in section IV.F. of this preamble.

A. To Which Facilities Will the Proposed Rule Apply?

This proposed rule, when finalized, would apply only to the OMP Spring House, PA facility. Further, the regulatory modification being proposed only affects the mixed waste that is the focus of this XL project; hazardous wastes resulting from any other operations at the facility are not affected by this proposed rule (or the final rule, when finalized).

B. What Problems Will the OMP XL Project Attempt to Address?

OMP does not believe the RCRA Subtitle C regulatory controls, as applied to the LLMW it generates and treats, provide any additional environmental protection than is otherwise provided by AEA oversight, but rather, RCRA Subtitle C regulatory controls serve as a major disincentive to the environmentally protective on-site treatment of the small volume of mixed wastes generated at the facility. While commercial treatment for such wastes is available, the on-site, bench-scale, high-temperature catalytic oxidation unit OMP will use to treat the mixed wastes has been demonstrated to be more efficient in preventing the emission of radioactivity to the atmosphere and at least as efficient, if not more, at destroying the organics than available commercial treatment. (The on-site treatment of OMP's mixed wastes has been extensively tested under a ''treatability study'' exemption provided in 40 CFR 261.4(f) granted by PADEP.) According to OMP, it does not intend to pursue a RCRA hazardous waste treatment permit for the catalytic oxidation unit because the costs of permitting cannot be justified from a business standpoint for the small volume of waste generated. Nor does OMP intend to become a commercial mixed waste treatment facility and receive mixed wastes from off-site in order to recover the costs of a RCRA permit. Further, the costs of existing off-site commercial treatment for the small volume of mixed wastes generated are very high and therefore limit the research and development of new pharmaceuticals because the waste management costs associated with these activities represent such a large percentage of the research and development budget.

1. Current Regulatory Status of Mixed Wastes

Mixed waste is a radioactive hazardous waste, subject to two statutory authorities: (1) The Resource Conservation and Recovery Act (RCRA) as implemented by EPA (or States authorized by EPA) with jurisdiction over the hazardous waste component; and (2) the Atomic Energy Act (AEA) as implemented by either the Department of Energy (DOE), or the Nuclear Regulatory Commission (NRC) (or its Agreement States) with jurisdiction over the radioactive component of the waste. The management of the mixed wastes that are the subject of this XL pilot project are therefore subject to both RCRA permitting and NRC licensing requirements and regulatory oversight from the point the waste is generated through to its final disposal.

Members of the regulated community have raised concerns that this dual regulatory oversight of low-level mixed waste (LLMW) is excessively burdensome, duplicative and costly without providing any additional protection of human health and the environment than that achieved under one regulatory regime. In response to these concerns, on April 30, 2001 EPA

Administrator Christine Todd Whitman signed a final mixed waste rule modifying the current regulatory framework to provide flexibility related to the storage, treatment (certain kinds of treatment), transportation and disposal for LLMW (see 66 FR 27217, May 16, 2001). This rule will become effective on November 13, 2001.

In developing the Mixed Waste Rule, EPA assessed NRC regulations for storage, treatment, transportation and disposal of low-level wastes (LLW) and compared them with EPA's regulations for hazardous waste storage, treatment, transportation and disposal applicable to LLMW. The Agency found that given NRC's regulatory controls, protection of human health and the environment from chemical risks would not be compromised by deferral to NRC's LLW management requirements. Accordingly, the Agency adopted a conditional exemption from certain RCRA hazardous waste management requirements for NRC-licensed generators of LLMW.

Basically, the Mixed Waste rule allows generators of LLMW to claim a conditional exemption from the RCRA regulatory definition of hazardous waste for mixed wastes stored, treated, transported or disposed of under the NRC regulatory regime, acknowledging the protectiveness of NRC regulations for LLW. (For the complete text of the Mixed Waste Rule, see 66 FR 27217, May, 16, 2001.) More specifically, the conditional exemption allows, among other things, a generator to treat LLMW generated under a single NRC or NRC Agreement State license, in tanks or containers, provided the form of treatment is allowed under its NRC or NRC Agreement State license. The conditional exemption is only available to generators of LLMW that are licensed by the NRC or NRC Agreement States. In addition, LLMW that meets the applicable LDR standards (either as generated or through treatment) may be transported and disposed of as a LLW at an NRC or NRC Agreement State licensed low level radioactive waste disposal facility (LLRWDF).

The treatment technology being employed by OMP is not exempted under the Mixed Waste Rule because it does not within a tank or container. The Agency determined that more specific controls (as are provided under RCRA) are more appropriate for certain forms of treatment, such as incineration, due to the complexity of the treatment and the specificity of RCRA requirements. This XL pilot project affords the Agency an opportunity to test whether a defined subset of LLMW (e.g., small volumes of research and development laboratory-generated mixed wastes being treated within the NRC-licensed laboratory in which the wastes are generated) may safely be treated outside of a tank or container (e.g., use of a bench-scale high temperature catalytic oxidation process) without RCRA regulatory controls (i.e., a treatment permit pursuant to Subtitle C of RCRA), instead relying on AEA regulations implemented by the NRC.

2. Site-Specific Considerations at the OMP Facility

Ortho-McNeil Pharmaceutical (OMP) in Spring House, Pennsylvania conducts research and development of pharmaceuticals/drugs. OMP develops and utilizes radiolabeled compounds to conduct this research and development, specifically to study the bioabsorption and metabolism of the drugs, in compliance with Food and Drug Administration (FDA) requirements. The radiolabeled compounds consist of an isotopically-labeled organic compound and a solvent (the specific solvent varies with the research being conducted). The solvent is mixed with a radioisotope (typically carbon-14 (^{14}C) or tritium (^{3}H)), yielding both the desired radiolabeled compound, and a waste mixture that consists of radioactive materials (for which NRC has jurisdiction) and a hazardous organic component (for which EPA has jurisdiction). This radioactive/hazardous organic waste mixture is the low-level mixed waste (LLMW) that is the focus of this XL pilot project. The estimated volume of mixed waste produced per batch ranges from less than 50 milliliters to several liters, with an annual total volume of less than 50 liters.

OMP has developed an innovative bench-scale treatment process (i.e., a high-temperature catalytic oxidization unit), which oxidizes the mixed waste, thereby destroying its hazardous components (yielding water and C_2) and capturing the radioactivity in the aqueous residuals or as radioactive CO_2. In this process, the liquid LLMW is completely reacted with oxygen or air at high temperature in the presence of an oxidation catalyst.

In general, the treatment unit consists of an electrically heated, stainless steel tube packed with platinum catalyst, with the heat being provided using a tube furnace equipped with three separately controlled heating zones. The commercially available tube furnace has an interior volume measuring 57.4cm long, with a diameter of 7.6cm. The catalyst tube measures 117cm long with an inside diameter of 28.6 mm, and is packed in three sections. The first section (i.e., the entrance to the catalyst bed) is packed with 15g of untreated alumina pellets. The second section (approximately 152mm long) is packed with 100g of 0.5% platinum metal coated on 3.2mm pellets of gamma alumina. The final portion of the catalyst bed consists of 430g of untreated alumina pellets. Liquid samples of LLMW are pumped into the heated (start-up temperature is set at 750°C, with a maximum operational temperature of 850°C) catalyst tube through a 0.51mm stainless steel inlet tube using a positive displacement pump providing a steady and pulseless flow. Either air or oxygen is used as the oxidant gas depending on the type of LLMW being processed.

A safety monitoring system providing basic on/off control of the pump monitors both high and low gas pressure and temperature during operation. An unsafe condition, such as no oxygen flow, excess back pressure or high temperature, is quickly detected and causes the monitor to turn off electric power to the sample pump, placing the unit in a safe standby mode until reset by an operator.

The tritiated water, radioactive carbon dioxide and other by-products of the catalytic oxidation of the LLMW are effectively collected in a series of pressure-tight trapping vessels. For tritium-labeled materials, three dry-ice cooled cold traps are used in series. For this type of LLMW, the hot effluent stream passes into a 2-liter flask cooled with dry ice, in which the vapors condense into liquids. Uncollected vapors are passed through a water-cooled reflux condenser and then through two dry-ice cooled 1L round bottom flasks connected in series to complete condensation. For carbon 14-labeled materials, the exit gases are first cooled by passing through a water-cooled glass heat exchanger and then through a series of four 1-liter gas scrubbing bottles. The bottles are charged with a 45% solution of potassium hydroxide, which is dilute enough to solubolize the potassium carbonate that is produced when completely saturated with carbon dioxide. Additional traps may be added in series for either type of LLMW to increase capacity or achieve greater recovery of radioactive by-products, and the materials collected in the trapping vessels can be run through the treatment process again to achieve a higher destruction and removal efficiency if the first pass was not effective. Also, other by-products of the treatment process (e.g., hydrochloric acid or nitric acid, depending on the composition of the LLMW) can be effectively trapped and recovered. [Note that a more complete

technical description of the treatment unit, operational parameters and analytical methodology is presented in a document titled ''A Prototype High-Temperature Catalytic Oxidation Process For Mixed Waste In A Pharmaceutical Research Laboratory,'' available in the docket for this proposal.]

The treatment of carbon-14 labeled compounds generates radioactive CO_2 (which, as described above, is converted to potassium carbonate) and the treatment of tritium labeled compounds generates radioactive (i.e., tritiated) water. These residual low-level wastes could then be sent off-site for stabilization and disposal under NRC or NRC Agreement State regulation. [The Agency notes that because the residuals are more homogeneous, they are more amenable to recycling (e.g., recovery of tritium); however, recycling the small volumes of residuals currently being generated at the OMP Spring House facility is not currently economically viable.] For tritium containing compounds, the volume of the treatment residual is generally the same volume as the wastestream being treated. For carbon-14 containing compounds, the volume of the treatment residuals is generally only slightly higher than the volume of the original wastestream being treated. The yearly estimated volume of the treatment residuals generated by the high-temperature catalytic oxidation of LLMW at OMP's Spring House facility is 50 liters per year, which is about the same as the volume for the original LLMW (i.e., less than 50 liters per year).

OMP has been operating this innovative catalytic oxidation process for the treatment of the mixed wastes it generates since 1996 under a ''treatability study exemption'' approved by the Pennsylvania Department of Environmental Protection (PADEP). This treatability study is being conducted to evaluate the performance of the catalytic oxidation process on the organic component of these mixed wastes and the capture of the radioactive components. To date, the study has yielded extremely positive results, demonstrating that the full range of organics used to produce radiolabeled compounds are effectively eliminated (routinely achieving destruction and removal efficiencies (DRE) of 99.999% to 99.99999%) by the high-temperature catalytic oxidation process. Therefore, the treatment process exceeds LDR treatment standards for organics and only negligible amounts of radioactivity are released.[1]

The catalytic oxidation unit is housed in a laboratory fume hood within OMP's radiosynthesis laboratory suite. All seven fume hoods in the lab suite are connected to a dedicated stack for air emissions. This air pollution control system employs high efficiency particulate arresting (HEPA) filtration to capture any fugitive dusts or particulate matter. No other pharmaceutical research operations, or other processes performed at the facility are tied into this system. Air emissions monitoring for radioactivity is performed whenever the process is operating. The monitoring is of the consolidated non-turbulent air stream within the ventilation system after the juncture of the seven hoods and prior to emissions into the atmosphere via the dedicated stack.

C. What Solution is Proposed by the OMP XL Project?

OMP's position is that it would like to continue to use the bench-scale high-temperature catalytic oxidation unit to treat the mixed wastes it generates without having to acquire a RCRA permit (although the laboratory in which the wastes are generated and treated will continue to be subject to an NRC license), and that the residuals from the treatment process be ''delisted'' (pursuant to 40 CFR 260.22) such that the residuals are no longer RCRA hazardous wastes (and thus not subject to RCRA manifesting or disposal permit requirements). OMP believes that the NRC license that covers the laboratory during the development of the radiolabeled compounds and the generation of the mixed waste (as well as the treatment of the mixed waste) is sufficient to protect human health and the environment, especially considering the very small volumes of wastes being generated and treated, the small size of the treatment unit, the proximity of the treatment unit to the point of generation (the wastes are both generated and treated within the same laboratory room), the sophisticated level of expertise of the technicians that work in the lab, and the protective controls (e.g., emission limits) required by the NRC license. An additional requirement to obtain a RCRA permit will not afford any increase in protectiveness.

Moreover, OMP has stated that if it is required to obtain a RCRA permit to operate the catalytic oxidation unit, it will cease to operate the unit and instead will opt to send the small volumes of mixed wastes off-site to a commercial mixed waste facility. And although the commercial facility has a RCRA permit, OMP's position is that the catalytic oxidation unit is more efficient at destroying the organics and preventing the release of radioactivity, thus providing a superior environmental performance relative to existing commercial treatment available for mixed wastes.

Therefore, OMP's opinion is that the most practical outcome of this project is for OMP to continue to be able to treat the small volumes of mixed wastes within the same laboratory that created the wastes, under the regulatory oversight provided by the NRC license (rather than RCRA), and that the residual wastestream (after treatment in the catalytic oxidation unit) be removed from RCRA jurisdiction because the organics (i.e., the constituents that initially ''trigger'' RCRA regulation of the mixed wastes) are no longer found in the treatment residuals.

As an additional point, should the regulatory flexibility (and the resulting significant cost savings), provided for this XL project be promulgated on a permanent basis, OMP expects to be able to invest significantly more in research and development of pharmaceuticals to the benefit of society as a whole. One side effect of such a boon to pharmaceutical research and development, however, is the generation of greater volumes of LLMW. OMP estimates that if the regulatory flexibility being provided through this XL project were to be promulgated permanently, the volume of curies of LLMW being generated through the research and development activities could increase from the current 10 curies/year to approximately 50 curies/year. OMP notes that even if greater volumes of LLMW are generated, the environment will continue to benefit through the use of the high-temperature catalytic oxidation to treat the mixed wastes because of its superior performance in destroying organics and capturing radioactivity, relative to available commercial treatment capacity for mixed wastes.

D. What Regulatory Changes Will Be Necessary To Implement This Project?

To allow for this XL project to be implemented, the Agency is proposing in today's notice to provide a site-specific exclusion in 40 CFR 261.4(b) (*i.e.*, ''Solid wastes which are not

[1] During calendar year 1999, air emissions monitoring revealed an annual average concentration of 3.55E-12 uCi/mL for tritium and 3.03E-11 uCi/mL for carbon-14. This volume of air emissions is less than 0.05% of the limits specified by NRC in 10 CFR Part 20 for allowable concentrations in effluent air (i.e., 2.00E-8 uCi/mL for tritium and 6.00E-8 uCi/mL for carbon-14). Note that these units are expressed in microcuries (10–6 curies)/milliliter.

hazardous wastes'') for the mixed wastes generated and treated in OMP's pharmaceutical research and development (R&D) laboratory. The effect of this exclusion, assuming all the conditions are met, will be to exclude these wastes from RCRA Subtitle C regulation at the point of generation, an approach that varies slightly from the approach taken in the Mixed Waste Rule. Instead of being considered ''mixed wastes,'' these wastes will simply be considered low-level wastes (LLWs) subject to NRC or NRC Agreement State regulation. Further, because the residuals resulting from the catalytic oxidation treatment process will not be derived from hazardous wastes, no ''delisting'' is required for these residuals (since the original wastestream was not a RCRA ''listed'' waste). And while this is not the specific regulatory flexibility that OMP requested, the Agency believes this regulatory mechanism is the most efficient way to provide OMP with the regulatory outcome it seeks.

The site-specific exclusion being proposed today is conditioned on various reporting requirements intended to provide the Agency with the data necessary to determine whether this XL pilot project is a success and whether the regulatory flexibility should be ''transferred'' to the national program (which, if it occurs, would happen through normal rulemaking procedures). The specific conditions are further discussed in section III.H.

E. Why Is EPA Supporting This Approach To Removing RCRA Regulatory Controls Over a Mixed Waste?

The Agency agrees with OMP that this XL project has merit and has the potential to result in significant environmental benefits should the regulatory flexibility be adopted on a national basis. While the Agency has recently adopted the Mixed Waste Rule to generically address the regulation of mixed wastes, Project XL offers the Agency the opportunity to test alternative approaches, and in this case, an alternative approach tailored to a specific subset of the generic category of ''mixed wastes.'' EPA's Mixed Waste Rule, which conditionally exempts LLMW from the RCRA regulatory definition of hazardous waste for certain waste management activities that are subject to an NRC or NRC Agreement State license, however, will not provide the regulatory flexibility that OMP seeks (the rule does not exempt OMP's high temperature catalytic oxidation process). While the Agency continues to maintain that, as a general rule, mixed waste treatment processes that cannot be undertaken in a tank or container warrant RCRA oversight, the Agency also believes it is appropriate to test whether a particular mixed waste treatment process (that occurs outside of a tank or container) for a discrete subset of mixed wastes may be adequately regulated under the NRC regulatory regime.

In this specific XL pilot project, EPA is testing its belief that, in certain scenarios (*e.g.*, small volumes of pharmaceutical R&D-generated LLMW being treated by a bench-scale high temperature catalytic oxidation unit in an NRC-licensed laboratory), NRC regulatory oversight provides sufficient safeguards to ensure protection of human health and the environment without additional RCRA Subtitle C oversight. In other words, while the Agency maintains that its concerns regarding the general issue of certain forms of treatment of mixed wastes are warranted, EPA believes the case-specific considerations present here (*e.g.*, the very small volumes of wastes being generated and treated, the small size of the treatment unit, the proximity of the treatment unit to the point of generation, the sophisticated level of expertise of the technicians that work in the laboratory, and the protective controls required by the NRC license) warrant a test as an exception to the general rule.

Indeed, this is the type of ''test'' Project XL is intended to facilitate. The information and data gathered throughout the course of this XL project will provide the Agency with the ability to make a more informed determination regarding the appropriate regulatory controls for generic ''mixed waste'' as well as possible discrete subsets of ''mixed waste'' that may be amenable to an alternative regulatory approach.

F. How Have Various Stakeholders Been Involved in this Project?

OMP and other industrial facilities in the local area enjoy a good working relationship with the local residential community. During the developmental stages of this XL pilot project, OMP cultivated stakeholder involvement from the local community and local environmental groups in a variety of ways. These methods included communicating through the local news media, announcements at Township meetings, public meetings and direct contact with interested parties.

The local community has been involved in this XL project through several means. OMP actively participates in two community environmental groups: the Lower Gwynedd Township Industrial Compact (''Compact'') and the Community Advisory Council (CAC). The Compact consists of members of the five major industrial facilities in Lower Gwynedd Township (LGT), including OMP, plus the LGT Supervisors, Township Manager, Fire Marshal and two township citizens. The Compact meets quarterly and provides a regular forum for open discussions about all relevant, useful information about the use of hazardous substances within LGT and other environmentally related issues. The Compact has provided a particularly useful venue for stakeholder outreach and participation.

As stated above, OMP is also a regular member of the CAC. The CAC has approximately 30 community residents who meet to discuss local business issues, including environmental issues, on a quarterly basis. During the development stages of this project, OMP provided continuous updates on this XL project to the Compact and CAC and plans to continue updating the community groups during the implementation of the XL pilot project.

Also, OMP hosted a public meeting at the OMP facility on this XL pilot project on February 28, 2000. OMP announced the acceptance of the project by EPA and invited the community to attend the public meeting at a LGT Supervisor meeting on February 16, 2000. A newspaper article announcing the public meeting was published in a local newspaper (The Reporter) on February 16, 2000. OMP also personally invited all the members of the LGT Compact and the CAC, as well as the Executive Director of the local Wissahickon Valley Watershed Association, to attend the public meeting. A post-public meeting article was published in the Ambler Gazette (another local newspaper) on March 1, 2000.

On July 18, 2000, OMP hosted a second stakeholder meeting at its Spring House facility. The meeting was attended by representatives from EPA, PADEP, OMP and Johnson & Johnson and focused specifically on concerns raised by the Sierra Club, which was also represented at the meeting. The Sierra Club representative was thoroughly briefed about the EPA Project XL Program, as well as about all aspects of this specific XL project, and attendees were given a tour of the radiosynthesis laboratory suite in which the mixed wastes are both generated and treated. After the meeting, the Sierra Club submitted extensive comments on the draft FPA (which was in development at the time). The FPA was modified to address these comments.

OMP will continue to hold public meetings with the local community to provide updates and information on this XL pilot project, as needed.

G. How Will This Project Result in Cost Savings and Paperwork Reduction?

As stated earlier, if OMP is required to obtain a RCRA permit to operate the catalytic oxidation unit, it will decline to seek such a permit and instead will send the small volume of mixed wastes generated to a commercial treatment facility.[2] For mixed wastes, commercial treatment costs are typically based primarily upon the level of radioactivity (*i.e.*, number of curies) being treated, as well as the volume of the waste. The costs range from approximately $20,000–$35,000 per curie, with an average cost of $30,000/curie. For OMP, which generates up to 10 curies of mixed waste per year, this represents $300,000/year. Other cost savings, such as reduced transportation costs and administrative/paperwork savings resulting from no longer having this wastestream be defined as a RCRA hazardous waste (*i.e.*, mixed waste), are relatively minor compared with the costs of commercial LLMW treatment.

EPA understands that research activities, such as the radiolabeling which generates OMP's mixed wastes, are often limited by the high costs of waste management. Because waste management costs are such a major factor in the budgets allocated to such R&D activities, the high cost of waste management significantly reduces the money actually spent on R&D. With more cost-effective treatment (such as OMP's on-site bench-scale catalytic oxidation unit), more money could be spent on the actual research and development of pharmaceuticals. OMP estimates that if the synthesis research that currently generates the mixed wastes was not severely restricted by current waste disposal options and the costs associated with these options, the amount of curies of mixed wastes being generated at its facility could increase from the current 10 curies/year to approximately 50 curies/year (which could increase OMP's cost savings to $1.5 million annually).

[2] OMP's belief is that the current RCRA permitting requirements are intended to apply to commercial hazardous waste treatment facilities. Economically, it would be difficult to justify investing the costs of obtaining and maintaining a RCRA Subtitle C permit unless OMP sought to recoup such costs through commercial activities (*i.e.*, treating wastes generated by other generators and charging a fee for this service). OMP states that it is not in the commercial waste treatment business, nor does it ever intend to be, and therefore, it would not seek such a permit.

H. What Are the Terms of the OMP XL Project and How Will They Be Enforced?

As stated earlier, to implement this XL pilot project, EPA proposes to amend 40 CFR 261.4(b) to provide a site-specific exclusion from the regulatory definition of hazardous waste for OMP's low-level mixed wastes generated and treated in their radiosynthesis laboratory, which is subject to a ''Type A Broad Scope'' NRC license for research and development. In accordance with 25 Pa. Code section 261a.1 of Pennsylvania's RCRA-authorized hazardous waste program, EPA's exclusion of OMP's mixed waste from the regulatory definition of hazardous waste under RCRA will be automatically incorporated in Pennsylvania's hazardous waste regulations because the State hazardous waste regulations incorporate 40 CFR 261.4(b) by reference, including any modification or additions made to that section by the Federal program.

Through the development of the Final Project Agreement (FPA), OMP has agreed to comply with several conditions for this exclusion, which will be included in the regulatory text of the exclusion being proposed today. These conditions are focused on proving the efficacy of the treatment technology, and to gather the data and other information that will allow the Agency to make a determination regarding the possible future adoption of this site-specific exclusion as a nationwide generic exclusion.

The site-specific exclusion proposed here will be limited to a total volume of 50 liters/year of mixed waste and only applies to mixed wastes that are generated and treated using the high-temperature catalytic oxidation process within the OMP Spring House facility's radiosynthesis laboratory. In addition, the exclusion is further conditioned such that OMP must report, on a semi-annual basis, the following:

(1) Analysis demonstrating the destruction and removal efficiencies for all organic components of the excluded wastes subject to treatment.

(2) Analysis demonstrating the capture efficiencies for the radioactive component of the excluded wastes subject to treatment, and an estimate of the amount of radioactivity that was released during the reporting period.

(3) Analyses of the constituent concentrations, including inorganic constituents, present and radioactivity of the excluded wastes prior to and after being treated.

(4) The volume of excluded wastes treated per batch, as well as a total for the duration of the reporting period.

(5) The final disposition of the radioactive residuals from the treatment of the excluded wastes.

In addition, OMP commits to work with other companies, organizations and research institutes to: (1) Further develop a standard, bench-scale off-the-shelf treatment unit, based on its high-temperature catalytic oxidation technology, to be made available to all companies and institutions that generate similar R&D quantities of mixed wastes, and (2) further develop the technology and market for the recycling and reuse of the radioactive component of the LLMW (*i.e.*, the LLW residuals resulting from the treatment of the LLMW).

As part of meeting this commitment, OMP will prepare (and submit to EPA for review and comment) a proposed plan summarizing how it will accomplish this goal. Because these two commitments involve the participation of other companies and entities outside OMP's control and so are much less certain than the conditions discussed above, these commitments are not being made conditions of the exclusion. However, in evaluating the success of this XL project, these ''non-enforceable'' commitments will be considered by EPA and PADEP.

I. How Long Will this Project Last and When Will It Be Completed?

This project will be in effect for five years from the date that the final rulemaking becomes effective, unless it is terminated earlier or extended by all project signatories (if the FPA and rule are extended, this will be done through a rulemaking seeking the comments and input of stakeholders and the public). Any project signatory may terminate its participation in this project at any time in accordance with the procedures set forth in the FPA. The project will be completed at the conclusion of the five-year anniversary of the final rulemaking or at a time earlier or later as agreed to by the parties involved.

IV. Additional Information

A. How To Request a Public Hearing

A public hearing will be held, if requested, to provide opportunity for interested persons to make oral presentations regarding this regulation in accordance with 40 CFR Part 25. Persons wishing to make an oral presentation on the site-specific rule to implement the OMP XL project should contact Mr. Charles Howland of the Region III EPA office, at the address given in the **ADDRESSES** section of this document. Any member of the public may file a written statement before the hearing, or after the hearing, to be

received by EPA no later than August 23, 2001. Written statements should be sent to EPA at the addresses given in the **ADDRESSES** section of this document. If a public hearing is held, a verbatim transcript of the hearing, and written statements provided at the hearing will be available for inspection and copying during normal business hours at the EPA addresses for docket inspection given in the **ADDRESSES** section of this preamble.

B. How Does This Rule Comply With Executive Order 12866: Regulatory Planning and Review?

Because this rule affects only one facility, it is not a rule of general applicability and therefore not subject to OMB review and Executive Order 12866. In addition, OMB has agreed that review of site-specific rules under Project XL is not necessary.

C. Is a Regulatory Flexibility Analysis Required?

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.*, generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This rule will not have a significant impact on a substantial number of small entities because it only affects the OMP facility in Spring House, PA and it is not a small entity. Therefore, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities.

D. Is an Information Collection Request Required for This Project Under the Paperwork Reduction Act?

This action applies only to one facility, and therefore requires no information collection activities subject to the Paperwork Reduction Act, and therefore no information collection request (ICR) will be submitted to OMB for review in compliance with the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.*

E. Does This Project Trigger the Requirements of the Unfunded Mandates Reform Act ?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

As noted above, this rule is applicable only to one facility in Pennsylvania. EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. EPA has also determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

F. RCRA & Hazardous and Solid Waste Amendments of 1984

1. Applicability of Rules in Authorized States

Under section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program for hazardous waste within the State. (See 40 CFR Part 271 for the standards and requirements for authorization.) States with final authorization administer their own hazardous waste programs in lieu of the Federal program. Following authorization, Pennsylvania would continue to have enforcement responsibility under its State law to pursue violations of its hazardous waste program. EPA continues to have independent enforcement authority under sections 3007, 3008, 3013 and 7003 of RCRA.

After authorization, Federal rules issued under RCRA provisions that pre-date the Hazardous and Solid Waste Amendments of 1984 (HSWA), no longer apply in the authorized state. New Federal requirements imposed by non-HSWA rules do not take effect in an authorized State until the State adopts the requirements as State law.

In contrast, under section 3006(g) of RCRA, new requirements and prohibitions imposed by HSWA take effect in authorized States at the same time they take effect in nonauthorized States. EPA is directed to carry out HSWA requirements and prohibitions in authorized States until the State is granted authorization to do so.

2. Effect on Pennsylvania Authorization

Today's proposed rule, if finalized, would be promulgated pursuant to non-HSWA authority, rather than HSWA. Pennsylvania initially received authority from EPA to implement its base hazardous waste program effective January 30, 1986 (see 51 FR 1791; January 15, 1986). Because EPA issued regulations clarifying that the hazardous waste component of mixed waste was subject to RCRA after Pennsylvania received its initial RCRA base authorization (see 51 FR 24504; July 3, 1986), mixed waste was not initially included within Pennsylvania's authorized base program. Pennsylvania subsequently applied to EPA, seeking approval that its hazardous waste program, as revised (including its adoption of regulations governing mixed waste), complied with RCRA. Under the terms of the Commonwealth's hazardous waste program, subsequent modifications and additions to EPA's RCRA regulations as published in the Code of Federal Regulations (with certain exceptions not relevant here) are automatically incorporated into the Commonwealth's hazardous waste program. See 29 Pa. Bull. 2367, 2370 (May 1, 1999), 65 FR at 57734 and 57736 (Sept. 26, 2000).

On September 26, 2000 EPA published notice of Final Authorization of Pennsylvania's hazardous waste program, including specifically its regulation of mixed waste, effective

November 27, 2000. See 65 FR at 57734 and 57736 (Sept. 26, 2000). EPA did not receive any adverse comments, and thus EPA's authorization of Pennsylvania's hazardous waste program (including mixed wastes) became effective November 27, 2000.

This XL project was undertaken and developed (by EPA, PADEP, and OMP) with the assumption that Pennsylvania would receive authorization for mixed wastes, necessitating the regulatory flexibility on the part of PADEP to implement the XL project. Since Pennsylvania has had RCRA authorization for mixed wastes since November 27, 2000, and because Pennsylvania's definition of hazardous waste under the Pennsylvania Solid Waste Management Act (PaSWMA), including its exclusions, incorporates RCRA's analogous provisions upon their promulgation, this rule, upon adoption by Pennsylvania, will have the effect of excluding OMP's mixed wastes from regulation by the Commonwealth as a hazardous waste under its hazardous waste program.

G. How Does This Rule Comply With Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks ?

The Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant,'' as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant rule, as defined by Executive Order 12866, and because it does not involve decisions based on environmental health or safety risks.

H. Does This Rule Comply With Executive Order 13132: Federalism?

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial and 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.''

The proposed rule does not have federalism implications. It will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of powers and responsibilities among various levels of government, as specified in Executive Order 13132. The proposed rulemaking will only affect one facility, providing regulatory flexibility applicable to this specific site. Thus, Executive Order 13132 does not apply to this proposed rule.

I. How Does This Rule Comply With Executive Order 13175: Consultation and Coordination With Indian Tribal Governments?

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

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. EPA is currently unaware of any Indian tribes located in the vicinity of the facility. Thus, Executive Order 13175 does not apply to this rule.

J. Does This Rule Comply With the National Technology Transfer and Advancement Act?

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standard. This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous materials, Waste treatment and disposal.

Dated: July 18, 2001.

Christine Todd Whitman,

Administrator.

For the reasons set forth in the preamble, Part 261 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, 6924(y), and 6938.

Subpart A—General

2. Section 261.4 is amended by adding paragraph (b)(17) to read as follows:

§ 261.4 Exclusions.

* * * * *

(b) * * *

(17) Mixed waste that would otherwise meet the definition of a hazardous waste pursuant to § 261.3 that is generated and treated using an on-site bench-scale high temperature catalytic oxidation unit at the Ortho-McNeil Pharmaceutical, Inc. (OMP) research and development facility in Spring House, Pennsylvania are excluded from the definition of hazardous waste provided that:

(i) The total volume of mixed waste that would otherwise meet the definition of a hazardous waste pursuant to 261.3 that is subject to this exclusion is no greater than 50 liters/year,

(ii) OMP submits a written report to the EPA Region III office once every six months beginning six months after [EFFECTIVE DATE OF THE FINAL RULE] that must contain the following:

(A) Analysis demonstrating the destruction and removal efficiency of the treatment technology for all organic components of the wastestream,

(B) Analysis demonstrating the capture efficiencies of the treatment technology for all radioactive components of the wastestream and an estimate of the amount of radioactivity released during the reporting period,

(C) Analysis (including concentrations of constituents, including inorganic constituents, present and radioactivity) of the wastestream prior to and after treatment,

(D) Volume of the wastestream being treated per batch, as well as a total for the duration of the reporting period, and

(E) Final disposition of the radioactive residuals from the treatment of the wastestream.

(iii) OMP makes no significant changes to the design or operation of the high temperature catalytic oxidation unit or the wastestream.

(iv) This exclusion will remain in effect for 5 years from [the effective date of the final rule].

* * * * *

[FR Doc. 01–18408 Filed 7–23–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[FRL–7017–2]

Land Disposal Restrictions: Notice of Intent to Grant Two Site-Specific Treatment Variances—U.S. Ecology Idaho, Incorporated in Grandview, Idaho and CWM Chemical Services, LLC in Model City, New York

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is proposing to grant two site-specific treatment variances from the Land Disposal Restrictions (LDR) standards for wastes generated at U.S. Ecology Idaho, Incorporated (USEII) in Grandview, Idaho, and CWM Chemical Services, LLC (CWM) in Model City, New York. Both these waste streams are derived from the treatment of multiple listed and characteristic hazardous wastes, including K088 (spent potliners from primary aluminum reduction). USEII and CWM are both requesting treatment variances for K088 derived from hazardous waste because they contend that the chemical properties of their wastes differ significantly from the waste used to establish the LDR treatment standard for arsenic in K088 nonwastewaters. Because we believe that the Petitioners are correct, we are proposing to grant an alternate treatment standard of 5.0 mg/L Toxicity Characteristic Leaching Procedure (TCLP) for the arsenic in the K088 derived emission control dust from the USEII facility and for the arsenic in the K088 derived baghouse dust, incinerator ash, and filtercake from the CWM facility.

If promulgated, USEII and CWM may dispose of their respective waste in on-site RCRA Subtitle C landfills provided the waste complies with the specified alternate treatment standard for arsenic in K088 nonwastewaters and meets all other applicable LDR treatment standards.

DATES: Comments will be accepted until August 14, 2001. Comments postmarked after the close of the comment period will be stamped ''late'' and may or may not be considered by the Agency.

ADDRESSES: Commenters should submit an original and two copies of their comments referencing Docket Number F–2001–TVLN–FFFFF to: (1) if using regular U.S. Postal Service mail: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA–HQ), 1200 Pennsylvania Avenue, NW, Washington DC 20460–0002, or (2) if using special delivery, such as overnight express service: RCRA Docket Information Center (RIC), Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, VA 22202.

You may view public comments and supporting materials in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 am to 4 pm Monday through Friday, excluding federal holidays. To review docket materials, we recommend that you make an appointment by calling 703–603–9230. You may copy up to 100 pages from any regulatory document at no charge. Additional copies cost $0.15 per page. (The index is available electronically. See the ''Supplementary Information'' section for information on accessing them).

FOR FURTHER INFORMATION CONTACT: For general information, call the RCRA Hotline at 1–800–424–9346 or TDD 1–800–553–7672 (hearing impaired). The RCRA Hotline is open Monday–Friday, 9 am to 6 pm, Eastern Standard Time. For more detailed information on specific aspects of this proposal, contact Elaine Eby at 703–308–8449, eby.elaine@epa.gov, or write her at the Office of Solid Waste, 5302W, U.S. Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002.

SUPPLEMENTARY INFORMATION:

Electronic Comment Submission

You may submit comments electronically by sending electronic mail through the Internet to: rcra-docket@epa.gov. You should identify comments in electronic format with the docket number F–2001–TVLN–FFFFF. You must submit all electronic comments as an ASCII (text) file, avoiding the use of special characters or any type of encryption. If possible, EPA's Office of Solid Waste (OSW) would also like to receive an additional copy of the comments on disk in WordPerfect 6.1 file format.

You should not submit electronically any confidential business information (CBI). You must submit an original and two copies of CBI under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460–0002.

Availability of Rule on Internet

Please follow these instructions to access the rule: From the World Wide Web (WWW), type *http://www.epa.gov/epaoswer/hazwaste/ldr/cwm.htm.*

The official record for this action will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into paper form and place them in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the RIC listed in the **ADDRESSES** section at the beginning of this document.

EPA's responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register** or in a response to comments document placed in the official record for this notice. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

How Can I Influence EPA's Thinking on This Rule?

We invite you to provide different views on options we propose, new

approaches we haven't considered, new data, how this rule may effect you, or other relevant information. Your comments will be most effective if you follow the suggestions below:

- Explain your views as clearly as possible and why you feel that way.
- Provide solid technical data to support your views.
- Tell us which parts you support, as well as those you disagree with.
- Provide specific examples to illustrate your concerns.
- Offer specific alternatives.
- Make sure to submit your comments by the deadline in this notice.
- Be sure to include the name, date, and docket number with your comments.

The Agency will consider the public comments during development of the final rule related to this action. The Agency urges commenters submitting data in support of their views to include evidence that appropriate quality assurance/quality control (QA/QC) procedures were followed in generating the data. Data the Agency cannot verify through QA/QC documentation may be given less consideration or disregarded in developing regulatory options for the final rule.

For guidance see Final Best Demonstrated Available Technology (BDAT) Background Document for Quality Assurance/Quality Control Procedures and Methodology; USEPA, October 23, 1991.

Table of Contents

I. Why and How Are Treatment Variances Granted?

Under Section 3004(m) of the Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments of 1984, EPA is required to set ''levels or methods of treatment, if any, which substantially diminish the toxicity of the waste or substantially reduce the likelihood of migration of hazardous constituents from the waste so that short-term and long-term threats to human health and the environment are minimized.'' We have interpreted this language to authorize treatment standards based on the performance of best demonstrated available technology (BDAT). This interpretation was sustained by the court in *Hazardous Waste Treatment Council* vs. *EPA*, 886 F. 2d 355 (D.C.Cir.1989).

We recognize that there may be wastes that cannot be treated to levels specified in the regulation (see 40 CFR 268.40) (51 FR 40576, November 7, 1986). For such wastes, a treatment variance exists (40 CFR 268.44) that, if granted, becomes the treatment standard for the waste at issue.

Treatment variances may be generic or site-specific. A generic variance can result in the establishment of a new treatability group and a corresponding treatment standard that applies to all wastes that meet the criteria of the new waste treatability group (55 FR 22526, June 1, 1990). A site-specific variance applies only to a specific waste from a specific facility. Under 40 CFR 268.44(h), a generator or treatment facility may apply to the Administrator, or EPA's delegated representative, for a site-specific variance in cases where a waste that is generated under conditions specific to only one site and cannot or should not be treated to the specified level(s). Under provision 40 CFR 268.44(h)(1), the applicant for a site-specific variance must demonstrate that because the physical or chemical properties of the waste differ significantly from the waste analyzed in development of the treatment standard, the waste cannot be treated by BDAT to the specified levels or by the specified method(s). Although there are other grounds for obtaining treatment variances, we will not discuss those in this notice because this is the only provision relevant to the present petitions. U.S. Ecology Idaho, Incorporated submitted their request for a treatment variance in September 2000. CWM Chemical Services LLC submitted their request in December 2000. All information and data used in the development of this proposal can be found in the RCRA docket supporting this rule.

II. Establishment of Treatment Standards for K088

K088, the EPA waste code for spent potliners from primary aluminum reduction (See 40 CFR 261.32), is generated by the aluminum industry. Aluminum production occurs in four distinct steps: (1) Mining of bauxite ores; (2) refining of bauxite to produce alumina; (3) reduction of alumina to aluminum metal; and (4) casting of the molten aluminum. Bauxite is refined by dissolving alumina (aluminum oxide) in a molten cryolite bath. Next, alumina is reduced to aluminum metal. This reduction process requires high purity aluminum oxide, carbon, electrical power, and an electrolytic cell. An electric current reduces the alumina to aluminum metal in electrolytic cells, called pots. These pots consist of a steel shell lined with brick with an inner lining of carbon. During the pot's service, the liner is physically and chemically degraded. Upon failure of a liner in a pot, the cell is emptied, cooled, and the lining is removed.

The Phase III LDR rule (61 FR 15566, April 8, 1996) established treatment standards, expressed as numerical concentration limits, for various hazardous constituents in spent potliner waste. There were 25 in all, with standards for both wastewaters and nonwastewaters. These constituents include arsenic, cyanide, fluoride, toxic metals, and a group of polycyclic aromatic hydrocarbons (PAHs). The standards were based on treatment performance data from Reynolds Metals Company, which uses a high temperature thermal process to treat the potliners that are broken up into various pieces prior to treatment.

After EPA published its final treatment standards, Columbia Falls Aluminum Company and other aluminum producers from the Pacific Northwest brought a judicial challenge to the standards. The petitioners argued, among other things, that the use of the toxicity characteristic leaching procedure (TCLP) did not accurately predict the leaching of K088 waste constituents, particularly arsenic and fluoride, to the environment and that is was therefore arbitrary to measure compliance with the treatment standard using this test.

On April 3, 1998, the United States Court of Appeals for the District of Columbia Circuit decided that EPA's use of the TCLP as a basis for setting treatment standards for K088 was arbitrary and capricious for those constituents for which the TCLP

demonstratively and significantly underpredicted the amount of the constituent that would leach. See Columbia Falls Aluminum Co. v. EPA, 139 F.3d 914; see also 63 FR 28571, May 26, 1998 (EPA's interpretation of court's opinion). The court vacated all of the treatment standards and the prohibition on land disposal, *id.* at 923–24, but stayed its mandate at EPA's request so that EPA could promulgate a revised treatment standard and a new prohibition. On September 24, 1998, EPA promulgated an interim final rule that revised the K088 treatment standard for arsenic from a TCLP standard of 5.0 mg/L to a total arsenic standard of 26.1 mg/kg.[1] See also 63 FR 51253. It is this interim adjustment of the arsenic K088 treatment standard from which USEII and CWM seek relief by way of this treatment variance.

III. Why is USEII Seeking a Treatment Variance?

U.S. Ecology Idaho, Incorporated (herein referred to as USEII) is a permitted hazardous waste treatment, storage, and disposal facility located in Grandview, Idaho. The facility treats and disposes of hazardous and non-hazardous wastes into an on-site RCRA permitted landfill. The waste at issue is emission control dust from an air pollution control system from a stabilization and containment building. The waste consists of particles of various waste streams and stabilization reagents from the treatment of K061, D004, D005, D006, D007, D008, D009, D010, D011 as well as K088 waste. USEII contends that all of these wastes contribute to the overall total arsenic concentration of the emission control dust, which was generated during maintenance operations. Approximately two 55-gallons drums are currently being stored at the facility. USEII is requesting that an alternative treatment standard of 5.0 mg/L TCLP be granted for this waste (the two 55-gallons drums as well as any future generation of this waste) which contains the K088 identification code as a derived-from waste.

As part of their petition, in accordance with the requirements of 40 CFR 268.44, USEII contends that their waste, i.e., the emission control dust carrying the K088 waste designation, differs significantly from the waste used to establish the treatment standard for total arsenic in K088 waste. USEII states that the dust is a derived-from waste that bears no resemblance, in physical form or composition, to generated potliners or typically thought of generated residues from potliner treatment. Furthermore, USEII states that no treatment can be applied to the dust to meet the K088 arsenic standard of 26.1 mg/kg because arsenic is an element, and as such cannot be destroyed to meet the existing treatment standard—a totals analysis test. An analysis of the emission control dust shows that the concentration of arsenic is 78.2 mg/kg.

IV. Why is CWM Seeking a Treatment Variance?

CWM Chemical Services LLC (herein referred to as CWM) operates a RCRA permitted treatment, storage and disposal facility located in Model City, New York. Site operations include a stabilization facility, a wastewater treatment facility, and a Subtitle C hazardous waste landfill. CWM also operates as both a storage and transfer facility. CWM is seeking a site specific treatment variance from the K088 arsenic treatment standard of 26.1 mg/kg to the universal treatment standard for arsenic nonwastewaters of 5.0 mg/L TCLP. Presently, CWM has 2 roll-off boxes of baghouse dust and one roll-off box of incinerator ash that cannot meet the 26.1 mg/kg treatment standard. CWM contends that this waste carries the K088 waste code by the mixture and derived-from principles and is physically and chemically different from aluminum potliners. In addition to the K088 listing, the waste carries approximately 200 other waste code designations. Analysis of the baghouse dust shows arsenic concentrations of 32.3 mg/kg and 107.1 mg/kg. An analysis of the roll-off box of incinerator residue shows a total arsenic concentration of 1000 mg/kg with a TCLP for arsenic of 0.52 mg/L. CWM further contends that the total arsenic standard is inappropriate for the wastes, since arsenic as an element, cannot be destroyed and that stabilization to the current UTS and placement in a Subtitle C landfill is protective of the environment.

CWM is also requesting that filtercake from their on-site wastewater treatment operations be included as part of the petition. While to date, no K088 derived-from filtercake has been generated, CWM contends that there is a possibility that occurrences such as, a spill of baghouse dust carrying K088 into the water in a containment area, may indeed happen, resulting in the need for another treatment variance. As such, CWM reasons that including filtercake along with incinerator ash and baghouse dust into the treatment variance petition would address any future disposal issues dealing with K088 derived-from waste.

V. EPA's Analysis of the Petitions

As just discussed in the previous sections, both USEII and CWM have waste that are not K088 itself, but are mixture and derived-from K088 wastes. The wastes at issue here, emission control dust and baghouse dust/incineration ash/filtercake are significantly different from the K088 waste used in developing the K088 treatment standard. Specifically, both USEII and CWM waste contain other waste codes (e.g., D004) that contribute to the total arsenic concentration of the waste. It is not physically possible for USEII or CWM to treat any of these wastes to the K088 treatment standard of 26.1 mg/kg total arsenic. As such, we are proposing that the wastes specified in each of the petitioner's submittal comply with an alternative treatment standard for arsenic of 5.0 mg/L TCLP. We believe it appropriate to use the universal treatment standard (UTS) for arsenic for these wastes rather than the K088-specific standard for arsenic developed for the classic potliner treatment residue matrix. The UTS is, of course, the standard that would otherwise apply to these wastes were in not for the K088 waste code carry through. After treatment, the waste must be disposed in the petitioner's on-site RCRA subtitle C permitted hazardous waste landfill assuming it meets all other applicable federal, state and local requirements.

V. Administrative Requirements

A. Regulatory Impact Analysis Pursuant to Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency

[1] The 26.1 mg/kg standard for arsenic in K088 waste, promulgated in 1998, was developed based on performance data from a high temperature thermal treatment process for spent aluminum potliners from primary aluminum reduction used at a Reynolds Metals facility in Gum Springs, Arkansas. Specifically, the treatment standard was derived-from an assay of the total acid soluble arsenic in K088 waste after spent potliner had been crushed, mixed with lime and sand, and send through a high-temperature rotary kiln resulting in a fused waste residue.

As previously discussed, prior to 1998, the treatment standard for arsenic was 5.0 mg/L TCLP, based on the Reynolds treatment process that, at that time, treated much of the K088 generated in the United States (63 FR 51257, September 24, 1998). However, to address subsequent concerns regarding the elevated concentrations of arsenic in Reynold's landfill leachate, Reynolds changed the type of sand used in their thermal process to a sand with lower concentrations of arsenic. These 1998 revisions, to the K088 arsenic standards, were intended to cap arsenic concentrations in the treated potliner and to lock-in the Reynolds treatment process change, i.e., the change in sand type. Therefore, the reason for our shift to a 26.1 mg/kg total arsenic standard has no basis in appropriate treatment levels for waste carrying the K088 waste code solely due to the derived-from regulations.

must determine whether a regulatory action is ''significant'' and therefore subject to OMB review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Because this proposed rule does not create any new regulatory requirements, it is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. This action, therefore, does not require a regulatory flexibility analysis.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal Agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. If a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives. Under section 205, EPA must adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule, unless the Administrator publishes with the final rule an explanation why that alternative was not adopted. The provisions of section 205 do not apply when they are inconsistent with applicable law.

EPA has determined that this proposed rule does not include a Federal mandate that may result in estimated costs of $100 million or more in the aggregate to either State, local, or tribal governments or the private sector in one year. The proposed rule would not impose any federal intergovernmental mandate because it imposes no enforceable duty upon State, tribal or local governments. States, tribes, and local governments would have no compliance costs under this rule. EPA has also determined that this proposal contains no regulatory requirements that might significantly or uniquely affect small governments. In addition, as discussed above, the private sector is not expected to incur costs exceeding $100 million. EPA has fulfilled the requirement for analysis under the Unfunded Mandates Reform Act. Thus, today's proposed rule is not subject to the requirements of sections 202, 204 and 205 of UMRA.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule will not significantly or uniquely affect small governments. This proposed rule will not impose any requirements on small entities. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. Today's proposed rule is not, therefore, subject to the requirements of section 203 of UMRA.

D. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

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.

Today's proposed rule is not subject to Executive Order 13045 because it is not economically significant as defined in E.O.12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. The subject wastes will comply with all other treatment standards and be disposed of in RCRA Subtitle C landfills. Therefore, we have identified no risks that may disproportionately affect children.

E. Environmental Justice Executive Order 12898

EPA is committed to addressing environmental justice concerns and is assuming a leadership role in environmental justice initiatives to enhance environmental quality for all residents of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, or income

bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities, and that all people live in clean and sustainable communities. In response to Executive Order 12898 and to concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17).

Today's proposed rule applies to wastes that will be treated and disposed of in a RCRA Subtitle C hazardous waste landfill, ensuring a high degree of protection to human health and the environment. Therefore, the Agency does not believe that today's action will result in any disproportionately negative impacts on minority or low-income communities relative to affluent or non-minority communities.

F. Paperwork Reduction Act

This proposed rule would only change the treatment standards applicable to a subcategory of K088 wastes at two facilities and does not change in any way the paperwork requirements already applicable to these wastes, it does not affect requirements under the Paperwork Reduction Act.

G. National Technology Transfer and Advancement Act of 1995

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

This action does not involve technical standards based on new methodologies. Therefore, EPA did not consider the use of any voluntary consensus standards.

H. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

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

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. Thus, Executive Order 13175 does not apply to this proposed rule.

In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

I. Executive Order 13132 (Federalism)

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implication.'' ''Policies that have federalism implication'' is defined in the Executive Order to include regulation 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 governments.''

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. These treatment variances do not create any new regulatory requirements. Rather, they establish an alternative treatment standard for a regulated constituent at two specific facilities. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

J. Executive Order 13211 (Energy Effects)

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, Reporting and recordkeeping requirements.

Dated: July 16, 2001.

Michael H. Shapiro,

Acting Assistant Administrator for Solid Waste and Emergency Response.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 268—LAND DISPOSAL RESTRICTIONS

1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

2. In § 268.44, the table in paragraph (o) is amended by adding in alphabetical order two new entries: ''U.S. Ecology Idaho, Incorporated, Grandview, Idaho''; and ''CWM Chemical Services LLC, Model City, New York'' to read as follows:

§ 268.44 Variance from a treatment standard.

* * * * *

(o) * * *

TABLE—WASTES EXCLUDED FROM THE TREATMENT STANDARDS UNDER § 268.40

Facility name [1] and address	Waste code	See also	Regulated hazardous constituent	Wastewaters		Nonwastewaters	
				Concentration (mg/L)	Notes	Concentration (mg/kg)	Notes
*	*	*	*	*	*	*	
CWM Chemical Services, LLC, Model City, New York.	K088 [8]	Standards under § 268.40	Arsenic	1.4	NA	5.0 mg/L TCLP	NA'≤
*	*	*	*	*	*	*	
U.S. Ecology Idaho, Incorporated, Grandview, Idaho.	K088 [9]	Standards under § 268.40	Arsenic	1.4	NA	5.0 mg/L TCLP	NA

[1] A facility may certify compliance with these treatment standards according to provisions in 40 CFR 268.7

* * * * * * *

[8] This treatment standard applies only to K088-derived bag house dust, incinerator ash, and filtercake at this facility.

[9] This treatment standard applies only to K088-derived air emission control dust at this facility.

* * * * * * *

Note. NA means Not Applicable

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[FR Doc. 01–18409 Filed 7–23–01; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1671; MM Docket No. 01–154; RM–10163]

Radio Broadcasting Services; Goldthwaite, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Charles Crawford, requesting the allotment of Channel 297A to Goldthwaite, Texas, as that community's first local aural transmission service. This proposal requires a site restriction 14.4 kilometers (9.0 miles) west of the community at coordinates 31–28–29 NL and 98–43–11 WL. Additionally, as Goldthwaite, Texas, is located within 320 kilometers (199 miles) of U.S.-Mexico border, concurrence of the Mexican government to this proposal is required.

DATES: Comments must be filed on or before September 4, 2001, and reply comments on or before September 18, 2001.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Charles Crawford, 4553 Bordeaux Ave., Dallas, Texas 75205.

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 01–154, adopted July 11, 2001, and released July 13, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

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

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

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Goldthwaite, Channel 297A.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–18346 Filed 7–23–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–1669; MM Docket No. 01–151, RM–10167; MM Docket No. 01–152, RM–10168; MM Docket No. 01–153, RM–10169]

Radio Broadcasting Services; Eminence, MO; Encinal, TX; and Tilden, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes three allotments. The Commission requests comments on a petition filed by Ozark Broadcasting, Inc., proposing the allotment of Channel 276C3 at Eminence, Missouri, as the community's first local aural transmission service. Channel 276C3 can be allotted to Eminence in compliance with the Commission's minimum distance separation requirements with a site restriction of 16.1 km (10 miles)

northeast of Eminence. The coordinates for Channel 276C3 at Eminence are 37–16–07 North Latitude and 91–15–05 West Longitude. See Supplementary Information infra.

DATES: Comments must be filed on or before September 4, 2001, and reply comments on or before September 18, 2001.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, his counsel, or consultant, as follows: Lauren A. Colby, Esq., Counsel for Ozark Broadcasting, Inc., Law Offices of Lauren A. Colby, 10 E. Fourth Street, Post Office Box 113, Frederick, MD 21705–0113; and Charles Crawford, 4553 Bordeaux Avenue, Dallas, TX 75205.

FOR FURTHER INFORMATION CONTACT: Deborah A. Dupont, Mass Media Bureau (202)418–7072.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket Nos 01–151, 01–152, and 01–153; adopted July 11, 2001, and released July 13, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, S.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202)857–3800, 1231 20th Street, N.W., Washington, D.C. 20036.

The Commission requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 259A at Encinal, Texas, as the community's first local aural transmission service. Channel 259A can be allotted to Encinal in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.9 km (6.8 miles) east of Encinal. The coordinates for Channel 259A at Encinal are 28–03–51 North Latitude and 99–14–47 West Longitude. The proposed allotment will require concurrence by Mexico because Encinal is located within 320 kilometers (199 miles) of the Mexican border. In compliance with § 1.52 of the Commission's rules, petitioner is requested to supply verification that the statements contained in the petition are correct to the best of petitioner's knowledge.

The Commission further requests comment on a petition filed by Charles Crawford proposing the allotment of Channel 245C3 at Tilden, Texas, as the community's first local aural transmission service. Channel 245C3 can be allotted to Tilden in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.6 km (2.9 miles) northeast of Tilden. The coordinates for Channel 259A at Tilden are 28–29–13 North Latitude and 98–30–41 West Longitude. The proposed allotment will require concurrence by Mexico because Tilden is located within 320 kilometers (199 miles) of the Mexican border. In compliance with § 1.52 of the Commission's rules, petitioner is requested to supply verification that the statements contained in the petition are correct to the best of petitioner's knowledge.

The Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri, is amended by adding Eminence, Channel 276C3.

3. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Encinal, Channel 259A.

4. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Tilden, Channel 245C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 01–18347 Filed 7–23–01; 8:45 am]

BILLING CODE 6712–01–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

NATIONAL SECURITY COUNCIL

47 CFR Parts 211 and 213

Emergency Restoration Priority Procedures for Telecommunications Services

AGENCIES: Office of Science and Technology Policy and National Security Council.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Office of Science and Technology Policy (OSTP) and the National Security Council (NSC) propose to remove their regulation on Emergency Restoration Priority Procedures for Telecommunications Services. The information in this regulation is no longer relevant or timely as it has been superseded by National Communications System (NCS) Directive 3–1. Removal of this regulation will ensure consistency and eliminate confusion between the OSTP and the Federal Communications Commission (FCC).

DATES: Comments must be received by August 20, 2001.

ADDRESSES: Address all comments concerning this proposed rule to the OSTP Senior National Security Officer, Eisenhower Executive Office Building, Room 494, Washington, DC 20502.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Terrence Kelly, USA, 202–456–6057.

SUPPLEMENTARY INFORMATION:

Explanation of Requirements of Proposed Rule

47 CFR Part 211, Emergency Restoration Priority Procedures for Telecommunications Services was adopted in 1978 (43 FR 50431, October 30, 1978) and corresponded to then 47 CFR Part 64, Appendix A. In 1987, the Manager, NCS, petitioned the FCC to revise Appendix A to establish a new system to restore NS/EP communications. In 1988, the FCC issued a Report and Order adopting in substance the changes proposed by the Manager. (In the Matter of National Security Emergency Preparedness Telecommunications Service Priority System, General Docket 87–505, 3 FCC Rcd. 6650, 1988, the ''Order.'') In the FCC portion of Title 47 CFR, new 47 CFR part 64, Appendix A, as revised in the Order, replaced the old Appendix A in its entirety. 47 CFR part 211, the corresponding OSTP section of Title 47 CFR, has not been changed.

The FCC's Order makes it clear that its rules apply before invocation of the Presidential war powers. It notes that its rules and those adopted by OSTP for use after invocation will provide for a uniform system of administering restoral priorities. Order, par. 1b and c. After adoption by the FCC, the new restoral rules were set forth in an NCS Directive, NCS Directive 3–1. This directive states it applies to priorities that had previously been governed by 47 CFR Part 64 Appendix A and 47 CFR Part 211. OSTP approval is necessary before NCS directives may become effective; thus, by signing off on NCS Directive 3–1, OSTP has already agreed that the procedures set forth in old 47 CFR part 211 are obsolete. NCS Directive 3–1 is published at 47 CFR part 216.2 and provides notice to telecommunications carriers of the procedures to be followed both before and after invocation of the President's war powers. It appears no further notice is necessary and elimination of 47 CFR part 211 will not result in a lack of guidance to telecommunications carriers.

47 CFR part 213, Government and Public Correspondence Telecommunications Precedence System was also adopted in 1978 (43 FR 50434, October 30, 1978). It sets forth an operator-assisted system to provide priorities to NS/EP calls. A companion section dealing with priorities prior to invocation of the President's war powers was found in 47 CFR Part 64, Appendix B. As part of the rulemaking proceeding that led to the rules now set forth in Part 64, Appendix A, the Manager asked that Appendix B be deleted since operators were by then no longer involved in the routine handling of calls. The process had become automated and operator intervention was impracticable. The FCC concurred and in its Order removed Appendix B to Part 64. Order, at Par. 3. There is no substitute for Appendix B. Thus, 47 CFR part 213 may be eliminated in its entirety with no substitution.

List of Subjects in 47 Parts 211 and 213

Civil defense, Communications common carriers, Defense communications, Emergency powers, Telecommunications.

Dated: July 17, 2001.

Barbara Ann Ferguson,

Administrative Officer, Office of Science and Technology Policy.

Dated: July 17, 2001.

Dean J. Haas,

Deputy Executive Secretary and Senior Director for Administration, National Security Council.

For the reasons set forth in the preamble and under the authority of Executive Order 12472, 47 CFR, Chapter II is proposed to be amended by removing Parts 211 and 213.

[FR Doc. 01–18367 Filed 7–23–01; 8:45 am]

BILLING CODE 3170–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 071701C]

RIN 0648–AK70

Fisheries of the Exclusive Economic Zone off Alaska; Individual Fishing Quota Program

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

ACTION: Notice of availability; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 54 to the Fishery Management Plan for Groundfish of the Gulf of Alaska and Amendment 54 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs). These amendments would make three changes to the Individual Fishing Quota (IFQ) Program for fixed gear Pacific halibut and sablefish fisheries off Alaska. This action is necessary to improve the effectiveness of the IFQ Program and is intended to promote the objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) with respect to the IFQ fisheries. NMFS is requesting comments from the public on the proposed amendments, copies of which may be obtained from the Council (See **ADDRESSES**).

DATES: Comments on Amendments 54/54 must be submitted by September 24, 2001.

ADDRESSES: Comments on the proposed amendments should be submitted to Sue Salveson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of Amendments 54/54 and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis prepared for the proposed amendments are available from the North Pacific Fishery Management Council, 605 West 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone 907–271–2809.

FOR FURTHER INFORMATION CONTACT: James Hale, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Background

The Magnuson-Stevens Act requires that each Regional Fishery Management Council submit any FMP or plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, after receiving a fishery management plan or amendment, immediately publish a notice in the **Federal Register** that the fishery management plan or amendment is available for public review and comment. This action constitutes such notice for Amendments 54/54 to the FMPs. NMFS will consider the public comments received during the comment period in determining whether to approve these amendments.

The IFQ Program, a limited access management system for the fixed gear Pacific halibut and sablefish fisheries off Alaska, was approved by NMFS in January 1993, and fully implemented beginning in March 1995. The sablefish IFQ Program is implemented by the FMPs and Federal regulations under 50 CFR part 679, Fisheries of the Exclusive Economic Zone Off Alaska, under authority of the Magnuson-Stevens Act.

Amendments 54/54, if approved, would make three changes in the IFQ Program: (1) Allow a QS holder's indirect ownership of a vessel, through corporate or other collective ties, to substitute for the QS holder's vessel ownership in his or her own name for purposes of hiring a skipper to fish the QS holder's IFQ; (2) add language specific to estates to the definition of ''a change in the corporation or partnership'' to prevent estates from holding QS indefinitely; and (3) standarize use limits for the two IFQ species, Pacific halibut and sablefish, by revising sablefish use limits from percentages of the total number of QS units in the QS pool to specific numbers of QS units.

Public comments are being solicited on these proposed amendments through

the end of the comment period specified in this notice. A proposed rule that would implement the amendments may be published in the Federal Register for public comment following NMFS' evaluation under the Magnuson-Stevens Act procedures. Public comments on the proposed rule must be received by close of business on the last day of the comment period to be considered in the decision to approve or disapprove the amendments. All comments received by the end of the comment period, whether specifically directed to the amendments or to the proposed rule, will be considered in the decision.

Dated: July 17, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–18416 Filed 7–23–01; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 66, No. 142

Tuesday, July 24, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 01–039–1]

Giant Salvinia; Availability of an Environmental Assessment

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of availability and request for comments.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared an environmental assessment relative to a demonstration project to eradicate and prevent the spread of the aquatic weed giant salvinia in the Toledo Bend Reservoir and surrounding areas in Louisiana and eastern Texas. The environmental assessment documents our review and analysis of the environmental impacts associated with the alternative actions under consideration. Among the alternative actions considered in the assessment is a program using an integrated approach to eradicate giant salvinia from the Toledo Bend Reservoir and surrounding areas in Louisiana and eastern Texas. We are making this environmental assessment available to the public for review and comment.

DATES: We will consider all comments that we receive by August 23, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–039–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 01–039–1.

You may read any comments that we receive on this environmental assessment 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: Dr. Alan V. Tasker, National Weed Program Coordinator, Invasive Species and Pest Management, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–5225.

SUPPLEMENTARY INFORMATION:

Background

Giant salvinia (*Salvinia molesta*) is a free-floating aquatic fern, native to South America, with a tremendous growth rate and the potential to significantly affect water-reliant agricultural industries, recreation, and the ecology of freshwater habitats throughout much of the United States.

Giant salvinia reproduces vegetatively through fragmenting and from dormant buds breaking away. A colony consists of many leaf pairs connected by branching rhizomes. The colony is easily broken, thus producing viable fragments. The colonizing or immature stage of giant salvinia is characterized by small leaves that lie flat upon the water. As the plants rapidly expand and compete for space, the leaves become larger, crowding occurs, and the plants are pushed upright. Mats may grow to a meter thick and can cover large areas. Giant salvinia grows best in stagnant or slow-moving water, and the plant can tolerate a wide pH range. While able to survive severe winters, giant salvinia grows best in temperatures ranging between 25 °C to 28 °C (77 °F to 81 °F).

Because giant salvinia is a free-floating plant, it disperses by passive means (water currents and wind) and by ''hitchhiking.'' Animals may carry the plants over short distances, but humans can spread it widely on fishing gear and boating equipment. Intercontinental dispersal and dispersal within the United States probably have occurred when giant salvinia was sold in the nursery trade, either intentionally as a plant for aquaria or for ponds, or unintentionally when it ''hitchhikes'' with other aquatic plants collected for academic study or for use in aquaria or ponds. Although native to southeastern Brazil, giant salvinia is now found in North America, South America, Africa, Asia, Australia, New Guinea, and Oceania.

The dominant characteristic of giant salvinia is its tremendous growth rate, which makes it an aggressive invader. Observations at the Toledo Bend Reservoir, which is located on the border between eastern Texas and western Louisiana, noted that a small, unobstructed patch of giant salvinia doubled in size in a few days during the winter of 1998–1999.

Where it occurs outside its native range, particularly in the tropics and subtropics, giant salvinia has become a problematic aquatic weed with the potential to choke irrigation systems, streams, and lakes. The mats also may harbor snails and insects that carry human and animal diseases. In a single growing season, giant salvinia can destroy a thriving water community by forming a destructive mass, halting transportation, killing fish, and promoting disease. Giant salvinia is considered a direct threat to rice farming. It gives off hydrogen sulfide (H_2S), which can damage copper components of hydroelectric generators. The thick mats, which can develop on open lakes, are avoided by small and large boats alike.

In the past several years, giant salvinia has been detected in the United States, mostly in association with the nursery trade in aquatic plants. Generally, detections have been in small, confined sites and are currently contained or have been eradicated. Such detections have occurred in Alabama, Arizona, Florida, Hawaii, Indiana, Louisiana, Maryland, Missouri, North Carolina, South Carolina, Texas, and Virginia. Of more serious and immediate concern is the current infestation in the Toledo Bend Reservoir and the surrounding areas in Louisiana and eastern Texas. The Toledo Bend Reservoir infestation is a major one in a large body of water.

The Animal and Plant Health Inspection Service (APHIS) listed giant salvinia as a noxious weed in 1983.

Under APHIS' regulations, no person may move giant salvinia into or through the United States, or interstate, unless he or she obtains a permit for the movement from APHIS.

Because current efforts to eradicate giant salvinia in the Toledo Bend Reservoir and the surrounding areas in Louisiana and eastern Texas have been unsuccessful, APHIS has evaluated additional control methods available to help eradicate this noxious weed. These control methods include:

- An integrated control approach utilizing herbicides and mechanical, biological, and regulatory controls.
- A biological control program that requires no herbicide application.

APHIS' review and analysis of the potential environmental impacts associated with these control methods are documented in detail in an environmental assessment (EA) entitled, ''Demonstration Project: Giant Salvinia, Toledo Bend Reservoir and Surrounding Areas in Louisiana and Eastern Texas'' (March 2001).

The EA may be viewed on the Internet at http://www.aphis.usda.gov/ppd/es/ppqdocs.html. You may request paper copies of the EA by calling or writing to the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to the title of the EA when requesting copies. The EA is also available for review in our reading room (information on the location and hours of the reading room is provided under the heading **ADDRESSES** at the beginning of this notice).

The EA has been prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 18th day of July 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–18389 Filed 7–23–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Meeting of the Land Between The Lakes Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Land Between The Lakes Advisory Board will hold a meeting on Thursday, August 16, 2001. Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App.2.

The meeting agenda includes the following:

(1) Welcome, Introductions, Agenda Review.

(2) Short Forest Planning Overview.

(3) Existing Environmental Education Programs.

(4) Tours of Brandon Spring Resident Center & Homeplace.

The meeting is open to the public. Written comments are invited and may be mailed to: William P. Lisowsky, Area Supervisor, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, Kentucky 42211. Written comments must be received at Land Between The Lakes by August 9, 2001, in order for copies to be provided to the members at the meeting. Board members will review written comments received, and at their request, oral clarification may be requested at a future meeting.

DATES: The meeting will be held on Thursday, August 16, 2001, 8:30 a.m. to 4:15 p.m., CDT.

ADDRESSES: The meeting will be held at the Brandon Spring Resident Center, Land Between The Lakes, and will be open to the public.

FOR FURTHER INFORMATION CONTACT: Sharon Byers, Advisory Board Liaison, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, Kentucky 42211, 270–924–2002.

SUPPLEMENTARY INFORMATION: There are no public eating facilities at Brandon Spring where individuals from the public can purchase lunch. However, members of the public attending the meeting are invited to bring their lunch with them to eat at Brandon. There are also public eating facilities within 7–15 miles in Dover TN. No official business will be conducted during the 45-minute lunch break.

Dated: July 18, 2001.

William P. Lisowsky,

Area Supervisor, Land Between The Lakes.

[FR Doc. 01–18370 Filed 7–23–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: U.S. Census Bureau.

Title: Survey of Plant Capacity Utilization.

Form Number(s): MQ–C1.

OMB Approval Number: 0607–0175.

Type of Request: Regular submission.

Burden Hours: 38,250 hours.

Number of Respondents: 17,000.

Average Hours Per Response: 2 hours and 15 minutes.

Needs and Uses: The Census Bureau conducts the Survey of Plant Capacity annually to provide information on the use of industrial capacity for manufactured products. Data are gathered from a sample of manufacturing plants in the United States. The survey form collects data on the value of plant production during actual operations and at ''full production'' and ''national emergency production'' levels. The Census Bureau mails out survey forms to collect the data. Companies are asked to respond to the survey within 30 days of the initial mailing.

Survey data are used in measuring inflationary pressures and capital flows, in understanding productivity determinants, and in analyzing and forecasting economic and industrial trends. The survey results are used by such agencies as the Federal Reserve Board, Federal Emergency Management Agency, International Trade Administration, and the Department of Defense.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Section 182.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, Room 10201, New Executive Office Building, Washington, DC 20503.

Dated: July 19, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–18386 Filed 7–23–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

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

Agency: U.S. Census Bureau.

Title: 2002 Census of Governments Local Government Directory Survey.

Form Number(s): G–26, G–28, G–29, G–30, G–32, G–33.

OMB Approval Number: None.

Type of Request: Regular submission.

Burden Hours: 22,500 hours.

Number of Respondents: 90,000.

Average Hours Per Response: 15 minutes.

Needs and Uses: The Local Government Directory Survey will be used to update the universe list of public sector entities for the 2002 Census of Governments. Each of the 90,000 county governments, consolidated city-county governments, independent cities, towns, townships, special district governments, and public school systems designated for the census will be sent an appropriate form. Respondents will be asked to verify or correct the name and mailing address of the government, answer the questions on the form, and return the form.

The 2002 Census of Governments Local Government Directory Survey consists of three basic content areas: government organization, government finance, and government employment. For government organization we will ask for authorizing legislation, incorporation date, fiscal year ending date, area served, services provided, web address, and corrections to the name and address of the government. In addition we will ask if special districts have taxing powers, if general purpose governments and special districts own and operate the services they are responsible for providing, if school districts operate schools, and if the government conducts e-government transactions. For government finance we will ask for total revenue, total expenditure, and total debt. For government employment we will ask for full-time employees, part-time employees, and annual payroll.

The 2002 Census of Governments Local Government Directory Survey data collection forms request information that is substantially similar to that requested on the 1992 and 1997 Census of Government forms.

Affected Public: State, local, or Tribal government.

Frequency: Every five years.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13 U.S.C., Section 161.

OMB Desk Officer: Susan Schechter, (202) 395–5103.

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Susan Schechter, OMB Desk Officer, Room 10201, New Executive Office Building, Washington, DC 20503.

Dated: July 19, 2001.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 01–18387 Filed 7–23–01; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Meeting With Interested Public on the Export of Agricultural Commodities to Cuba and the Export of Agricultural Commodities, Medicines and Medical Devices to Iran, Libya and Sudan

ACTION: Notice.

SUMMARY: The Bureau of Export Administration (BXA) will hold a meeting on July 26, 2001 for those companies and organizations that have an interest in exporting agricultural commodities to Cuba and agricultural commodities, medicines and medical devices to Iran, Libya and Sudan under the new procedures established in rules published on July 12, 2001 (66 FR 36676). U.S. Government officials will provide information at this meeting on how to apply for export of such items to these destinations.

TIME & DATE: The meeting will be held July 26, 2001 at 3 p.m.

Place: The meeting will be held at the U.S. Department of Commerce, Herbert C. Hoover Building, Main Auditorium, 14th Street between Pennsylvania Avenue and Constitution Avenue, NW., Washington, DC.

In order to prepare for those of you who plan to attend the meeting, please provide your name and company or organizational affiliation to fax numbers (202) 482–6088 or (202) 482–4094, Attn: TSRA Briefing, or call (202) 482–3283. For further information, please contact John Bolsteins at BXA on (202) 482–3283 or (202) 482–4252.

Status: This meeting will be open to the public.

SUPPLEMENTARY INFORMATION:

Background

On July 12, 2001, the Bureau of Export Administration published a rule in the **Federal Register** to implement certain provisions of the Trade Sanctions Reform and Export Enhancement Act (TSRA) of 2000. The TSRA requires the President to terminate existing U.S. unilateral agricultural and medical sanctions and also provides that the export of agricultural commodities, medicines and medical devices to designated terrorist countries be made in accordance with the licensing regime described in that Act. The Department of Commerce is implementing TSRA as it relates to exports of agricultural commodities to Cuba. The Department of the Treasury's Office of Foreign Assets Control (OFAC) is implementing TSRA as it relates to exports to Iran, Libya, and Sudan of agricultural commodities, medicines and medical devices that are not specifically identified on the CCL and are classified as EAR99. OFAC representatives will be available at the meeting to answer any questions related to OFAC's implementation of TSRA. These rules will go into effect on July 26, 2001.

Brian Nilsson,

Acting Director, Office of Strategic Trade and Foreign Policy Controls.

[FR Doc. 01–18558 Filed 7–23–01; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071101D]

Caribbean Fishery Management Council; Public Meetings

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

ACTION: Notice of Public Meetings.

SUMMARY: The Caribbean Fishery Management Council's (Council) Advisory Panel (AP), and the Scientific and Statistical Committee (SSC) will hold meetings.

DATES: The AP meeting will convene on Wednesday, August 8, 2001, from 10

a.m. until 4 p.m., and the SSC meeting will convene on Thursday, August 9, 2001, from 10 a.m. to 4 p.m.

ADDRESSES: All meetings will be held at the Embassy Suites Hotel, 8000 Tartak St., Isla Verde, Carolina, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–2577; telephone: (787) 766–5926.

SUPPLEMENTARY INFORMATION: The AP, and SSC will meet to discuss the items contained in the following agenda:

AP Meeting

Amendment to the Reeffish Fishery Management Plan (FMP)

Sustainable Fisheries Act (SFA)

Other Business

SSC Meeting

Amendment to the Reeffish FMP

SFA

Other Business

The meetings are open to the public, and will be conducted in English. However, simultaneous interpretation (Spanish-English) will be available during the AP meeting (August 8, 2001). Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, (see **FOR FURTHER INFORMATION CONTACT**) at least 5 days prior to the meeting date.

Dated: July 13, 2001.

Richard W. Surdi,

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

[FR Doc. 01–18413 Filed 7–23–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071301C]

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Issuance of permit 1307.

SUMMARY: Notice is hereby given that NMFS has issued a permit, on May 4, 2001, to the Grants Pass Irrigation District of Grants Pass, OR, that authorizes incidental take of anadromous fish listed under the Endangered Species Act (ESA), subject to certain conditions set forth therein.

ADDRESSES: Habitat Conservation Division, NWR, 525 NE Oregon St, Portland OR 97232–2737,phone:503–231–2377, fax: 503–231–6893.

FOR FURTHER INFORMATION CONTACT: Dr. Nancy Munn, Portland, OR, phone:503–231–6269, fax: 503–231–6893, e-mail: *nancy.munn@noaa.gov* .

SUPPLEMENTARY INFORMATION: The following ESA-listed evolutionary significant units (ESUs) are covered in this notice:

Threatened southern Oregon/northern California coho salmon (*Oncorhynchus kisutch*).

In addition, Permit 1307 would authorize incidental take of the following unlisted species if they become listed prior to expiration of the permit: Klamath Mountain Province steelhead (*O. mykiss*), and southern Oregon/California coastal chinook salmon (*O. tshawytscha*).

Permits Issued

Notice was published on March 15, 2001 (66 FR 15080), that Grants Pass Irrigation District filed an application for an incidental take permit (1307). The applicant proposes to operate irrigation diversion facilities at Savage Rapids Dam on the Rogue River, OR. The permit covers activities associated with the operation of irrigation diversion facilities at Savage Rapids Dam. Activities include all aspects of operating the dam, including opening and closing of the radial gates, installing and removing stoplogs, and operating the fish ladders, the turbine and the screens, and the diversion facilities. The permit also covers monitoring activities and related scientific experiments, as described in the Habitat Conservation Plan and associated Environmental Assessment. The Finding of No Significant Impact was signed on May 4, 2001. Permit 1307 was issued on May 4, 2001, authorizing take of listed species. The take of juvenile coho salmon from injury and mortality is estimated to be 1,400 fish to 2,500 fish. Total mortality of adult coho salmon is estimated to be 200 to 1,200 fish. Permit 1307 expires May 4, 2002.

Issuing the permit was based on a finding that Grants Pass Irrigation District has met the permit issuance criteria of 50 CFR 222.22 (c). The permit took effect for listed covered species on May 4, 2001. For unlisted covered species, the permit will take effect upon the listing of a species as endangered, and for a species listed as threatened, on the effective date of a rule under section 4(d) of the ESA prohibiting take of the species.

Authority

The permit was issued under the authority of section 10 (a)(1)(B) of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543). The permit issuance is based on a finding that such permit: (1) was applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the permit, in the incidental take statement of the Biological Opinion, and in the Habitat Conservation Plan. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–227).

All statements and opinions contained in the permit action summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: July 18, 2001.

Phil Williams,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 01–18414 Filed 7–23–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061801A]

Permits; Foreign Fishing

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

Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of periodic need for break-bulk refrigerated cargo vessels.

SUMMARY: NMFS publishes for public review and comment information provided by U.S. joint venture (JV) partners regarding their need for break-bulk refrigerated cargo vessels to support approved foreign fishing operations in the U.S. Exclusive Economic Zone (EEZ) in 2001.

ADDRESSES: Comments may be submitted to NMFS, Office of Sustainable Fisheries, International Fisheries Division, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Robert A. Dickinson, Office of Sustainable Fisheries, (301) 713–2276.

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson-Stevens Act), any person may submit an application requesting a permit authorizing a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish or fish products at sea from a point within the EEZ or, with the concurrence of a State, within the boundaries of that State, to a point outside the United States.

This notice concerns the fact that U.S. JV partners report they will need to have a number of break-bulk refrigerated cargo vessels permitted in 2001 under section 204(d) of the Magnuson-Stevens Act to support approved foreign fishing operations in the EEZ. The JV partners report that arrangements for such support vessels must generally be made on short notice immediately prior to the need for transport services. The U.S. JV partners also report they are not aware of the availability of any U.S.-flag break-bulk refrigerated cargo vessels and that it will therefore be necessary for them to employ foreign break-bulk refrigerated cargo vessels to support their operations.

In the interest of expediting the issuance of required permits and in accordance with Section 204 (d)(3) of the Magnuson-Stevens Act, the U.S. JV partners have requested and received from the New England Fishery Management Council and the Mid-Atlantic Fishery Management Council, a general recommendation that any break-bulk refrigerated cargo vessels required to support approved foreign fishing operations in the EEZ be permitted under Section 204 (d) of the Magnuson-Stevens Act.

In accordance with Section 204 (d)(3)(D) of the Magnuson-Stevens Act, NMFS is notifying interested parties of the periodic need of the U.S. JV partners for break-bulk refrigerated cargo vessels to transship processed fishery products at-sea and transport the products to points outside the United States. Further information about the requirements of the U.S. JV partners is available from NMFS (see **ADDRESSES**). Owners or operators of vessels of the United States who purport to have vessels with adequate capacity to perform the required transportation at fair and reasonable rates should indicate their interest in doing so to NMFS (see **ADDRESSES**).

In consideration of the Councils' recommendation, the apparent lack of available U.S.-flag break-bulk refrigerated cargo vessels (as reported by the U.S. JV partners), and the requirement to process and issue on short notice permits requested in accordance with Section 204 (d) of the Magnuson-Stevens Act, until an owner or operator of a vessel of the United States having adequate capacity to perform the required transportation at fair and reasonable rates is identified, the NMFS intends to approve as expeditiously as possible all complete applications for 204 (d) transshipment permits in support of approved foreign fishing operations in the EEZ, provided all criteria in Section 204 (d) are satisfied.

Dated: July 18, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–18415 Filed 7–23–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0390]

Information Collection Requirements; Defense Federal Acquisition Regulation Supplement; Taxes

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the 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 information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through April 30, 2002. DoD proposes that OMB extend its approval for use through April 30, 2005.

DATES: DoD will consider all comments received by September 24, 2001.

ADDRESSES: Respondents may submit comments directly on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm.* As an alternative, respondents may e-mail comments to: *dfars@acq.osd.mil.* Please cite OMB Control Number 0704–0390 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Ms. Susan L. Schneider, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062; facsimile (703) 602–0350. Please cite OMB Control Number 0704–0390.

At the end of the comment period, interested parties may view public comments on the World Wide Web at *http://emissary.acq.osd.mil/dar/dfars.nsf.*

FOR FURTHER INFORMATION CONTACT: Ms. Susan L. Schneider, (703) 602–0326. The information collection requirements addressed in this notice are available electronically on the World Wide Web at: *http://www.acq.osd.mil/dp.dars/dfars.html.* Paper copies are available from Ms. Susan L. Schneider, OUSD (AT&L) DP (DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION: *Title and OMB Number:* Defense Federal Acquisition Regulation Supplement (DFARS) Part 229, Taxes, and related clause in DFARS 252.229; OMB Control Number 0704–0390.

Needs and Uses: DoD uses this information to determine if DoD contractors in the United Kingdom have attempted to obtain relief from customs duty on vehicle fuels in accordance with contract requirements.

Affected Public: Businesses or other for-profit institutions.

Annual Burden Hours: 88.

Number of Respondents: 22.

Responses Per Respondent: 1.

Annual Responses: 22.

Average Burden Per Response: 4 hours.

Frequency: On occasion.

Summary of Information Collection

The clause at DFARS 252.229–7010, Relief from Customs Duty on Fuel (United Kingdom), is prescribed at DFARS 229.402–70(j) for use in solicitations issued and contracts awarded in the United Kingdom that require the use of fuels (gasoline or diesel) and lubricants in taxis or vehicles other than passenger vehicles. The clause requires the contractor to provide the contracting officer with evidence that the contractor has initiated an attempt to obtain relief from customs duty on fuels and lubricants, as permitted by an agreement between the United States and the United Kingdom.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 01–18390 Filed 7–23–01; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

National Nuclear Security Administration

Floodplain Statement of Findings for the Wildfire Hazard Reduction and Forest Health Improvement Program Projects at Los Alamos National Laboratory, Los Alamos, New Mexico

AGENCY: National Nuclear Security Administration, Los Alamos Area Office, DOE.

ACTION: Floodplain statement of findings.

SUMMARY: This is a Floodplain Statement of Findings for the implementation of individual projects using mechanical and manual thinning methods to treat the forests at Los Alamos National Laboratory (LANL), in an effort to reduce fuel loading and wildfire hazards, and to improve the overall forest health. This Statement of Findings is prepared in accordance with 10 CFR Part 1022. The National Nuclear Security Administration (NNSA) plans to implement ecosystem-based management program projects over the next 18 to 36 months, or until completed, that will be followed by periodic maintenance projects to retain the desired end-state for wildfire risk reduction with enhancements to improve forest health. The projects will include construction of access roads and fuel breaks as treatment measures. Wood materials generated by the treatment measures will be either donated or salvaged; wood waste materials will primarily be disposed of through chipping and use on-site or by burning in pits with the use of an air curtain destructor. Implementation of these projects will include areas of forest located on mesa tops, along canyon sides, and in canyon bottoms, including floodplain areas (but excluding wetland areas), located within LANL boundaries in Los Alamos and Santa Fe Counties, New Mexico. NNSA prepared a floodplain assessment describing the effects, alternatives, and measures designed to avoid or minimize potential harm to or within the affected floodplains.

FOR FURTHER INFORMATION CONTACT: Elizabeth Withers, Department of Energy, National Nuclear Security Administration, Los Alamos Area Office, 528 35th Street, Los Alamos, NM 87544. Telephone: (505) 667–8690; Facsimile: (505) 667–9998; electronic address: *ewithers@doeal.gov.* For further information on general DOE floodplain environmental review requirements, contact: Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance, EH–42, Department of Energy, 1000 Independence Avenue, SW., Washington DC 20585–0119. Telephone (202) 586–4600 or (800) 472–2756; facsimile (202) 586–7031.

SUPPLEMENTARY INFORMATION: A Notice of Floodplain Involvement was published in the **Federal Register** on June 29, 2001; this Notice announced that the Floodplain Assessment to be prepared would be available in hard copy upon request or electronically at: *http://libwww.lanl.gov/pubs/Environment.htm.*

The LANL program projects will be composed of a series of strategically planned projects located over most of LANL (see figure). These program projects will be implemented in three phases, which will treat about 10,000 acres, representing about 35 percent of the total of LANL. The phases are as follows: Phase 1 (high priority strategic projects, primarily fuel breaks, in heavily forested urban interface areas to reduce the wildfire hazard to the public, LANL employees, and key facilities and infrastructure); Phase 2 (moderate priority, larger forest fuels reduction projects in heavily forested areas to reduce the general wildfire hazard and improve forest health); and Phase 3 (lower priority, larger forest fuels reduction projects in more moderately forested and remote areas to reduce wildfire hazard in general and improve forest health). Each project as it is developed will follow certain planning steps that include formulating a plan of action that will identify and assess potential risks and environmental concerns and formulating a reasoned treatment plan. These plans will include facility and forest fire hazard assessment, identification of resource issues, coordination with neighboring land management agencies and land owners, development of end-state conditions, and formulation of treatment and environmental protection measures. Treatment measures will be identified for each project including the equipment and involved job performances, and types of treatment measures to be performed based on the forest and site conditions in the project area. Integral to treatment measures will be complementary measures to protect public health and welfare and to protect and enhance cultural and natural resources. Worker protection and health and safety measures, cultural resource protection measures, air quality protection measures, water quality protection measures, threatened and endangered species protection measures, as well as other biological resources protection measures will be employed on each project. Wood materials generated from the treatment activities will be disposed of by donation or salvage, or may be contracted for to offset program operational costs; wastes will be disposed of on-site by chipping and reuse as mulch, by burning within pits using air curtain destructor devices to enhance the burning process, or at on-site or off-site waste disposal facilities. Post-treatment assessments will be conducted for each project area that will include some or all of the following: end-state conditions assessment, fuel load inventories, ecological field studies, watershed assessment and monitoring, and data analysis and modeling. Maintenance measures will be implemented on project areas at least once every 5 years (or as necessary) to maintain the desired end-state conditions of the forests at LANL. These maintenance measures will include the type of treatment measures used to initially treat an area and may also include periodic mowing and the maintenance of access roads.

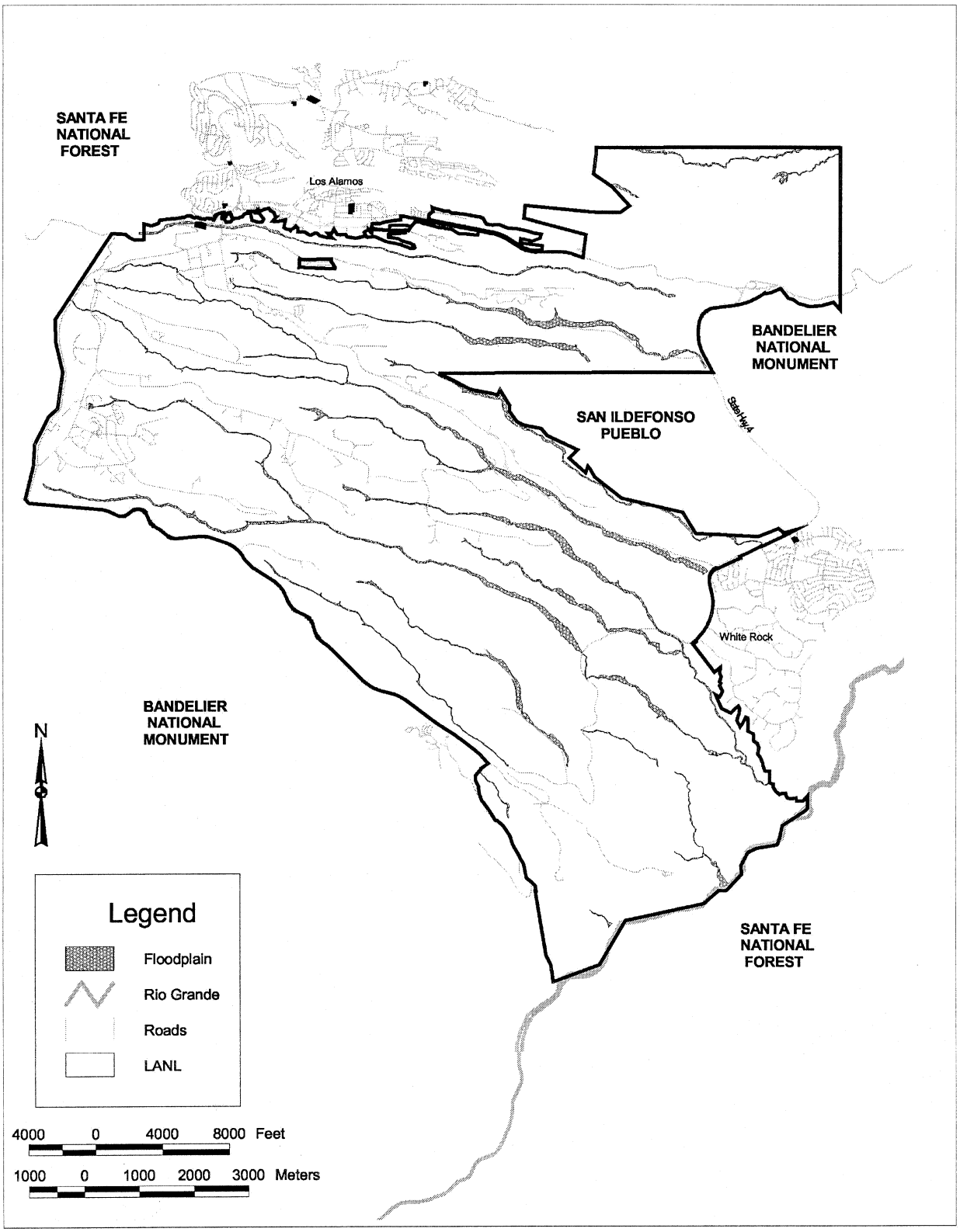
The forest thinning project actions are proposed to be located within floodplains due to the need to reduce fuel loading in the canyon areas, especially near LANL facilities and

areas of urban interface. Thinning within the canyon floodplains will be conducted in a mosaic pattern to reduce the likelihood of catastrophic wildfires while maintaining the beneficial floodplain properties with regards to wetlands protection and soil erosion retardation. The Final Environmental Assessment for the Wildfire Hazard Reduction and Forest Health Improvement Program at Los Alamos National Laboratory, Los Alamos, New Mexico (DOE/EA 1329) considered three alternatives, all of which included thinning actions in floodplains: the Proposed Action (the No Burn Alternative); the Limited Burn Alternative (Waste Only); and the Burn Alternative (Both Treatment and Forest Waste). The NNSA has issued Findings of No Significant Impacts (FONSI's) for the No Burn and the Limited Burn Alternatives and now plans to implement the Limited Burn Alternative. The only other alternative considered was the No Action Alternative. Both the No Burn and the Limited Burn Alternatives conform to applicable State or local floodplain protection standards.

Issued in Los Alamos, New Mexico on July 17, 2001.

David A. Gurulé, P.E.,

Area Manager, Department of Energy, National Nuclear Security Administration, Los Alamos Area Office.



BILLING CODE 6450–01–P

[FR Doc. 01–18379 Filed 7–23–01; 8:45 am]

BILLING CODE 6450–01–C

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Docket No. CP01–76–000

Cove Point LNG Limited Partnership, Notice of Availability of the Environmental Assessment for the Proposed Cove Point Lung Project

July 18, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the liquefied natural gas (LNG) facilities proposed by Cove Point LNG Limited Partnership (Cove Point) in the above-referenced docket.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major Federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the proposed project which includes the resumption of LNG deliveries by tanker to the Cove Point LNG import terminal in Calvert County, Maryland. Cove Point proposes to:

- Reactivate and refurbish the offshore marine terminal;
- Reactivate and refurbish certain onshore facilities;
- Decommission the liquefaction facilities;
- Construct an 850,000-barrel double-wall LNG storage tank;
- Construct an 485,000 standard cubic feet per hour nitrogen separation plant;
- Construct a meter station; and
- Construct an addition to the administration building.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the EA have been mailed to Federal, state and local agencies, public interest groups, interested individuals, newspapers, and parties to this proceeding.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments before the date specified below. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your comments to: Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Gas Group 1;
- Reference Docket No. CP01–76–000; and
- Mail your comments so that they will be received in Washington, DC on or before August 17, 2001.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

In addition to accepting written and electronically filed comments, a public meeting to receive comments on the EA will be held at the following: Thursday, August 2, 2001, 7 pm, Holiday Inn, Solomons, Maryland.

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your comments considered.

Additional information about the proposed project is available from the Commission's Office of External Affairs, at (202) 208–1088 or on the FERC Internet website (www.ferc.gov) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS, the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–18359 Filed 7–23–01; 8:45 am]

BILLING CODE 6717–01–P

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion on filing comments electronically.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File Application for a New License

July 18, 2001.

Take notice that the following notice of intent has been filed with the Commission and is available for public inspection:

a. *Type of filing:* Notice of Intent to File an Application for New License.

b. *Project No:* 632.

c. *Date filed:* June 19, 2001.

d. *Submitted By:* Monroe City.

e. *Name of Project:* Lower Monroe Canyon Hydroelectric Project.

f. *Location:* Project located at the mouth of Monroe canyon in Sevier County, of the state of Utah.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6.

h. Pursuant to Section 16.19 of the Commission's regulations, the licensee is required to make available the information described in Section 16.7 of the regulations. Such information is available from the licensee at Monroe City office, 10 N. Main, Monroe, Utah 84754. Interested parties can contact Doug Gadd, Public Works Director, Monroe City Public Works Dept.

i. *FERC Contact:* Gaylord Hoisington, 202 219–2756, *Gaylord.Hosington@Ferc.Fed.Us.*

j. *Expiration Date of Current License:* February 14, 2006.

k. The principal project features include a small intake structure, penstock, and powerhouse with appurtenances. The installed capacity of the hydro power plant is 250 kilowatts (kw).

l. The licensee states its unequivocal intent to submit an application for a new license for Project No.632 Pursuant to 18 CFR 16.9(b)(1) each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by February 14, 2004.

m. Copies of this filing are on file with the Commission and are available

for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–18360 Filed 7–23–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File Application for a New License

July 18, 2001.

Take notice that the following notice of intent has been filed with the Commission and is available for public inspection:

a. *Type of filing:* Notice of Intent to File an Application for New License.

b. *Project No:* 2219.

c. *Date filed:* June 19, 2001.

d. *Submitted By:* Garkane Power Association.

e. *Name of Project:* Boulder Creek Hydroelectric Plant.

f. *Location:* Remote area of south-central Utah, in Garfield County, approximately 100 miles east of Cedar City, Utah, in the Boulder Mountains.

g. *Filed Pursuant to:* Section 15 of the Federal Power Act, 18 CFR 16.6.

h. Pursuant to Section 16.19 of the Commission's regulations, the licensee is required to make available the information described in Section 16.7 of the regulations. Such information is available from the licensee at Garkane Power Association, P.O. Box 790, Richfield, Utah, 84701. Interested parties can contact Darin Robinson (435) 896–8266.

i. *FERC Contact:* Gaylord Hoisington, 202 219–2756, *Gaylord.Hosington@Ferc.Fed.Us*.

j. *Expiration Date of Current License:* April 30, 2007.

k. Project include West and East fork small reservoirs, approximately 3 miles of buried pipeline connecting the two reservoirs, approximately 4 miles of penstock, powerhouse with appurtenances, an afterbay, and transmission lines. The installed capacity of the project is 4,200 kilowatts (kw).

l. The licensee states its unequivocal intent to submit an application for a new license for Project No. 2219 Pursuant to 18 CFR 16.9(b)(1) each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 30, 2005.

Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

David. P. Boergers,

Secretary.

[FR Doc. 01–18361 Filed 7–23–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

July 18, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of Recreation Plan.

b. *Project No:* 2916–047.

c. *Date Filed:* May 25, 2001.

d. *Applicant:* East Bay Municipal Utility District.

e. *Name of Project:* Lower Mokelumne River Project.

f. *Location:* The project is located on the Mokelumne River in Amador, Calaveras, and San Joaquin Counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a), 825(r), and §§ 799 and 801.

h. *Applicant Contact:* Leo J. O'Brien, Senior Civil Engineer, Resources Planning Division, East Bay Municipal Utilities District, 375 Eleventh Street, Oakland, CA 94607–4240.

i. *FERC Contact:* Any questions on this notice should be addressed to Shana High at 202/208–2266.

j. *Deadline for filing comments and or motions:* August 24, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

k. Description of Request: Please include the specific project number (P–2916–047) on any comments or motions filed.

East Bay Municipal Utility District proposes to reconfigure some Camanche South Shore Recreation Area campgrounds by offering more space per campsite, modern restrooms, group campsites, and facilities for equestrians. The reconfiguration will reduce spaces at the cottonwood Campground and the District plans to add new campsites in other portions of the Camanche Recreation Area.

l. Locations of the Application: Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at http://www.ferc.gov using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((202) 208–2222 for assistance).

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. 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.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. 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. 01–18362 Filed 7–23–01; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments

July 18, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12055–000.

c. *Date filed:* June 20, 2001.

d. *Applicant:* Dakota Pumped Storage, LLC.

e. *Name of Project:* Dakota Pumped Storage.

f. *Location:* On the Missouri River in Charles Mix and Gregory Counties, South Dakota.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Robert P. Larson, Gray, Plant, Mooty, Mooty & Bennett, 33 South 6th Street, Minneapolis, MN 55406, (612) 343–2913; Douglas A. Spaulding, Spaulding Consultants, 1433 Utica Ave. South, Suite 162, Minneapolis, MN 55416, (652) 544–8133.

i. *FERC Contact:* Elizabeth Jones (202) 208–0246.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, 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 under the ''e-Filing'' link.

Please include the Project Number (12055–000) on any comments, protests, or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project is a pumped storage project that would use Lake Francis Case created by the U.S. Corps of Engineers' Fort Randall Dam as the lower reservoir and would consist of : (1) a proposed 27-foot-high, 30,000-foot-long earth fill dam; a proposed upper reservoir having a maximum surface area of 1,200-acres, a storage capacity of 20,000 acre-feet, a maximum water surface elevation of 5,523 feet msl., and a proposed power intake, (2) a proposed power tunnel consisting of a 724-foot deep, 24-foot diameter shaft, connecting the upper reservoir to the power tunnel, (3) a proposed 9,360-foot long, 24-foot diameter power tunnel connecting the shaft with three penstocks, each 18-feet in diameter, (4) a proposed powerhouse containing two generating units with a total installed capacity of 600 MW, (5) a proposed 2,000-foot, 130-foot wide channel connecting the powerhouse to Lake Francis Case, (6) the lower reservoir, formed by Lake Francis Case is impounded by the Corps of Engineers Fort Randall Dam, (7) three proposed 345 kV transmission lines, and (8) appurtenant facilities.

The project would have an estimated annual generation of 867 GWh.

l. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Commission's web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions ((202)208–2222 for assistance).

m. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory

Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–18363 Filed 7–23–01; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

Privacy Act; System of Records

AGENCY: Federal Communications Commission (FCC or Commission).

ACTION: Notice; one altered Privacy Act system of records; one revised routine use; one proposed new routine use; one deleted routine use; and one purged system of records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended, 5 U.S.C. 552a(e)(4), the FCC proposes to alter a systems of records, FCC/CIB–1, ''Informal Complaints and Inquiries,'' to incorporate the provisions of FCC/CIB–4, ''Telephone and Electronic Contacts,'' to revise the routine uses, and to make other edits and revisions as necessary. The FCC will eliminate FCC/CIB–4.

DATES: Any interested person may submit written comments concerning the routine uses of this system on or before August 23, 2001. Pursuant to Appendix I, 4(e) of OMB Circular A–130, the FCC is asking the Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act, to grant a waiver of the 40 day review period by OMB, the House of Representatives, and the Senate for this system of records to allow the FCC to release a Report and Order related to this system of records. The proposed altered system shall be effective on August 23, 2001 unless the FCC receives comments that require a contrary determination. The Commission will publish a document in the **Federal Register** notifying the public if any changes are necessary.

ADDRESSES: Address comments to the Les Smith, Performance Evaluation and Record Management (PERM), Room 1–A804, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, or via the Internet at *lesmith@fcc.gov;* or to Edward Springer, FCC Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10236, NEOB, 725 17th Street, NW, Washington, DC 20503, or via the Internet at Edward_C._Springer@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Les Smith, Performance Evaluation and Records Management, Room 1–A804, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, or via the Internet at *lesmith@fcc.gov;* or Arthur Scrutchins, Staff Attorney, Office of the Bureau Chief, Consumer Information Bureau, Room 3–A234, Federal Communications Commission, at (202) 418–2184, or via the Internet at *ascrutch@fcc.gov.*

SUPPLEMENTARY INFORMATION: As required by the Privacy Act of 1974, 5 U.S.C. 552a(e)(4), this document sets forth notice of the proposed alteration of a system of records maintained by the FCC. This notice is a summary of more detailed information which may be viewed at the location given in the **ADDRESSES** section above. The purpose of altering FCC/CIB–1, ''Information Complaints and Inquiries,'' is to enable the Consumer Information Bureau to handle and process informal complaints received from individuals, groups, and other entities. Records in this system are available for public inspection after redaction of information, which could identify the complainant or correspondent, i.e., name, address, and/or telephone number.

The Commission proposes to achieve this purpose by altering this system of records, FCC/CIB–1, ''Informal Complaints and Inquiries,'' with these changes:

The incorporation of the data elements of another system of records, FCC/CIB–4, ''Telephone and Electronic Contacts,'' into FCC/CIB–1; The elimination of FCC/CIB–4;

The revision of one routine use to address informal complaints:

Routine use (1) to allow disclosure when a record in this system involves an informal complaint, the complaint may be forwarded to the defendant entity for a response.

The addition of one routine use:

Routine use (2) to allow disclosure when an order or other Commission-issued document that includes consideration of informal complaints is entered by the FCC to implement the Communications Act, pertinent rule, regulation, or order of the FCC, the complainant's name and/or telephone number may be made public in that order or document;

The deletion of one routine use pursuant to 5 U.S.C. 552a(b)(3):

Former routine use (4) to disclose to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit; and

The revision or modification of various data elements in FCC/CIB–1, including editorial changes, to update, simplify, or clarify, as necessary, this system of records.

The FCC will use FCC/CIB–1 to handle and process informal complaints received by individuals, groups, and other entities. Records in this system are available for public inspection after redaction of information, which could identify the complainant or correspondent, i.e., name, address, and/or telephone number. The functions in this system of records will be performed by the Consumer Information Bureau (CIB).

This notice meets the requirement documenting the change in the Commission's system of records, and provides the public, Congress, and the Office of Management and Budget (OMB) an opportunity to comment.

FCC/CIB–1

SYSTEM NAME:

Informal Complaints and Inquiries.

SECURITY CLASSIFICATION:

This material has not received a security classification at this time. The OSCAR system is currently undergoing a security review.

SYSTEM LOCATION:

Chief, Consumer Information Bureau, Room 5–C758, Federal Communications Commission (FCC), 445 12th Street, SW., Washington, DC 20554 and 1270 Fairfield Road, Gettysburg, PA 17325.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, groups, and other entities who have made informal complaints or inquiries in any format, including but not limited to, paper, telephone, and electronic submissions, on matters

arising under the Communications Act of 1934, as amended, and the Rehabilitation Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The records in this system include both computerized information contained in a database and paper copies of inquiries, informal complaints, and related supporting information, company replies to complaints, inquiries, and Commission letters regarding such complaints and inquiries made by individuals, groups, or other entities pertaining to the FCC's bureaus and offices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Secs. 151, 154, 206, 208, 225, 226, 227, 228, 255, 258, 301, 303, 309(e), 312, 362, 364, 386, and 507 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 206, 208, 225, 226, 227, 228, 255, 258, 301, 303, 309(e), 312, 362, 364, 386, and 507; secs. 504 and 508 of the Rehabilitation Act, 29 U.S.C. 794; and 47 CFR 1.711 *et seq.*, 6.15 *et seq.*, 7.15 *et seq.*, and 64.604.

PURPOSE(S):

The records in this system of records are used by Commission personnel to handle and process informal complaints received from individuals, groups, and other entities. Records in this system are available for public inspection after redaction of information that could identify the complainant or correspondent, including, but not limited to, information such as name, address, and/or telephone number.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system of records is used by Commission personnel to handle and process informal complaints received from individuals, groups, and other entities.

1. When a record in this system involves an informal complaint, the complaint may be forwarded to the defendant entity for a response.

2. When an order or other Commission-issued document that includes consideration of informal complaints is entered by the FCC to implement the Communications Act, pertinent rule, regulation, or order of the FCC, the complainant's name and/or telephone number may be made public in that order or document.

3. Where there is an indication of a violation or potential violation of a statute, regulation, rule, or order, records from this system may be referred to the appropriate Federal, state, or local agency responsible for investigating or prosecuting a violation or for enforcing or implementing the statute, rule, regulation, or order.

4. A record on an individual in this system of records may be disclosed, where pertinent, in any legal proceeding to which the Commission is a party before a court or administrative body.

5. A record from this system of records may be disclosed to the Department of Justice or in a proceeding before a court or adjudicative body when:

(a) The United States, the Commission, a component of the Commission, or, when represented by the government, an employee of the Commission is a party to litigation or anticipated litigation or has an interest in such litigation, and

(b) The Commission determines that the disclosure is relevant or necessary to the litigation.

6. A record on an individual in this system of records may be disclosed to a Congressional office in response to an inquiry the individual has made to the Congressional office.

7. A record from this system of records may be disclosed to GSA and NARA for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall not be used to make a determination about individuals.

In each of these cases, the FCC will determine whether disclosure of the records is compatible with the purpose for which the records were collected.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper copies of records in this system of records are maintained in file folders and electronic files are located in computer databases on the FCC internal network.

RETRIEVABILITY:

Records are retrieved by individual name, entity name, licensee, applicant or unlicensed individual, call sign, file number, or subject matter.

SAFEGUARDS:

Records are stored in locked cabinets, which are secured in the office at the close of the business day. Access to computer records is controlled by password. Computer systems are stored within secure areas. Data resident on network servers are backed-up daily to magnetic media. One week of back-up tapes is stored on-site in fireproof safes. Each week, the previous week's back-up tapes are sent to an off-site storage location. A maximum of ten weeks of tapes are kept and cycled in this fashion.

RETENTION AND DISPOSAL:

The records are retained at the FCC and then destroyed in accordance with the appropriate records retention schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Consumer Information Bureau, Federal Communications Commission, 445 12th Street, Room 5–C758, SW., Washington, DC 20554.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager.

RECORD ACCESS PROCEDURES:

Address inquiries to the system manager. An individual requesting access must follow FCC Privacy Act regulations regarding verification of identity and amendment of records. See 47 CFR 0.554–0.557.

CONTESTING RECORD PROCEDURES:

Address inquiries to the system manager.

RECORD SOURCE CATEGORIES:

Complainants and subject entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 01–18555 Filed 7–23–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices

of the Board of Governors. Comments must be received not later than August 8, 2001.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Antonio R. Sanchez, Jr., Laredo, Texas; to acquire additional voting shares of International Bancshares Corporation, Laredo, Texas, and thereby indirectly acquire additional voting shares of International Bank of Commerce, Laredo, Texas,; Commerce Bank, Laredo, Texas; International Bank of Commerce, Zapata, Texas; and International Bank of Commerce, Brownsville, Texas.

Board of Governors of the Federal Reserve System, July 19, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–18423 Filed 7–23–00; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 17, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Regions Financial Corporation, Birmingham, Alabama; to merge with Park Meridian Financial Corporation, Charlotte, North Carolina, and thereby indirectly acquire Park Meridian Bank, Charlotte, North Carolina.

Board of Governors of the Federal Reserve System, July 19, 2001.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 01–18422 Filed 7–23–00; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

Office of Communications; Cancellation of an Optional Form by the Department of Defense

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The Department of Defense cancelled the following Optional Form because of low usage: OF 74 Method 50 Package Label (Large).

DATES: Effective July 24, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581.

Dated: July 13, 2001.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 01–18355 Filed 7–23–01; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0200]

Submission for OMB Review; Comment Request Entitled Sealed Bidding

AGENCY: General Services Administration (GSA).

ACTION: Notice of a request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the General Services Administration (GSA) has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Sealed Bidding.

DATES: Comments may be submitted on or before September 24, 2001.

FOR FURTHER INFORMATION CONTACT: Ralph DeStefano, Acquisition Policy Division, GSA (202) 501–1758.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0200, concerning Sealed Bidding. The information requested regarding an offeror's monthly production capability is needed to make progressive awards to ensure coverage of stock items.

B. Annual Reporting Burden

Respondents: 10.

Annual Responses: 10.

Average Hours Per Response: .5.

Burden Hours: 5.

On review the annual responses have decreased, but the time to compile the requested information requires more time, because item purchase has changed from wiping rags to fire pants.

Obtaining Copies of Proposals

A copy of this proposal may be obtained from the General Services Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0200, Sealed Bidding, in all correspondence.

David A. Drabkin,

Deputy Associate Administrator, Office of Acquisition Policy.

[FR Doc. 01–18393 Filed 7–23–01; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day–01–54]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Anne O'Connor, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

The Development and Testing of a Tool to Assess the Public's Perception about People with Epilepsy—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

About 2.3 million people in the U.S. have some form of epilepsy, a neurological condition in which the brain's normal electrical functions may be interrupted with bursts of electrical impulses. Epilepsy affects people of all ages, but particularly the very young and the elderly. Persons with chronic or disabling health conditions like epilepsy face myriad challenges including establishing and following a treatment regimen, developing and enacting self-management plans, and finding social support.

Compounding these challenges are the reactions and beliefs of people with whom they interact. The stigma and perceived stigma of their health condition can lead to problems with self-management of their disease and further morbidity.

The goal of this project is to develop a valid and reliable measurement tool to assess the public's perception of epilepsy and seizure disorders. This tool may shed light on the challenges in the social environment confronted by people with epilepsy and by their care givers. It will help gauge the climate of the general public and guide future epilepsy interventions. Once the tool has been developed, reliability and validity tests need to be conducted to ensure it is a scientifically rigorous instrument.

The goals of the proposed data collection are to assess the instrument's:

- Internal consistency—how well different measures of the same construct reflect that construct
- Concurrent validity—the degree to which an operation is able to predict the behavior it purports to predict
- Construct validity—the extent to which an operation measures only the defined construct and not other constructs
- Test-retest reliability—the stability of the measure over time

A random digit dial survey will be conducted with 750 respondents via computer assisted telephone interviewing (CATI) techniques. The number of respondents is sufficient to be generalizable to the U.S. population and to perform data reduction techniques such as factor analysis. The scale will be approximately 30 items and take 20 minutes to complete. Of the 750 respondents, 100 will be called back within two weeks to assess test-retest reliability. There are no costs to respondents.

Form	Type of respondents	No. of respondents per year	No. of responses per respondent	Avg. burden per response (in hours)	Total annual burden (in hours)
1	General Public	650	1	20/60	217
1	General Public	100	2	20/60	67
Total					284

Dated: July 16, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation Centers for Disease Control and Prevention.

[FR Doc. 01–18352 Filed 7–23–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30 DAY–42–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Assessing the Effectiveness of Community-Based Organizations (CBOs) for the Delivery of HIV Prevention Intervention: Model Development and Training Component—New—Centers for Disease Control and Prevention (CDC), National Center for HIV, STD, and TB Prevention (NCHSTP) proposes to develop and test a model of HIV prevention community-based organization (CBO) functioning using a

one time data collection questionnaire. Each CBO will be asked to answer questions related to the existence and importance of factors affecting their HIV prevention interventions. This data collection is necessary for CDC to better (a) assess CBO applications systematically for funding, (b) develop materials CBOs can use to assess their own programmatic needs and create a social map of their target populations, including a CBO profile of organizational, environmental, target population, intervention program and accomplishments characteristics, (c) better develop CBO technical assistance (TA) materials, and (d) provide TA to CBOs that have already been selected by CDC for funding. This study will also yield more hypotheses for statistical testing, instruments with reliability and validity data for use in other studies, and a model that can be used and revised to meet the context of a particular CBO. The questionnaire will be administered to 766 CBOs that have applied for CDC funding under program announcements 00023, 00100, 99047, 99091, 99092, 99096. The total response burden for this data collection is 1532 hours.

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)
Model Survey	766	1	2

Dated: July 12, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–18353 Filed 7–23–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–43–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Assessing the Effectiveness of Community-Based Organizations (CBOs) for the Delivery of HIV Prevention Intervention: Process Evaluation—New—Centers for Disease Control and Prevention (CDC), National Center for HIV, STD, and TB Prevention (NCHSTP) proposes to evaluate HIV prevention programs in community-based organizations (CBOs) through a quarterly and annual reporting system. This evaluation is necessary to understand the impact of CDC's expenditures and efforts to support CBOs, and for modifying and improving the prevention efforts of CBOs. This data collection will provide CDC with standardized data which will allow CDC to (a) determine the extent to which HIV prevention efforts have contributed to a reduction in HIV transmission nationally; (b) improve programs to better meet the goal of reducing HIV transmission; (c) help focus technical assistance and support; and (d) be accountable to stakeholders by informing them of progress made in HIV prevention nationwide. CDC currently funds 181 CBOs.

Each CBO will be asked to report on the following types of interventions that it has implemented (a) individual level interventions; (b) group level interventions; (c) street and community outreach; (d) prevention case management; (e) partner counseling and referral services; (f) health communications/public information; (g) community level interventions; and (h) HIV antibody counseling and testing.

The total response burden for this data collection is 1,810 hours.

Respondents	Number of respondents	Number of responses	Avg. burden per response (in hrs.)
Intervention Plan	181	1	2
Process Monitoring	181	4	2

Dated: July 12, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–18354 Filed 7–23–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Draft Research Agenda for the National Center for Injury Prevention and Control

AGENCY: Centers for Disease Control and Prevention, Department of Health and Human Services.

ACTION: Notice of the availability of draft research agenda and request for comments.

SUMMARY: The Centers for Disease Control and Prevention (CDC) announces the availability of the Draft Research Agenda for the National Center for Injury Prevention and Control (NCIPC) and solicits comments during the public comment period of July 18, 2001, through August 20, 2001. Over the past year, NCIPC has been developing a research agenda based on input from internal staff and external experts in the

field of injury prevention and control. The research themes presented are designed to represent the breadth and depth of the field within eight topic areas including; suicide, youth violence, intimate partner violence/sexual violence/child maltreatment, transportation and mobility, sports/recreation/exercise, residential and community safety, acute care, and disability and rehabilitation.

DATES: Public comment period will be July 18–August 20, 2001.

ADDRESSES: Interested persons are invited to comment on the Draft Research Agenda. NCIPC will not be able to respond to individual comments, but all comments received by August 20, 2001, will be considered before the final Research Agenda is published. View the Draft Research Agenda and submit comments electronically at http://www.qrc.com/ncipcagenda. Alternatively, hard copy versions of the draft research agenda may be obtained by contacting Dr. Judy Berkowitz at ORC Macro, 3 Corporate Square, NE., Suite 370, Atlanta, GA 30329. Telephone 404–321–3211 or Email address: agenda@macroint.com.

FOR FURTHER INFORMATION CONTACT: Dr. Judy Berkowitz, ORC Macro 3 Corporate Square, NE., Suite 370, Atlanta, GA 30329. Email address: *agenda@macroint.com*. Telephone: (404) 321–3211.

Dated: July 18, 2001.

Joseph R. Carter,

Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 01–18371 Filed 7–23–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program; Call for Public Comments on 16 Substances, Mixtures and Exposure Circumstances Proposed for Listing in the Report on Carcinogens, Eleventh Edition

Background

The National Toxicology Program (NTP) announces its intent to review additional agents, substances, mixtures and exposure circumstances for possible listing in the Report on Carcinogens (RoC), Eleventh Edition that is scheduled for publication in 2004. This Report (previously known as the Annual Report on Carcinogens) is a Congressionally mandated listing of known human carcinogens and reasonably anticipated human carcinogens and its preparation is delegated to the National Toxicology Program by the Secretary, Department of Health and Human Services (DHHS). Section 301(b)(4) of the Public Health Service Act, as amended, provides that the Secretary, DHHS shall publish a report, which contains a list of all substances (1) which either are known to be human carcinogens or may reasonably be anticipated to be human carcinogens, and (2) to which a significant number of persons residing in the United States (US) are exposed. The law also states that the reports should provide available information on the nature of exposures, the estimated number of persons exposed and the extent to which the implementation of Federal regulations decreases the risk to public health from exposure to these chemicals.

The scientific review of the nominated agents, substances, mixtures or exposure circumstances involves three separate scientific reviews: Two Federal review groups and one non-government peer review body (a subcommittee of the NTP Board of Scientific Counselors) that meets in an open, public forum. Throughout the review process, multiple opportunities are provided for public input including comment at the public meeting of the NTP Board Subcommittee. In reviewing nominations for the RoC, all available data and public comments are considered in the application of the criteria for inclusion or removal of candidate agents, substances, mixtures or exposure circumstances or for a change in a candidate's classification. The criteria used in the review process are as follows:

Known To Be Human Carcinogens

There is sufficient evidence of carcinogenicity from studies in humans which indicates a causal relationship between exposure to the agent, substance or mixture and human cancer.

Reasonably Anticipated To Be Human Carcinogens

There is limited evidence of carcinogenicity from studies in humans which indicates that causal interpretation is credible but that alternative explanations such as chance, bias or confounding factors could not adequately be excluded; or

There is sufficient evidence of carcinogenicity from studies in experimental animals which indicates there is an increased incidence of malignant and/or a combination of malignant and benign tumors: (1) In multiple species, or at multiple tissue sites, or (2) by multiple routes of exposure, or (3) to an unusual degree with regard to incidence, site or type of tumor or at onset; or

There is less than sufficient evidence of carcinogenicity in humans or laboratory animals; However, the agent, substance or mixture belongs to a well defined, structurally-related class of substances whose members are listed in a previous Report on Carcinogens as either a known to be human carcinogen, or reasonably anticipated to be human carcinogen or there is convincing relevant information that the agent acts through mechanisms indicating it would likely cause cancer in humans.

Conclusions regarding carcinogenicity in humans or experimental animals are based on scientific judgment, with consideration given to all relevant information. Relevant information includes, but is not limited to dose response, route of exposure, chemical structure, metabolism, pharmacokinetics, sensitive sub populations, genetic effects, or other data relating to mechanism of action or factors that may be unique to a given substance. For example, there may be substances for which there is evidence of carcinogenicity in laboratory animals but there are compelling data indicating that the agent acts through mechanisms which do not operate in humans and would therefore not reasonably be anticipated to cause cancer in humans.

A detailed description of the review procedures, including the steps in the formal review process, is available at *http://ntp-server.niehs.nih.gov* or can be obtained by contacting: Dr. C.W. Jameson, National Toxicology Program, Report on Carcinogens, 79 Alexander Drive, Building 4401, Room 3118, P.O. Box 12233, Research Triangle Park, NC 27709; phone: (919) 541–4096, fax: (919) 541–0144, email: jameson@niehs.nih.gov.

Public Comment Requested

The following table identifies the 16 nominations the NTP may consider for review in 2001 or 2002, as either a new listing in or changing the current listing from reasonably anticipated to be a human carcinogen to the known to be a human carcinogen category in the Eleventh Report. These nominations are provided with their Chemical Abstracts Services (CAS) Registry numbers (where available) and pending review action. Additional nominations for the Eleventh Report or modifications to the nominations in the attached table may be identified and would be announced in future **Federal Register** notices. The NTP solicits public input on these 16 nominations and asks for relevant

information concerning their carcinogenesis, as well as current production data, use patterns, or human exposure information. The NTP also invites interested parties to identify any scientific issues related to the listing of a specific nomination in the RoC that they feel should be addressed during the reviews. Comments concerning these nominations for listing in or changing the current listing in the Eleventh Report on Carcinogens will be accepted through September 24, 2001. Individuals submitting public comments are asked to include relevant contact information (name, affiliation (if any), address, telephone, fax, and email). Comments or questions should be directed to Dr. C.W. Jameson at the address listed above.

Additional Nominations for Delisting or Listing Encouraged

The NTP solicits and encourages the broadest participation from interested individuals or parties in nominating agents, substances, or mixtures for listing in or delisting from the Eleventh and future RoCs. Nominations should contain a rationale for listing or delisting. Appropriate background information and relevant data (e.g. Journal articles, NTP Technical Reports, IARC listings, exposure surveys, release inventories, etc.), which support a nomination, should be provided or referenced when possible. Contact information for the nominator should also be included (name, affiliation (if any), address, telephone, fax, and email). Nominations should be sent to Dr. Jameson's attention at the address given above.

Dated: July 12, 2001.

Kenneth Olden,

Director, National Toxicology Program.

SUMMARY FOR AGENTS, SUBSTANCES, MIXTURES OR EXPOSURE CIRCUMSTANCES TO BE REVIEWED IN 2001–2002 FOR POSSIBLE LISTING IN THE REPORT ON CARCINOGENS, ELEVENTH EDITION

Nomination to be reviewed/CAS No.	Primary uses or exposures	Nominated by	Basis for nomination
1-Amino-2,4-dibromoanthraquinone (81–49–2).	1-Amino-2,4-dibromoanthraquinone is an anthraquinone-derived vat dye that is used in the textile industry.	NIEHS [1]	Results of NTP Bioassay (TR 383, 1996) that reported clear evidence of carcinogenicity at multiple tumor sites in multiple species of experimental animals.
2-Amino-3,4-dimethylimidazo[4,5-f]quinoline (MeIQ) (77094–11–2).	MeIQ is a heterocyclic amine that is formed during heating or cooking and is found in cooked meat and fish.	NIEHS [1]	IARC [2] finding of sufficient evidence of carcinogenicity in experimental animals (Vol. 56; 1993).
Cobalt Sulfate (10026–24–1)	Cobalt sulfate is used in electroplating and electrochemical industries. It is also used as a coloring agent for ceramics, a drying agent in inks, paints, varnishes and linoleum, and has been added to animal feed as a mineral supplement.	NIEHS [1]	Results of NTP Bioassay (TR 471, 998) which reported clear evidence of carcinogenic activity in female F344/N rats and male and female B63F1 mice and some evidence of carcinogenic activity in male F344/N rats.
Diazoaminobenzene (DAAB) (136–35–6).	DAAB is used as an intermediate, complexing agent, polymer additive and also to promote adhesion of natural rubber to steel.	NIEHS [1]	Results of research supported the by the NTP that demonstrated this chemical is quantitatively metabolized to benzene (a known human carcinogen).
Diethanolamine (DEA) (111–42–2)	DEA is used in the preparation of surfactants used in liquid laundry, dishwashing detergents, cosmetics, shampoos, and hair conditioners and in textile processing, industrial gas purification and as an anticorrosion agent.	Dr. Franklin Mirer of the United Auto Workers.	Results of NTP Bioassay (TR 478, 1999) which reported clear evidence of carcinogenic activity in male and female B6C3F1 mice.
Hepatitis B Virus (HBV)	HBV is a small DNA-enveloped virus that is transmitted by percutaneous or permuscosal exposure to infectious blood or body fluids that contain blood.	NIEHS [1]	IARC [2] finding of sufficient evidence of carcinogenicity in humans (Vol. 59, 1994).
Hepatitis C Virus (HCV)	HCV is an RNA-enveloped virus that is transmitted mainly by percutaneous exposure to infectious blood and less efficiently by permuscosal exposure to infectious blood or body fluids that contain blood.	NIEHS [1]	IARC [2] finding of sufficient evidence of carcinogenicity in humans (Vol. 59, 1994).
High Risk Human Papillomaviruses (HPVs).	HPVs are small, non-enveloped viruses that infect the skin and oral and genital mucosa. HPV infections are common throughout the world.	NIEHS [1]	IARC [2] finding of sufficient evidence of carcinogenicity in humans (Vol. 70, 1997).
X-Radiation and GAMMA (γ)-Radiation	The major exposures of concern for cancer from X- and γ-radiation are from the past use of atomic weapons and from medical uses of radiation.	NIEHS [1]	IARC [2] finding of sufficient evidence of carcinogenicity in humans (Vol. 75, 2000).

SUMMARY FOR AGENTS, SUBSTANCES, MIXTURES OR EXPOSURE CIRCUMSTANCES TO BE REVIEWED IN 2001–2002 FOR POSSIBLE LISTING IN THE REPORT ON CARCINOGENS, ELEVENTH EDITION—Continued

Nomination to be reviewed/CAS No.	Primary uses or exposures	Nominated by	Basis for nomination
Neutrons	Exposure to neutrons normally occurs from a mixed irradiation field in which neutrons are a minor component. The exceptions are exposure of patients to neutron radiotherapy beams and exposures of aircraft passengers and crew.	NIEHS [1]	IARC [2] finding of sufficient evidence of carcinogenicity in humans (Vol. 75, 2000).
Occupational exposure to lead or lead compounds.	Major occupational exposures are in the lead smelting and refining industries, battery-manufacturing plants, steel welding or cutting operations, construction, and firing ranges.	NIEHS [1]	Recent published data that indicate an excess of cancers in workers exposed to lead and lead compounds.
Naphthalene (91–20–3)	Naphthalene is used as an intermediate in the synthesis of many industrial chemicals, an ingredient in some moth repellants and toilet bowl deodorants, as an antiseptics for irrigating animal wounds and to control lice on livestock and poultry.	NIEHS [1]	Results of NTP Bioassay (TR 500, 2000) that reported clear evidence of carcinogenicity in male & female rats and some evidence in female mice.
Nitrobenzene (98–95–3)	Nitrobenzene is used mainly in the production of aniline, itself a major chemical intermediate in the production of dyes.	NIEHS [1]	IARC [2] finding sufficient of evidence of carcinogenicity in experimental animals (Vol. 65, 1996).
Nitromethane (75–52–5)	Nitromethane is used as an additive to many halogenated solvents and aerosol propellants as a stabilizer. It can also be used in specialized fuels and in explosives.	NIEHS [1]	Results of NTP Bioassay (TR 461, 1997) that reported clear evidence of carcinogenicity in male & female mice and clear evidence in female rats.
Phenylimidazopyridine [PhIP, (105650–23–5)].	PhIP is a heterocyclic amine that is formed during heating or cooking and is found in cooked meat and fish.	Dr. Takashi Sugimura, President Emeritus, National Cancer Center of Japan.	Nomination based on Dr. Sugimura's recent reviews of the carcinogenicity of heterocyclic amines.
4,4′-Thiodianiline (139–65–1)	4,4′-Thiodianiline has been produced commercially since the early 1940's as an intermediate of several diazo dyes.	NIEHS [1]	IARC [2] finding of sufficient evidence of carcinogenicity in experimental animals (Suppl 7, 1987). and result of NTP Bioassay studies that demonstrated clear evidence of carcinogenicity in mice and rats (TR–047, 1978).

[1] The National Institute of Environmental Health Sciences (NIEHS).
[2] International Agency for Research on Cancer (IARC).

[FR Doc. 01–18391 Filed 7–23–01; 8:45 am]
BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–910–01–0777–30]

Northeastern Great Basin Resource Advisory Council Meeting Location and Time

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Council's meeting location and time.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM), Council meetings will be held as indicated below. The agenda for this meeting on August 3, 2001 includes: review and approval of minutes from the January 5, 2001 and the May 3–4, 2001 meetings.

Discussion/Decision Topics

Southern Nevada Public Lands Management Act Acquisitions
California Trail Interpretive Center Discussion
Off-Highway Vehicle Guidelines
Vegetation Guidelines
Battle Mountain Fire Use Plan
Elko Field Office Fire Land Use Plan Amendment
Elko Field Office OHV/California Trail/Special Area Land Use Plan Amendment
Land Use Plan Amendments

Meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. The public comment period for the Council meeting is listed below. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided below.

DATES, TIMES, PLACE: The time and location of the meeting is as follows: Northeastern Great Basin Resource Advisory Council, Opera House, Eureka, Nevada, 89316; August 3, 2001, beginning at 9 a.m.; public comment period 11 a.m. and 2:30 p.m. adjournment at 4 p.m. or when business is concluded after that time.

FOR FURTHER INFORMATION CONTACT: Diane Murray, Public Affairs Specialist, Battle Mountain Field Office, 50 Bastian Road, Battle Mountain, NV 89820, telephone (775) 6635–4000.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues, associated with the management of the public lands.

Helen M. Hankins,

Elko Field Manager.

[FR Doc. 01–18392 Filed 7–23–01; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF JUSTICE

Notice of Memorandum

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: This Notice consist of a Memorandum from the Attorney General to the Acting Commissioner of the Immigration and Naturalization Service (INS) concerning detention of certain aliens held under final orders of removal. The Memorandum directs the INS to take a number of actions in response to the decision of the U.S. Supreme Court In *Zadvydas* v. *Davis,* 533 U.S. __, 121 S.Ct. 2491 (June 28, 2001). It directs the INS to present the Attorney General with regulations by July 31, 2001 that set forth a precedence for such aliens to present a claim that they should be released from detention because there is no significant likelihood that they will be removed in the reasonably foreseeable future. The regulations are also to address continued detention for aliens presenting special circumstances of the sort identified by the Court in *Zadvydas,* such as terrorists or other especially dangerous individuals. Until those regulations are published, the Memorandum directs the INS to: (1) Immediately renew efforts to remove aliens in post-order detention, placing special emphasis on aliens who have been detained the longest; (2) expeditiously conclude its ongoing file review for all aliens who have remained in post-order detention for 90 days or more, with priority given to those cases in which the aliens have been detained longest; as part of that review, the INS shall immediately begin accepting requests, submitted in writing, by detained aliens who contend that there is no significant likelihood of their removal in the reasonably foreseeable future; (3) respond in writing, as expeditiously as possible, to any such written submission, prioritizing the cases of aliens who have been detained longest; and (4) make sure that no alien who has previously been determined under existing procedures in 8 CFR 241.4 to pose a danger to the community will be released until his or her case has been processed through the INS review and the INS has made a determination, based on available information, that there is no significant likelihood of the alien's removal in the reasonably foreseeable future. The Memorandum also directs the INS to collect certain relevant data, to confer with the Department of State concerning improving repatriation procedures, and to refer for prosecution cases involving violations of 8 U.S.C. 1253.

FOR FURTHER INFORMATION CONTACT: Stuart Levey, Associate Deputy Attorney General, U.S. Department of Justice, Room 4615, 950 Pennsylvania Ave., NW., Washington, DC 20530, (202) 514–2000.

Stuart Levey,

Associate Deputy Attorney General.

Office of the Attorney General

Washington, DC 20530

July 19, 2001
Memorandum
To: Acting Commissioner, Immigration and Naturalization Service
From: John Ashcroft, the Attorney General
Subject: Post-Order custody review after Zadvydas v. Davis

The Supreme Court held in *Zadvydas v. Davis,* 533 U.S. __, 121 S. Ct. 2491 (June 28, 2001), that § 241(a)(6) of the Immigration and Nationality Act (INA), read in light of due process protections for aliens who have been admitted into the United States, generally permits the detention of such an alien under a final order of removal only for a period reasonably necessary to bring about that alien's removal from the United States. The Supreme Court held that detention of such an alien beyond the statutory removal period, for up to six months after the removal order becomes final, is ''presumptively reasonable.'' After six months, if an alien can provide ''good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future,'' the government must rebut the alien's showing in order to continue the alien in detention. Finally, the Supreme Court indicated that there may be cases involving ''special circumstances,'' such as terrorists or other especially dangerous individuals, in which continued detention may be appropriate even if removal is unlikely in the reasonably foreseeable future.

The Supreme's Court's ruling will inevitably result in anomalies in which individuals who have committed violent crimes will be released from detention simply because their country of origin refuses to live up to its obligations under international law. Nevertheless, the Department of Justice and the Immigration and Naturalization Service (INS) are obligated to abide by the Supreme Court's ruling and to apply it to the thousands of aliens who are currently in detention after receiving final orders of removal. Because we are thus faced with the possible imminent release of many aliens who have previously been determined to pose a risk to the community, I am issuing this memorandum to give direction to the INS in handling the situation presented by the Supreme Court's ruling and to ensure that we take all responsible steps to protect the public.

The existing post-order detention standards, at 8 CFR § 241.4, provide for an ongoing administrative review of the detention of each alien subject to a final order of removal, allowing for the continued detention of aliens unless the INS determines, among other factors, that their release would not pose a danger to the community or a risk of flight. The Supreme Court's decision did not question the INS's authority to detain an alien, under the existing post-order detention standards, as long as reasonable efforts to remove the alien are still underway and it is reasonably foreseeable that the alien will be removed. In particular, the decision does *not* require that an alien under a final order of removal automatically be released after six months if he or she has not yet been removed. Instead, the Supreme Court held that ''an alien may be held in confinement until it has been determined that there is no significant likelihood of removal in the reasonably foreseeable future.''

The Supreme Court's decision will require the INS, in consultation with the Department of State, to assess the likelihood of the removal of thousands of aliens to many different countries. The Supreme Court emphasized in its decision the need to ''take appropriate account of the greater immigration-related expertise of the Executive Branch, of the serious administrative needs and concerns inherent in the necessarily extensive INS efforts to enforce this complex statute, and the Nation's need 'to speak with one voice;' in immigration matters.'' The Court also stressed the need for the courts to give expert Executive Branch ''decsionmaking leeway,'' to give deference to ''Executive Branch primacy in foreign policy matters,'' and to establish uniform administration of the immigration laws.

The Supreme Court also made it clear that its ruling does not apply to those aliens who are legally still at our borders or who have been paroled into the country (such as the Mariel Cubans). The Supreme Court has held that such aliens do not have due process rights to enter or to be released into the United States, and continued detention may be appropriate to accomplish the statutory purpose of preventing the entry of a person who has, in the contemplation of the law, been stopped at the border.

In accordance with the Supreme Court's admonitions, and pursuant to my authority to interpret and administer the INA, *see* 8 U.S.C. § 1103(a), I have concluded that it is necessary to establish a mechanism by which the responsible Executive Branch officials will exercise their expert judgment to assess

the likelihood of the return of aliens, and will do so in a fair, consistent, and orderly manner in a nationwide detention program that involves thousands of aliens from virtually every country in the world.

I. Accordingly, in order to carry out my responsibilities under the Supreme Court's decision, I am directing the INS to draft and present to me regulations on or before July 31, 2001, that set forth a procedure for aliens subject to a final order of removal (other than aliens who have not entered the United States or who have been granted immigration parole into the United States) to present a claim that they should be released from detention because there is no significant likelihood that they will be removed in the reasonably foreseeable future. Where the alien has presented and substantiated such a claim, the INS will then make a determination, in light of available information and circumstances, whether there is no significant likelihood of removing that alien in the reasonably foreseeable future. Until the INS makes that determination, or if it determines there is still a significant likelihood of removal, the INS will continue its efforts to remove the alien, and the alien's detention will continue to be governed under the existing post-order detention standards. However, if the alien has already been detained for more than six months since the removal order became final, and the INS determines that there is no significant likelihood of removal in the reasonably foreseeable future, the INS will either (1) release the alien, subject to appropriate conditions to protect the public safety and to deter the alien's flight; or (2) determine whether there are special circumstances justifying continued detention in a specific case even if there is no significant likelihood of removal in the reasonably foreseeable future.

With respect to determinations as to the likelihood of removal, those regulations should: (a) Require the alien to demonstrate his or her ongoing efforts to comply with the removal order and to cooperate in the removal effort (a statutory obligation under INA § 243(a)); (b) provide for the decisionmaking official to consider the Service's historical record in achieving the removal of aliens to the country or countries at issue; (c) provide an opportunity to solicit input from the Department of State regarding the prospects for removal of the alien; and (d) afford the alien an opportunity to show that because of the particular circumstances of his or her case, removal is, to a material extent, less likely than for others being removed to the same country or countries and therefore that there is no significant likelihood of removal in the reasonably foreseeable future. The regulations should also make clear that, as under current regulations, aliens who violate the conditions of their release may be taken back into custody and are subject to criminal prosecution.

I am also directing the INS to develop regulations to address the situations that present special circumstances of the sort identified by the Supreme Court in *Zadvydas*, such as terrorists or other especially dangerous individuals. Those regulations should: (a) Adequately define the categories of aliens who are eligible for detention even if there is not a significant likelihood of removal in the reasonably foreseeable future, and (b) provide constitutionally sufficient procedural protections to those aliens. The INS should develop those standards in consultation with the Civil and Civil Rights Divisions, the Executive Office for Immigration Review, and other federal agencies with relevant expertise.

II. Until the regulations described in Part I above are published, in order to implement a system of detention in compliance with the *Zadvydas* decision while still providing the maximum allowable protection to the American public, I further direct the INS to implement the following interim procedures with respect to aliens subject to a final order of removal (other than aliens who have not entered the United States or who have been paroled into the United States). Because of those concerns, any public procedure delaying the immediate effectiveness of these interim procedures would be contrary to the public interest.

1. The INS shall immediately renew efforts to remove all aliens in post-order detention, placing special emphasis on aliens who have been detained the longest.

2. The INS shall expeditiously conclude its ongoing file review for all aliens who have remained in post-order detention for 90 days or more, with priority given to those cases in which the aliens have been detained longest. As part of that review, the INS shall immediately begin accepting requests, submitted in writing, by detained aliens who contend that there is no significant likelihood of their removal in the reasonably foreseeable future. Those requests shall be submitted and considered part of the existing custody review procedures established by 8 CFR § 241.4. Aliens shall be given the opportunity to submit any information that they believe supports this contention. Until further procedures are specified, the INS shall treat any alien's petition for a writ of habeas corpus challenging his post-order detention as such a request for release under existing review procedures, and the request shall be considered by the INS accordingly.

3. The INS shall respond in writing, as expeditiously as possible, to any such written submission, prioritizing the cases of aliens who have been detained the longest. In all cases, the INS shall respond in 30 days or less. The INS's failure to respond in 30 days will not, however, automatically entitle the alien to release.

4. No alien who has previously been determined under existing procedures in 8 CFR § 241.4 to pose a danger to the community will be released until his or her case has been processed through the INS review and the INS has made a determination, based on available information, that there is no significant likelihood of the alien's removal in the reasonably foreseeable future. If the INS decides that the alien has demonstrated that there is no significant likelihood of removal in the reasonably foreseeable future but that continued detention is justified on the basis of special circumstances, it shall include a basic description of those special circumstances in its written response. Any alien who is released shall be subjected to appropriate orders of supervision that protect the community and enhance the ability to repatriate the alien in the future. As provided under the current regulations and recognized by the Supreme Court in *Zadvydas*, those orders of supervision shall specify that the alien may be re-detained if he or she violates the conditions of release.

III. In order to implement the custody review system I have described, the INS also is directed to:

1. Collect data on its experience removing aliens to each country in the world. Those data should include, to the extent possible, the number of aliens removed to each country, the number of aliens from each country that the INS has not successfully removed, the length of time needed to achieve removal to each country, and, if known, the reasons why the removal of some classes of aliens may have taken longer to accomplish than for other aliens from that country, or could not be accomplished.

2. Confer with the Department of State about problems removing aliens to particular countries and seek the assistance of the Department of State as appropriate, including in assessing the likelihood of repatriation of aliens to particular countries.

3. Refer for prosecution appropriate cases: (a) Under INA § 243(a) involving aliens who refuse to make timely application for travel documents or who obstruct their removal; and (b) under INA § 243(b) involving aliens who violate their orders of supervision.

The INS is also directed to publish this memorandum in the **Federal Register**. The public notice shall provide an address for the submission of requests from aliens, as provided in Part II of this memorandum, contending that they should be released from custody because there is no significant likelihood that they will be removed in the reasonably foreseeable future.

[FR Doc. 01–18549 Filed 7–20–01; 3:06 pm]

BILLING CODE 4410–10–M

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

The United States Institute for Environmental Conflict Resolution

Agency Information Collection Activities: Proposed Collection; Comment Request; U.S. Institute for Environmental Conflict Resolution; Application for Support From the Environmental Conflict Resolution (ECR) Participation Program

AGENCY: Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, U.S. Institute for Environmental Conflict Resolution.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act and supporting regulations, this document announces that the U.S. Institute for Environmental Conflict Resolution (the U.S. Institute), part of the Morris K. Udall Foundation, is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): Application for Support from the Environmental Conflict Resolution Participation Program. Before submitting the ICR to OMB for review and approval, the U.S. Institute is soliciting comments regarding the proposed information collection (see Section C, below entitled Questions to Consider in Making Comments.) This document provides information on the need for the ECR Participation Program, the information to be provided in the application form, and the burden estimate for applying for and documenting activities conducted under the ECR Participation Program. The application will not be available until all Paperwork Reduction Act requirements are met.

DATES: Comments must be submitted on or before September 24, 2001.

ADDRESSES: Please direct comments and requests for information, including copies of the proposed ICR, to: David P. Bernard, Associate Director, U.S. Institute for Environmental Conflict Resolution, 110 South Church Avenue, Suite 3350, Tucson, Arizona 85701, Fax: 520–670–5530, Phone: 520–670–5299, E-mail: bernard@ecr.gov.

FOR FURTHER INFORMATION CONTACT: David P. Bernard, Associate Director, U.S. Institute for Environmental Conflict Resolution, 110 South Church Avenue, Suite 3350, Tucson, Arizona 85701, Fax: 520–670–5530, Phone: 520–670–5299, E-mail: bernard@ecr.gov.

SUPPLEMENTARY INFORMATION:

A. Title for the Collection of Information

Application for Support from the Environmental Conflict Resolution (ECR) Participation Program from the U.S. Institute for Environmental Conflict Resolution.

B. Potentially Affected Persons

State and local governments and agencies, tribes, and non-governmental organizations who may apply for support to initiate multi-party, neutral-led conflict resolution processes on environmental and natural resource issues that involve federal agencies or interests.

C. Questions To Consider in Making Comments

The U.S. Institute for Environmental Conflict Resolution requests your comments and responses to any of the following questions related to collecting information as part of the Application for Support from the Environmental Conflict Resolution Participation Program.

1. Is the proposed application process (''collection of information'') necessary for the proper performance of the functions of the agency, including whether the information will have practical utility?

2. Is the agency's estimate of the time spent completing the application (''burden of the proposed collection of information'') accurate, including the validity of the methodology and assumptions used?

3. Can you suggest ways to enhance the quality, utility, and clarity of the information collected?

4. Can you suggest ways to minimize the burden of the information collection 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?

D. Abstract

The U.S. Institute for Environmental Conflict Resolution plans to collect information in an application form to be submitted by entities and organizations for the purpose of documenting the need for U.S. Institute support, both technical and financial, for specific conflict resolution projects. Through the ECR Participation Program, the U.S. Institute will provide neutral facilitation and convening services, and related participation support, for the initiation of agreement-focused environmental conflict resolution processes. State and local governments and agencies, tribes, and non-governmental organizations, may apply for support when it is needed to create balanced stakeholder involvement processes involving federal agencies or interests.

Responses to the collection of information (the application) are voluntary, but required to obtain a benefit (financial or technical support from the U.S. Institute.) 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.

Background Information: *U.S. Institute for Environmental Conflict Resolution*. The U.S. Institute for Environmental Conflict Resolution was created in 1998 by the Environmental Policy and Conflict Resolution Act (P.L. 105–156). The U.S. Institute is located in Tucson, Arizona and is part of the Morris K. Udall Foundation, an independent agency of the executive branch of the federal government. The U.S. Institute's primary purpose is to provide impartial, non-partisan assistance to parties in conflicts involving environmental, natural resources, and public lands issues involving a federal interest. The U.S. Institute provides assistance in seeking agreement or resolving disputes through use of mediation and other collaborative, non-adversarial means.

The Need for and Proposed Use of the Information Collected in the Application for the ECR Participation Program: The ECR Participation Program is designed to achieve several objectives, consistent with the U.S. Institute's mission of promoting resolution of environmental disputes involving federal agencies. The specific objectives for this program are:

- To further the U.S. Institute goal of increasing the use of ECR in environmental, natural resource, and public lands conflicts that involve federal agencies.
- To encourage high quality dispute resolution processes by supporting appropriate use of ECR strategies and appropriate balance among interests involved in the processes.
- To support the ability of all affected parties to participate effectively in ECR processes.

The U.S. Institute conducted an assessment of the need for support to foster participation by all essential parties in ECR efforts early in 2001. The U.S. Institute consulted with representatives of constituencies who would be potential users of this program to ascertain their views of the need for ECR participation support. Representatives of environmental groups, natural resource users, tribes, local and state governments, and ECR practitioners provided information about the specific needs for such a fund and about criteria for eligibility.

The consultative contacts identified the following needs for participation support.

- Many opportunities exist to build consensus on environmental and natural resource issues, but the parties are often unable to do so without neutral, third party assistance.
- State, local, non-governmental, and tribal entities often lack the technical and financial resources to obtain neutral feasibility assessments, ECR process design and facilitation.

• Third party assistance is often required to ensure balanced representation, or a level playing field, for non-governmental, state and local groups, and others who are not paid to participate in environmental negotiations and collaborative processes.

• There is also a need to provide training in interest-based negotiations for those working to overcome serious differences on environmental and natural resource issues.

• A participation support program should be easy to use and accessible to all types of applicants involved in ECR processes, but particularly to groups and situations that would be less likely than others to succeed without it.

The U.S. Institute developed guidelines and application forms to gather information about ECR processes for which support was requested. The U.S. Institute requires a mechanism for determining if the applicants meet the criteria for receiving support and for targeting support to the most promising ECR efforts (i.e. those likely to produce implementable results through collaboration.) The selection criteria for U.S. Institute support include:

Required Criteria

The U.S. Institute will target participation support to ECR efforts:

• Where the initiators, co-sponsors, or key parties to the conflict resolution effort are state or local governments or agencies, tribes, or non-governmental organizations;

• Involving a federal agency or federal interest;

• That are, or likely will be, agreement seeking; and

• Involve a third party neutral facilitator or mediator who is a member of the U.S. Institute's Roster of Environmental Dispute Resolution and Consensus Building Professionals, or who has equivalent experience.

Discretionary Criteria

The following additional factors will be considered when choosing among applicants who meet the requirements stated above. Project support from the U.S. Institute will be more likely when:

• The quality of the proposed process would suffer without support from the U.S. Institute,

• Resources from an impartial source (i.e. the U.S. Institute) would be beneficial to the ECR process,

• Applicants demonstrate a commitment to the ECR process through in-kind contributions, previous collaborative efforts, or allocations of personnel, time and resources to building consensus on the issues involved, and/or

• The conflict involves resolution of issues that could have a national impact.

Quarterly progress reports will be used to collect information about the use of any funding provided and to maintain accountability of the contracted entity receiving financial support, usually a neutral facilitator.

The program will be open for applications through September 30, 2003, roughly two years from approval of the information collection request.

Draft Application Form: The Draft Guidelines and Application Form are attached. The format of the actual application will be modified to use fonts, spacing and formatting for optimum electronic use.

E. Burden Statement

The Application Form will be available in both hard copy and through the U.S. Institute's web site. It is a two-page list of questions about the proposed ECR effort and the activities that require support. The application includes suggested budget formats, and is designed to allow applicants to attach existing documents and, where possible, reduce the time required for completion of the application. An application can be submitted electronically, through e-mail, and/or in hard copy via fax or mail. The required quarterly progress report form is also included in the application form attached to this submittal.

The Burden calculation includes time for applicants to complete the application form and the time required for the submittal of quarterly reports. It assumes a pool of 15 applicants per year, and assumes that 10 of the applications will be approved. Quarterly reports would be required only for those ten funded projects. It further assumes an average of four quarterly project reports per project.

Likely Respondents: State agency staff, local government staff, non-governmental organizations, tribal governments, and natural resource user group association staff or members.

Estimated Number of Respondents (per year): 15.

Proposed Frequency of Response: One response per application, plus up to four quarterly progress reports per year.

Respondent Time Burden Estimates:

Estimated Time per Response for Initial Application: Eight hours.

Estimated Time per Responder for Quarterly Reports: 4 hours per year (1 hour per report).

Estimated Total Burden Per Year for Applications: 120 hours for 15 applicants.

Estimated Total Burden Per Year for Quarterly Reports: 40 hours for ten projects.

Respondent Cost Burden Estimates (at $55 per hour (managerial level salary)):

No capital or start-up costs.

Estimated Cost per Respondent per application: $440.

Estimated Cost per Project for Quarterly Reports: $220.

Estimated Total Annual Cost Burden for 15 Applications: $6,600.

Estimated Total Annual Cost Burden for Quarterly Reports: $2,200.

Estimated Total Annual Cost Burden: $8,800.

Estimated Total Cost Burden, Two Years: $17,600.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information and transmitting information.

(Authority: 20 U.S.C. Sec. 5601–5609)

Dated: July 16, 2001.

Christopher L. Helms,

Executive Director, Morris K. Udall Foundation.

Guidelines

Draft; Do Not Submit

The U.S. Institute for Environmental Conflict Resolution is a federal program established by the U.S. Congress to assist parties in resolving environmental, natural resource, and public lands conflicts. The U.S. Institute is part of the Morris K. Udall Foundation, an independent agency within the executive branch of the federal government. The U.S. Institute serves as an impartial, non-partisan institution providing professional expertise, services, and resources to all parties involved in such disputes, regardless of who initiates or pays for assistance. The U.S. Institute helps parties determine whether collaborative problem solving is appropriate for specific environmental conflicts, how to bring all the parties to the table when appropriate, and whether a third-party facilitator or mediator might be helpful in assisting the parties to resolve the conflict. In addition, the U.S. Institute provides mediation and facilitation services, maintains a roster of qualified

facilitators and mediators with substantial experience in environmental conflict resolution, and can help parties in selecting a neutral when asked. (See www.ecr.gov for more information.)

The U.S. Institute has established the ECR Participation Program to provide support for the full participation of all essential parties in specific environmental conflict resolution (ECR) efforts. ECR is defined, for the purposes of this program, as the intervention of a neutral to assist affected interests in developing and conducting processes that reach agreement on controversial environmental issues. This document outlines how eligible parties can apply for U.S. Institute assistance under the ECR Participation Program.

Objectives of the ECR Participation Program

Consistent with the U.S. Institute's mission of promoting resolution of environmental disputes involving federal agencies and other parties, the ECR Participation Program is designed to achieve several objectives:

- To further the U.S. Institute goal of increasing use of ECR in environmental, natural resource, and public lands conflicts involving federal agencies.
- To encourage high quality dispute resolution processes by supporting appropriate use of ECR strategies and appropriate balance among interests involved in the processes.
- To increase the ability of all affected parties to participate effectively in ECR processes.

What Activities Can Be Supported?

The U.S. Institute will provide neutral services and related participation support for initiation of agreement-focused environmental conflict resolution efforts. State and local governments, tribes, and non-governmental organizations may apply for support to initiate multi-party, neutral-led conflict resolution processes that involve federal agencies or interests. Support under the ECR Participation Program is not provided to federal agencies. Participation support is available for two-phases of ECR activities:

Phase One activities are:

- Consultation with the U.S. Institute or a contracted neutral about the potential for using ECR in a given situation,
- Assistance to parties in the identification and selection of an appropriate neutral, preparation of a scope of work, and contract management,
- A full conflict assessment conducted by a neutral and involving consultation with all affected interests about the feasibility and design of a specific ECR project, and/or
- Training for potential stakeholders in ECR methods to help determine whether ECR would be useful to address a specific situation.

Phase Two activities are those that take place after a decision is made to proceed with an ECR process. If barriers to participation in that process are identified through a conflict assessment, Phase Two support could help overcome these barriers. Phase Two support is available for:

- Neutral facilitation services,
- Services of technical experts. This support is intended to help ensure that all parties can contribute fully to consensus decision-making; it is not provided to support individual interest groups or caucuses,
- ECR project-specific training and other activities that increase the capacity of negotiation groups to work in an interest-based and collaborative manner,
- Direct costs for meeting logistics, such as meeting facilities, teleconferencing, and meeting recording services when no other source of such funding is available,
- Direct costs for participants to attend meetings when no other source of such funding is available, and/or
- Other activities that will have a direct impact on improving the quality of the ECR effort.

Who Should Apply?

Potential initiators, co-sponsors, or key participants in ECR processes (other than federal agencies) are eligible to apply for U.S. Institute support. Support will be targeted to situations that meet the required selection criteria, outlined below.

What Support Is Available?

It is expected that the average project will receive participation support up to $20,000 for Phase One activities, and no more than $50,000 for Phase Two. Phase Two support will require an additional application if the applicant has already received Phase One support. It would be considered on an expedited basis.

There is no requirement for matching funds for Phase One, although demonstration of commitment to the ECR process through in-kind support or match funds from other organizations is encouraged. For Phase Two, the U.S. Institute will provide no more than 50% of the support required for that phase.

When funding is for a neutral, the ECR participation support will be made available through an U.S. Institute contract directly with the neutral ECR professional. For other activities, the U.S. Institute will either directly process reimbursement payments or contract with the applicant.

What Are the Selection Criteria?

Required Criteria

The U.S. Institute will target participation support to ECR efforts:

- Where non-federal entities are the initiators, co-sponsors, or key parties to the conflict,
- Involving a federal agency or federal interest,
- That are, or likely to be, agreement seeking, and
- Involve a third-party neutral facilitator or mediator who is a member of the U.S. Institute's roster of Environmental Dispute resolution and Consensus Building Professionals, or who has equivalent experience,
- For Phase Two projects, a previous conflict assessment and a 50% or more financial match.

Discretionary Criteria

The following additional factors will be considered when choosing among applicants who meet the requirements stated above. Project support from the U.S. Institute will be more likely when:

- The quality of the proposed process would suffer without the support from the U.S. Institute,
- Resources from an impartial source (i.e., the U.S. Institute) would be beneficial to the ECR process,
- Applicants demonstrate a commitment to the ECR process through in-kind contributions, previous collaborative efforts, or allocations of personnel, time and resources to building consensus on the issues involved, (a financial match is required for Phase Two projects) and/or
- The conflict involves resolution of issues that could have a national impact.

How Is a Project Administered?

- U.S. Institute support will be provided to the applicant through a contractual arrangement involving the applicant, the neutral, and the U.S. Institute, with payment on a reimbursement basis.
- Applicants must provide a brief quarterly report for the duration of the project. A reporting format is provided with the application form.
- Applicants agree to credit the U.S. Institute for any support received as opportunities arise to do so.
- Applicants agree to cooperate in documentation efforts for case studies and evaluations of the ECR Participation Program and for other ECR evaluation efforts.

What Is the Application Process?

The first step in the application process is to thoroughly review the application form, including the Frequently Asked Questions. Next, the applicant—which must be a non-federal entity initiating a conflict assessment—should contact the U.S. Institute by telephone. The ECR Participation Program manager at the U.S. Institute will help the applicant determine whether and how to complete the application form.

An ECR Participation Program application can be submitted at any time. The U.S. Institute will make its decision no later than 30 days after an application is deemed complete. If an application for support is declined, a proposal may be modified and resubmitted once more within the life of the ECR project.

The application must be complete before the U.S. Institute begins its decision-making review. Assistance with scoping the project tasks and preparing a budget can be obtained from U.S. Institute staff. The application must include the following elements:

- Name and contact information for the applicant.
- A description of the ECR process for which the support will be used. The description should be a one-page summary with attachments, covering all of the following items:
- A brief overview of the conflict being addressed,
- A list of potential participants and their affiliations,
- A description of the expected product or agreement,
- The suggested neutral, if one has already been identified,
- (For Phase Two applications) a copy of the conflict assessment,
- (For Phase Two applications) a copy of the process groundrules, and a detailed outline of the activities which will be conducted with the requested support.
- A statement outlining how the application meets the required and discretionary support criteria.
- A detailed budget for the support requested.

Project Application Form

An application form is attached, and is also available at the U.S. Institute website.

For Further Information

Please contact: David Bernard, Associate Director, U.S. Institute for Environmental Conflict Resolution, 110 South Church Avenue, Suite 3350, Tucson, AZ 85701, Telephone: 520/670–5299, Fax: 520/670–5530, E-mail: bernard@ecr.gov.

Application Form

(Draft; Do Not Submit)

1. Project Title:
2. Date of Submission:
3. Support requested for_____ Phase One_____ Phase Two
4. Applicant:
Name:
Address:
Phone:
Fax:
E-mail:
Designated Contact or Project Manager:
5. Description of ECR Project for Which Support Is Requested: (One-page summary covering the following items. Attach supporting documents, if available.)
Conflict Addressed by the Project:
List of Potential Participants and their Affiliations:
Agreement or Product Sought:
(For Phase Two applications) Conflict Assessment Results: (A copy of a written conflict assessment is sufficient.)
(For Phase Two applications) Groundrules for Participants:
6. Outline of Activities for Which Support is Requested: Specify type of assistance (see list of activities on page two of this information packet). Outline all tasks or sub activities, creating a scope of work for the support funded through the U.S. Institute. (See required format in the budget section and/or consult with the U.S. Institute for help with this section.)
7. Describe (in no more than two pages) how the application meets the required and discretionary funding criteria (see list on page three of this information packet):
8. Budget (see example budget, attached and request U.S. Institute help with this section, if desired):
A. Specify category(s) of support requested (see list of activities on page two of this information packet).
B. Assign cost to each activity listed in Item 5 of the application.
C. Provide a total for the support requested.
D. Attach the total budget for the entire ECR project, if available.
E. For Phase Two applications, the U.S. Institute will only fund up to 50% of the total proposed Phase Two costs. The application must document the sources of the matching funds for the remaining 50%. A sample budget format that includes a matching component is included.

Please note that incomplete or unclear presentation of project costs and/or details regarding requested support will result in delays in processing applications.

Application Budget Format—Phase One Request

Example Budget A: Neutral Conflict Assessment.

(The activities and quantities in this example are for illustrative purposes only)

Project Title:

Applicant Name:

Category of Support Required: Neutral Conflict Assessment.

Task	Hours	Cost per hour	Labor total
1. Read background on conflict	6	$100	$600
2. Interview 5 key parties	20	100	2,000
3. Interview addtl 25 parties, if warranted	40	100	4,000
4. Determine feasibility	5	100	450
5. Draft feasibility report and recommended process design	16	100	1,600
Total Labor			8,700

Other Direct Costs

	Dollars
Neutral Travel for Conflict Assessment:	$3,390
5 trips Phoenix to Boise to interview parties:	
Airfare	450
Hotel	80
Ground transportation	120
Per diem	28
Total per trip	678
Miscellaneous	230
Phone	100
Reproduction	30
Postage/Shipping	100
Total Project Budget	12,320

Application Budget Formats—Phase Two Requests

Example Budget B: Technical Consultant Services

(The activities and quantities in this example are for illustrative purposes only)

Project Title:
Applicant Name:
Category of Support Requested: Technical Consultant Services.

Activity	Hours	Unit cost (per hour)	Total
Review technical documents	24	100	$2,400
Provide technical advice at 8 meetings	64	100	6,400
Consult with subcommittee to produce draft proposals	24	100	2,400
Total	112		11,200

Example Budget C: Meeting Attendance Expenses

(The activities and quantities in this example are for illustrative purposes only)

Project Name:
Applicant Name:
Category of Support Requested: Support for Meeting Attendance.
Cost per Meeting:
Airfare: $370
Mileage at $.32
Hotel (at govt. per diem for area): $85
Total per participant per mtg.: $455 + mileage, if any

Participant receiving support	Number of meetings	Cost per meeting	Total
John Doe (no mileage)	4	$455	$1,820
Jane Doe (no mileage)	4	455	1,820
Sally Smith (no airfare, 100 miles)	2	117	234
Total support needed			3,874

Application Budget Formats—Phase Two Requests

Example Budget D: Neutral Facilitation Services with Match

(The activities and quantities in this example are for illustrative purposes only)

Budget element	Match	Requested U.S. institute support	Complete project
Neutral's labor	[1] $7,050	$30,000	$37,050
Neutral's travel		4,000	4,000
Neutral's other direct costs (phone, copying, postage, etc.)		1,000	1,000
Other labor	[2] 5,000		5,000
Mtg. support (meeting rooms, teleconference, xeroxing, audio visual, note-taker)	[3] 20,000		20,000
Technical experts	[1] 10,000		10,000
Other costs			
Totals	42,050	35,000	77,050
Percent of total	55	45	100

[1] The Metropolitan Planning Council will provide an in-house technical expert on the subject of the dispute.
[2] The state environmental agency will contribute the follow staff hours: 25 hrs. @ $75, 50 hrs. @ $45, and 25 hrs. @ $35 (the rates are fully burdened, i.e., they include benefits and salary/wages).
[3] The state agency match for meeting expenses will be provided through an existing meeting management contract on the project and through in-kind support. In-kind personnel for note taking will be provided through a .16 Full Time Equivalent (FTE) staff person (which equals $5,000). The remaining meeting logistical support of $15,000 will be provided through a separate agency contract mechanism.

Quarterly Report Form

(Draft; Do Not Submit)

Project Title:
Project Manager:
Period Covered by This Report:
Date of This Report:

Activities Conducted with U.S. Institute Funds Since Last Report (Attach a 1–2 page summary).

Total Expenses Incurred This Quarter:
Total Budget Amount:
Total Expended this Quarter:
Cumulative Total Expended to Date:

Balance Available for Future Activities: (Attach an expenditure report showing budgeted amounts for each budget category, together with expenditures for this reporting period and cumulative expenditures since the start of the project).

Additional Comments: (Explain delays, barriers to use of funds, pace of expenditures, etc.)

Authorized Signature

Title

[FR Doc. 01–18358 Filed 7–23–01; 8:45 am]

BILLING CODE 6820–EN–P

NATIONAL COUNCIL ON DISABILITY

Advisory Committee Meetings/ Conference Calls

AGENCY: National Council on Disability (NCD).

SUMMARY: This notice sets forth the schedule of the forthcoming meeting/ conference call for NCD's advisory committee—International Watch. Notice of this meeting is required under Section 10 (a)(1)(2) of the Federal Advisory Committee Act (Pub. L. 92–463).

International Watch: The purpose of NCD's International Watch is to share information on international disability issues and to advise NCD's Foreign Policy Team on developing policy proposals that will advocate for a foreign policy that is consistent with the values and goals of the Americans with Disabilities Act.

Work Group: Inclusion of People with Disabilities in Foreign Assistance Programs

DATE AND TIME: August 16, 2001, 12 p.m.–1 p.m. EDT.

FOR INTERNATIONAL WATCH INFORMATION CONTACT: Kathleen A. Blank, Attorney/ Program Specialist, NCD, 1331 F Street NW., Suite 1050, Washington, DC 20004; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax), *kblank@ncd.gov* (e-mail).

Agency Mission: NCD 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 international disability issues.

We currently have balanced membership representing a variety of disabling conditions from across the United States.

Open Meeting/Conference Call: This advisory committee meeting/conference call of NCD 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 International Watch meetings/ conference calls and will be available after the meeting for public inspection at NCD.

Signed in Washington, DC, on July 18, 2001.

Ethel D. Briggs,

Executive Director.

[FR Doc. 01–18364 Filed 7–23–01; 8:45 am]

BILLING CODE 6820–MA–M

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meetings; Sunshine Act

TIME AND DATE: 10:00 a.m., Thursday, July 26, 2001.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Request from a Federal Credit Union to Convert to a Community Charter.
2. Proposed Rule: Amendment to part 701, NCUA's Rules and Regulations, Definition of Compensation.
3. Final Rule: Amendment to part 749, NCUA's Rules and Regulations, Vital Records Preservation.
4. Final Rule: Amendment to part 709, NCUA's Rules and Regulations, Prepayment Fees.
5. Final Rule: Amendment to part 721, NCUA's Rules and Regulations, Incidental Powers Activities.
6. Final Rule: Amendment to part 712, NCUA's Rules and Regulations, Credit Union Service Organizations.
7. Risk Based Examination Schedule Policy.
8. Proposed Rule: Amendments to parts 702 and 741, NCUA's Rules and Regulations, Financial and Statistical Reports.
9. Reprogramming of NCUA Operating Budget for 2001.

RECESS: 11:15 a.m.

TIME AND DATE: 11:30 a.m., Thursday, July 26, 2001.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Administrative Action under Part 704 of NCUA's Rules and Regulations. Closed pursuant to exemption (8).
2. One (1) Personnel Matter. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone 703–518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 01–18440 Filed 7–19–01; 4:43 pm]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC)

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Revision.
2. The title of the information collection: 10 CFR part 21, ''Reporting of Defects and Noncompliance''.
3. The form number if applicable: Not applicable.
4. How often the collection is required: On occasion.
5. Who will be required or asked to report: All directors and responsible officers of firms and organizations building, operating, or owning NRC licensed facilities as well as directors and responsible officers of firms and organizations supplying basic components and safety related design, analysis, testing, inspection, and consulting services of NRC licensed facilities or activities.
6. An estimate of the number of responses: 170.
7. The estimated number of annual respondents: 70 respondents.
8. An estimate of the total number of hours needed annually to complete the

requirement or request: 12,565 (9,640 reporting hours and 2,925 recordkeeping hours).

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not applicable.

10. Abstract: 10 CFR Part 21 Implements Section 206 of the Energy Reorganization Act of 1974, as amended. It requires directors and responsible officers of firms and organizations building, operating, owning, or supplying basic components to NRC licensed facilities or activities to report defects and noncompliance that could create a substantial safety hazard at NRC licensed facilities or activities. Organizations subject to 10 CFR Part 21 are also required to maintain such records as may be required to assure compliance with this regulation.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 23, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–0035), NEOB–10202, Office of Management and Budget, Washington, DC 20503

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 18th day of July 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–18382 Filed 7–23–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 212, Qualifications Investigations, and NRC Form 212A, Qualifications Investigation Secretarial/Clerical.

3. *The form number if applicable:*

NRC Form 212
NRC Form 212A

4. *How often the collection is required:* Whenever Human Resources' Specialist determine qualification investigations are required in conjunction with applications for employment related to vacancies.

5. *Who will be required or asked to report:* Supervisors, former supervisors, and/or other references of external applicants.

6. *An estimate of the number of responses:*

NRC Form 212, 1,400 annually
NRC Form 212A, 300 annually

7. *The estimated number of annual respondents:*

NRC Form 212, 1,400 annually
NRC Form 212A, 300 annually

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* NRC Form 212, 350 hours (15 minutes per response) NRC Form 212A, 75 hours (15 minutes per response)

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not applicable.

10. *Abstract:* Information requested on NRC Forms 212 and 212A is used to determine the qualifications and suitability of external applicants for employment in professional and secretarial or clerical positions with the NRC. The Completed form may be used to examine, rate and/ or assess the prospective employee's qualifications. The information regarding the qualifications of applicants for employment is reviewed by professional personnel of the Office of Human Resources, in conjunction with other information in the NRC files, to determine the qualifications of the applicant for appointment to the position under consideration.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F23, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide web site: http://www.nrc.gov/NRC/PUBLIC/OMB/index.html. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 23, 2001. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–033 and 3150–0034), NEOB–10202, Office of Management and Budget, Washington, DC 20503

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 18th day of July 2001.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 01–18383 Filed 7–23–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–20]

Notice of Issuance of Amendment to Materials License SNM–2508; Department of Energy; TMI–2 Independent Spent Fuel Storage Installation

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has issued Amendment 3 to Materials License No. SNM–2508 held by the U.S. Department of Energy (DOE) for the receipt, possession, storage and transfer of spent fuel in an independent spent fuel storage installation (ISFSI) located at the Idaho National Engineering and Environmental Laboratory (INEEL), within the Idaho Nuclear Technology and Engineering Center (INTEC) site in Scoville, Idaho. The amendment is effective as of the date of issuance.

By letter dated October 4, 2000, as supplemented March 27, 2001, and May

24, 2001, the Department of Energy (DOE) requested that the Nuclear Regulatory Commission (NRC) amend its materials license, make several administrative changes to the Technical Specifications, and review a TMI–2 specific Safeguards Contingency Plan. By letter dated April 2, 2001, DOE requested the NRC amend its materials license to delete the ''gamma'' designator for the dose limits provided in the Technical Specifications to allow for the monitoring of neutron dose components.

This amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

In accordance with 10 CFR 72.46(b)(2), a determination has been made that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected. Therefore, the publication of a notice of proposed action and an opportunity for hearing or a notice of hearing is not warranted. Notice is hereby given of the right of interested persons to request a hearing on whether the action should be rescinded or modified.

The Commission has determined that, pursuant to 10 CFR 51.22(c)(11) and 10 CFR 51.22(c)(12), an environmental assessment need not be prepared in connection with issuance of the amendment.

The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. These documents may be accessed through the NRC's Public Electronic Reading Room on the Internet at *http://www.nrc.gov/NRC/ADAMS/index.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland, this 12th day of July 2001.

For the Nuclear Regulatory Commission.

E. William Brach,

Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 01–18384 Filed 7–23–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–331]

Nuclear Management Company, LLC; Duane Arnold Energy Center; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating License No. DPR–49, issued to Nuclear Management Company, LLC (the licensee), for operation of the Duane Arnold Energy Center (DAEC) located in Palo, Iowa. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would change the license to allow refueling activities in accordance with a revised thermal-hydraulic analysis based upon use of advanced core designs employing advanced fuel, increased fuel burnup, increased cycle length, and increased reload batch size. The revised analysis also corrects several input parameter discrepancies in the existing analysis.

The proposed action is in accordance with the licensee's application for amendment dated November 17, 2000, as supplemented by letters dated February 16 and April 9, 2001.

The Need for the Proposed Action

The proposed action is needed to support DAEC plans to pursue advanced core designs beginning with Cycle 18, including the use of General Electric (GE)-14 fuel, increased fuel burnup, increased cycle length, and increased reload batch size. The proposed action revises the thermal-hydraulic analysis for the spent fuel pool (SFP) submitted to the NRC by letter dated October 3, 1997. The proposed action also corrects discrepancies made in the existing thermal-hydraulic analysis.

Environmental Impacts of the Proposed Action

NUREG–0800, ''Standard Review Plan,'' provides criteria related to the design and performance of the spent fuel pool. Regulatory Guide 1.13, ''Spent Fuel Storage Facility Design Basis,'' provides methods acceptable for the licensee to implement General Design Criteria 61 of Appendix A to 10 CFR Part 50 which requires that fuel storage and handling systems be designed to assure adequate safety under normal and postulated accident conditions. NRC memorandum, ''Office Technical Position for Review and Acceptance of Spent Fuel Storage and Handling Applications,'' dated April 14, 1978, and modified by Addendum dated January 18, 1979, provides key design criteria and regulatory guidance for new spent fuel storage racks.

The licensee submitted a revised thermal-hydraulic analysis, which included maximum SFP temperatures, minimum time-to-boil after loss of forced cooling, and local water and fuel cladding temperatures. The licensee calculated the maximum bulk SFP temperatures for the following three cases: (a) Planned full core offload scenario with full core discharge beginning at 60 hours after reactor shutdown, with one train of the fuel pool cooling and cleanup (FPCCU) system in operation; (b) planned full core offload scenario, the same scenario as case (A) except that two trains of FPCCU are in operation; and (c) unplanned full core offload scenario consisting of a normal refueling outage of 36 days, followed by 45 days of full power operation and a subsequent unplanned discharge of the full core to the SFP beginning 60 hours after reactor shutdown, with two trains of FPCCU in operation. Based on its review, the NRC staff concluded that the methodology and assumptions used by the licensee to calculate the decay heat loads and to calculate the SFP bulk temperatures met the intent of the applicable NRC guidelines. The maximum SFP bulk temperatures of the revised hydraulic analysis are below the onset of boiling and are below the SFP temperatures approved by the NRC staff for the current thermal-hydraulic analysis.

The licensee also evaluated the effect of a complete loss of forced cooling to the SFP, which was assumed to occur when the SFP was at the maximum SFP bulk temperature. The calculated minimum time from the loss of pool cooling at peak pool water temperature until the pool boils for the worst case was 3.8 hours for the revised analysis, which was a slight decrease from the 4.5 hours of the current analysis, but still substantially longer than the 2 hours required to align the emergency service water system to provide makeup water to the SFP. In addition, various other sources of emergency makeup water would be available in less than 2 hours. Based on its review, the NRC staff concluded that in the unlikely event that there is a complete loss of cooling, the licensee is capable of aligning the makeup water from various sources to the pool before boiling begins and that makeup water will be supplied at a rate which exceeds the boil-off rate, and that

cooling the SFP by adding makeup water in the unlikely event that there is a complete loss of cooling to the SFP conforms to NRC guidance.

The NRC staff has completed its evaluation of the proposed action and concludes that the proposed revision to the thermal-hydraulic analysis complies with the applicable regulatory documents and will allow for the continued safe storage of spent fuel.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. The proposed action does not involve any physical features of the plant or procedure changes involving a potential nonradiological release. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for the DAEC dated March 1973.

Agencies and Persons Consulted

On July 11, 2001, the staff consulted with the Iowa State official, Mr. D. McGhee of the Department of Public Health, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated November 17, 2000, as supplemented by letters dated February 16 and April 9, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room (PDR) Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 18th day of July 2001.

For the Nuclear Regulatory Commission.

Carl F. Lyon,

Project Manager, Section 1, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–18381 Filed 7–23–01; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request Review of a Revised Information Collection; OPM 1417

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for clearance of a revised information collection. OPM Form 1417, CFC Online Results Report, is used to record Combined Federal Campaign pledge results from each campaign office locally.

Each year, approximately 1.5 million Federal employees make donations to the CFC. These donations are managed by approximately 370 Principle Combined Fund Organizations (PCFOs) across the country. The Form 1417 is submitted by every PCFO annually to report these donations. Each form takes approximately 20 minutes to complete. The annual estimated burden is 124 hours.

Comments are particularly invited on:

—Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Mary Beth Smith-Toomey on 202/606–8358, or E-mail to mbtoomey@opm.gov. Please include your mailing address with your request.

DATES: Comments on this proposal should be received on or before September 24, 2001.

ADDRESSES: Send or deliver comments to: Elizabeth Barber, Office of CFC Operations, U.S. Office of Personnel Management, 1900 E Street, NW., Room 5450, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Elizabeth Barber, Office of CFC Operations, U.S. Office of Personnel Management, 1900 E Street, NW., Room 5450, Washington, DC 20415, (202) 606–2564.

U.S. Office of Personnel Management.

Steven R. Cohen,

Acting Director.

[FR Doc. 01–18351 Filed 7–23–01; 8:45 am]

BILLING CODE 6325–46–P

OFFICE OF PERSONNEL MANAGEMENT

Submissioin for OMB Review; Comment Request for Reclearance of Revised Information Collections: OPM Forms 1496 and 1496A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for reclearance of a revised information collection. OPM Forms 1496 and 1496A, Application for Deferred Retirement (Separations before October 1, 1956) and Application for Deferred Retirement (Separations on or after October 1, 1956) are used by eligible former Federal employees to apply for a deferred Civil Service annuity. Two forms are needed because there is a major revision in the law effective October 1, 1956; this affects the general information provided with the forms.

Approximately 3,000 OPM Forms 1496 and 1496A will be completed annually. We estimate it takes approximately 1 hour to complete both forms. The annual burden is 3,000 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, or email to mbtoomey@opm.gov.

DATES: Comments on this proposal should be received on or before August 23, 2001.

ADDRESSES: Send or deliver comments to—

Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349, Washington, DC 20415–3540

and

Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Donna G. Lease, Team Leader, Forms Analysis and Design, Budget & Administrative Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Steven R. Cohen,

Acting Director.

[FR Doc. 01–18350 Filed 7–23–01; 8:45 am]

BILLING CODE 6325–50–P

POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

Board Votes To Close August 6, 2001, Meeting

At its meeting on July 9, 2001, the Board of Governors of the United States Postal Service voted unanimously to close to public observation its meeting scheduled for August 6, 2001, in Washington, DC.

MATTERS TO BE CONSIDERED:

1. Pay for Performance Program.
2. Financial Performance.
3. Rate Case Briefing.
4. Personnel Matters and Compensation Issues.

Persons expected to attend: Governors Ballard, Daniels, del Junco, Dyhrkopp, Fineman, Kessler, McWherter, Rider and Walsh; Postmaster General Potter, Deputy Postmaster General Nolan, Secretary to the Board Hunter, and General Counsel Gibbons.

General Counsel certification: The General Counsel of the United States Postal Service has certified that the meeting may be closed under the Government in the Sunshine Act.

CONTACT PERSON FOR MORE INFORMATION: Requests for information about the meeting should be addressed to the Secretary of the Board, David G. Hunter, at (202) 268–4800.

David G. Hunter,

Secretary.

[FR Doc. 01–18550 Filed 7–20–01; 2:20 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of July 23, 2001.

Closed meetings will be held on Monday, July 23, 2001, at 3:00 p.m., Wednesday, July 25, 2001 at 11:00 a.m., and Thursday, July 26, 2001, at 3:00 p.m., and an open meeting will be held on Thursday, July 26, 2001, in Room 1C30, the William O. Douglas Room, at 2:00 p.m.

Commissioner Hunt, as duty officer, determined that no earlier notice thereof was possible.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(5), (7), (9)(A), 9(B), and (10) and 17 CFR 200.402(a)(5), (7), (9)(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meetings.

The subject matter of the closed meeting scheduled for Monday, July 23, 2001, will be:

Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature.

The subject matter of the closed meeting scheduled for Wednesday, July 25, 2001, will be:

Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, July 26, 2001, will be:

The Commission will hear oral argument on an appeal by IMS/CPAs & Associates (''IMS''), a registered investment adviser, as well as Vernon T. Hall, Stanley E. Hargrave, and Jerome B. Vernazza, control persons of IMS.

The law judge found that IMS willfully violated the antifraud and reporting provisions of the federal securities laws by making material misrepresentations, and related omissions, to clients in connection with recommending investments in which IMS had a financial interest. The law judge suspended IMS's and Vernazza's investment adviser registrations for six months, suspended Hall, Hargrave, and Vernazza from being associated with an investment adviser for six months, ordered them to cease and desist from future similar violations, and order them to disgorge $75,032.78 (minus the amount Vernazza previously refunded to clients) plus interest from August 1, 1996.

Among the issues likely to be argued are:

(1) Whether IMS materially misled customers to whom they were recommending investments in PPF funds regarding Respondents' arrangement with World and PPF funds, in violation of the securities laws; and

(2) Whether the sanctions imposed by the law judge are appropriate.

For further information, contact Joan McCarthy at (202) 942–0950.

The subject matter of the closed meeting scheduled for Thursday, July 26, 2001, will be:

Post argument discussion.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: the Office of the Secretary at (202) 942–7070.

Dated: July 19, 2001.

Jonathan G. Katz,

Secretary.

[FR Doc. 01–18474 Filed 7–20–01; 11:40 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44567; File No. SR–ISE–00–11]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the International Securities Exchange LLC, Relating to Membership Qualifications

July 18, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'');[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 28, 2000, the International Securities Exchange LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the ISE.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE proposes to amend ISE Rule 302(b) to debate the requirement that ISE members be organized under the laws of one of the states of the United States or under other laws as the ISE's Board shall approve. In addition, the ISE proposes to amend ISE Rule 302(b) to provide that an ISE member that does not maintain an office in the U.S. responsible for preparing and maintaining financial and other reports required to be filed with the Commission and the ISE must: (1) Prepare all such reports, and maintain a general ledger chart of account and any description thereof, in English and in U.S. dollars; (2) reimburse the ISE for any expense incurred in connection with examinations of the member to the extent that such expenses exceed the cost of examining a member located within the continental United States; and (3) ensure the availability of an individual fluent in English and knowledgeable in securities and financial matters to assist representatives of the ISE during examinations.

The text of the proposed rule change is available at the ISE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The ISE proposes to eliminate the current requirement in paragraph (b) of ISE Rule 302 that members be formed under the laws of the United States or ''under other laws as the Board shall approve.'' Because all ISE members are required to be U.S. registered broker-dealers and members of another SRO, the Exchange sees no purpose in requiring its Board of Directors to review and approve laws of foreign countries. The ISE notes that its rules and membership application contain specific qualifications and information requests that are applicable equally to domestic and foreign-organized broker-dealers.

In addition, the ISE proposes to add to ISE Rule 302(b) three requirements specific to foreign-based ISE members to minimize any additional burden on the Exchange that may be presented by language differences or location: (1) Preparation of reports and maintenance of a general ledger in English and U.S. dollars; (2) reimbursement to the Exchange for examination expenses that exceed the cost of U.S.-based examinations; and (3) availability of a person fluent in English and knowledgeable in securities and finance to assist the Exchange during examinations.

(2) Basis

The ISE believes that the proposed rule change is consistent with the requirement under Section 6(b)(5) of the Act that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The ISE believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The ISE has not solicited, and does not intend to solicit, comments on the proposed rule change. The ISE has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On July 2, 2001, the ISE filed Amendment No. 1 to the proposal. Amendment No. 1 eliminated a provision that would have amended the text of ISE Rule 302, ''Qualification of Members,'' to state that each ISE member must be a member of at least one other national securities exchange registered under Section 6 of the Act or a national securities association registered under Section 15A of the Act that is designated responsibility for examining the member for compliance with applicable financial responsibility rules pursuant to Exchange Act Rule 17d–1. In addition, the ISE notes in Amendment No. 1 that all ISE members currently are required to be a member of another self-regulatory organization (''SRO''), and that it would be necessary for the ISE to submit a rule change to the Commission before permitting any ISE members to be solely a member of the ISE.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change and Amendment No. 1 are consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the ISE. All submissions should refer to file number SR–ISE–00–11 and should be submitted by August 14, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[4]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–18377 Filed 7–23–01; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3345]

State of West Virginia; Amendment #5

In accordance with a notice received from the Federal Emergency Management Agency, dated July 16, 2001, the above numbered declaration is hereby amended to include Marion and Taylor Counties in the State of West Virginia as disaster areas caused by flooding, severe storms, and landslides beginning on May 15, 2001 and continuing. Any counties contiguous to the above named primary counties and not listed here have been previously declared.

All other information remains the same, i.e., the deadline for filing applications for physical damage is August 2, 2001, and for loans for economic injury is March 4, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: July 18, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–18376 Filed 7–23–01; 8:45 am]

BILLING CODE 8025–01–U

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Pub. L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer and at the following addresses: (OMB), Office of Management and Budget, Attn: Desk Officer for SSA, New Executive Office Building, Room 10230, 725 17th St., NW, Washington, D.C. 20503; (SSA), Social Security Administration, DCFAM, Attn: Frederick W. Brickenkamp, 1–A–21 Operations Bldg., 6401 Security Blvd., Baltimore, MD 21235.

I. The information collections listed below will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–4145, or by writing to him at the address listed above.

1. Survey of Adults to Determine Public Understanding of Social Security Programs—0960–0612. As a result of the Government Performance and Results Act (GPRA), SSA must measure its progress in achieving Agency-level goals. One of SSA's strategic goals is to ''Strengthen public understanding of Social Security programs.'' In order to measure its performance in meeting this strategic objective, SSA established the Public Understanding Measurement System (PUMS) which involves surveying the public about their knowledge of Social Security programs. The Gallup Organization has been conducting PUMS surveys, on behalf of SSA, since fiscal year 1999.

For the next series of surveys, SSA has made some modifications to the PUMS survey process to bring it in compliance with its recent Agency Strategic Plan, *Mastering the Challenge* and plans to conduct 22,000 surveys beginning this fall as shown below:

- 1,000 national surveys will be used to determine the FY 2001 performance level; *e.g.,* the percent of Americans knowledgeable about Social Security programs.
- 1,050 national surveys will be used to ensure that SSA has equal data for specific demographic groups (African Americans, Hispanic Americans, and Asian Americans) that have been underrepresented in previous national surveys. This data will be used to improve SSA's public education programs directed to these populations.
- 19,950 ''area'' surveys will provide area managers with statistically valid local GPRA performance data. This data will be used to measure local progress and to improve SSA public education programs in those areas. This will ensure that SSA's resources are used effectively and that it continues to make progress in meeting its strategic objective.

The respondents will be randomly selected adults residing in the United States.

	National surveys	Area surveys
Number of respondents.	2,050	19,950.
Frequency of response.	1	1.
Average burden per response.	10.5 min	10.5 min.
Estimated annual burden.	359 hrs	3,491 hrs.

2. Representative Payee Report—0960–0068. Sections 205(j) and 1631(a)(2) provide for the payment of Social Security and Supplemental Security Income benefits to a relative, another person or an organization (referred to as representative payee) when the best interests of the beneficiary would be served. These sections also provide that SSA monitor how the benefits were used. SSA uses forms SSA–623 and SSA–6230 to collect this information. SSA needs the information to determine whether the payments provided to the representative payee have been used for the beneficiary's current maintenance and

personal needs and whether the representative payee continues to be concerned with the beneficiary's welfare. The respondents are representative payees designated to receive funds on behalf of Social Security and Supplemental Security Income recipients.

Number of Respondents: 5,527,755.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 1,381,939 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer on (410) 965–4145, or by writing to him at the address listed above.

1. Report of Student Beneficiary About to Attain Age 19—0960–0274. The information collected by the Social Security Administration (SSA) on form SSA–1390 is used to determine a student's eligibility for Social Security benefits for those attaining age 19. The affected public is comprised of student beneficiaries about to attain age 19.

Number of Respondents: 50,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 4,167 hours.

2. Certificate of Coverage Request Form—0960–0554. The United States (U.S.) has Social Security agreements with 18 countries. These agreements eliminate double Social Security coverage and taxation where a period of work would be subject to coverage and taxes in both countries. The individual agreements contain rules for determining the country under whose laws the period of work will be covered and to whose system taxes will be paid. The agreements further provide that upon the request of the worker or employer, the country under whose system the period of work is covered will issue a certificate of coverage. The certificate serves as proof of exemption from coverage and taxation under the system of the other country. The information collected is needed to determine if a period of work is covered by the U.S. system under an agreement and to issue a certificate of coverage. The respondents are workers and employers wishing to establish an exemption from foreign Social Security taxes.

Number of Respondents: 40,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 20,000 hours.

3. Medical Report (General)—0960–0052. The information collected on form SSA–3826–F4 is used by SSA to determine the claimant's physical status prior to making a disability determination and to document the disability claims folder with the medical evidence. The respondents are physicians, hospitals, directors and medical records librarians.

Number of Respondents: 750,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 375,000 hours.

4. Representative Payee Evaluation Report—0960–0069. The information on form SSA–624 is used by SSA to accurately account for the use of Social Security benefits and Supplemental Security Income payments received by representative payees on behalf of an individual. The respondents are individuals and organizations, designated as representative payees, who received form SSA–623 or SSA–6230 and failed to respond, provided unacceptable responses that could not be resolved or reported a change in custody.

Number of Respondents: 250,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Average Burden: 125,000 hours.

Dated: July 18, 2001.

Frederick W. Brickenkamp,

Reports Clearance Officer.

[FR Doc. 01–18368 Filed 7–23–01; 8:45 am]

BILLING CODE 4191–02–U

SOCIAL SECURITY ADMINISTRATION

Privacy Act of 1974 as Amended; Computer Matching Program (Social Security Administration (SSA)/Internal Revenue Service (IRS)/Centers for Medicare Medicaid Services (CMS)) Match Number 1048

AGENCY: Social Security Administration (SSA).

ACTION: Notice of computer matching program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA plans to conduct with the IRS and CMS. CMS is the new name of the Health Care Financing Administration effective July 1, 2001.

DATES: SSA will file a report of the subject matching program with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform and Oversight of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice by either telefax to (410) 966–2935 or writing to the Acting Associate Commissioner, Office of Program Support, 2–Q–16 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Acting Associate Commissioner for Program Support as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating federal agencies;

(3) Furnish detailed reports about matching programs to Congress and OMB;

(4) Notify applicants and beneficiaries that their records are subject to matching; and

(5) Verify match findings before reducing, suspending, terminating, or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all SSA computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: July 17, 2001.

Glenna Donnelly,

Acting Deputy Commissioner for Disability and Income Security Programs.

Notice of Computer Matching Program, Internal Revenue Service (IRS) and Centers of Medicare and Medicaid Services (CMS) with the Social Security Administration (SSA).

A. Participating Agencies

SSA, IRS and CMS.

B. Purpose of the Matching Program

The purpose of this matching program is to establish conditions under which IRS agrees to disclose return information relating to taxpayer identity information to SSA. SSA agrees to disclose IRS return information relating to employer identity, commingled with taxpayer identity information, to CMS.

These disclosures will provide CMS with information for use in determining the extent to which any Medicare beneficiary is covered under any Group Health Plan (GHP).

C. Authority for Conducting the Matching Program

Section 1862(b)(5) of the Social Security Act, (42 U.S.C. 1395y(b)(5)), Section 6103(l)(12) of the Internal Revenue Code, (26 U.S.C 6103(1)(12)), and the Privacy Act, (5 U.S.C. 552a) as amended.

D. Categories of Records and Individuals Covered by the Matching Program

1. IRS

IRS will disclose taxpayer identity information from the Individual Master File (IMF), Treas/IRS 24.030, published at 63 FR 69854 (12/17/98). The IRS component responsible for the disclosure of the return information is the Office of Government Liaison and Disclosure.

2. SSA

SSA will extract identifying information of Medicare beneficiaries from the Master Beneficiary Record (MBR), SSA/OSR 09–60–0090, published at 65 FR 46997 (08/01/00). SSA will validate the taxpayer SSN by matching information from the IMF against the Master Files of Social Security Number Holders, (NUMIDENT), SSA/OSR 09–60–0058, published at 63 FR 14165 (03/24/98). SSA will extract employer identity information from the Earnings Recording and Self-Employment Income System, SSA/0SR 09–60–0059, referred to as the Master Earnings File (MEF), published at 62 FR 11939 (03/13/97). The SSA component responsible for the disclosure of the return information is the Office of Systems Requirements (OSR).

3. CMS

a. CMS will utilize a database, System Number 09–70–4001, published at 57 FR 60818 (12/22/92), of the GHP information received from employers containing verified instances of employment and GHP coverage for Medicare beneficiaries and Medicare eligible spouses identified from the IMF and MEF extracts. CMS will match the GHP information against the Carrier Medicare Claims Records, System Number 09–70–0501, published at 59 FR 37243–02 (7/21/94), maintained at the CMS Common Working File (CWF), System Number 09–70–0526, published at 53 FR 52792 (12/29/88).

b. CMS will match GHP information against the Carrier Medicare Claims Records, System Number 09–70–0501, published at 59 FR 37243–02 (7/21/94), maintained at the CMS Common Working File (CWF), System Number 09–70–0526, published at 53 FR 52792 (12/29/88), which is the repository data base for current MSP information. This file contains information or records needed to properly process and pay medical insurance benefits to, or on behalf of, entitled beneficiaries who have submitted claims for Supplementary Medical Insurance Benefits (Medicare Part B). The file is accessed when a claim is submitted for payment.

c. CMS will match GHP information against the Intermediary Claims Records, System Number 09–70–0503, published at 59 FR 37243–02 (7/21/94), maintained at the CWF. This file contains information or records needed to properly process and pay Medicare benefits to, or on behalf of, eligible individuals. The file is accessed when a claim is submitted for payment.

d. CMS will match GHP information against the National Claims History (NCH), which is contained in the National Claims History File, Privacy Act System, HHS, CMS, BDMS 09–70–0005 published at 59 FR 19181 (4/22/94), maintained at CMS Data Center (HDC), located in Baltimore, Maryland. NCH contains records needed to facilitate obtaining Medicare utilization review data that can be used to study the operation and effectiveness of the Medicare program.

e. The CMS component responsible for receipt and verification of the return information is the Office of Information Services (CMS/OIS).

E. Inclusive Dates of the Match

The matching program shall become effective no sooner than 40 days after notice for the program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. 01–18586 Filed 7–23–01; 8:45 am]

BILLING CODE 4191–02–U

DEPARTMENT OF STATE

[Public Notice #3724]

Notice of Meeting; United States International Telecommunication Advisory Committee

The Department of State announces a meeting of the U.S. International Telecommunication Advisory Committee. The purpose of the Committee is to advise the Department on policy and technical issues with respect to the International Telecommunication Union. This meeting will be held via email.

The US Study Group B will meet by email from August 1 to August 15, 2001, to start preparing for the October meeting of ITU–T Study Group 2. The SG will consider two candidate normal contributions titled: ''Proposal for Restructuring Recommendation G.650'' and ''L- and C-Band Attenuation in Installed Fibre Links.'' Members of the general public may participate in this meeting by providing an email address to the meeting Secretariat by telephone at 202–647–0965 or by email to EBCIPMA@state.gov.

Dated: July 19, 2001.

Marian R. Gordon,

Director, Telecommunication & Information Standardization, U.S. Department of State.

[FR Doc. 01–18525 Filed 7–20–01; 1:57 pm]

BILLING CODE 4710–45–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular (AC) 120–EFB, Guidelines for the Certification, Airworthiness, and Operational Approval of Electronic Flight Bag Computing Devices

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed AC and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed AC that provides guidance for the certification, airworthiness, and operational approval of portable and installed Electronic Flight Bag (EFB) aircraft computing devices. EFBs are electronic computing and/or communications equipment or systems used to display a variety of aviation data or perform a variety of aviation functions. In the past some of these functions were traditionally accomplished using paper references. The scope of EFB functionally may include data like connectivity. EFBs may be portable electronic devices or installed systems. The physical EFB display may use various technologies, formats, and forms of communication. This notice is necessary to give all interested persons the opportunity to present their views on the proposed AC.

DATES: Comments must be received on or before September 24, 2001.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Flight Technologies and Procedures Division (Attention: AFS–400), 800 Independence Avenue SW., Washington, DC 20591, or electronically to garret.livack@faa.gov.

FOR FURTHER INFORMATION CONTACT: Gary Livack, AFS–400, at the address above, by email at garret.livack@faa.gov, or telephone at (202) 267–7954.

SUPPLEMENTARY INFORMATION:

Comments Invited

The proposed AC is available on the FAA Web site at http://www.faa.gov/avr/afs/acs/ac-idx.htm, under AC No. 120–EFB. Interested persons are invited to comment on the proposed AC by submitting such written data, view, or arguments, as they may desire. Please identify AC 120–EFB, Guidelines for the Certification, Airworthiness, and operational Approval of Electronic Flight Bag Computing Devices, and submit comments, either hard copy or electronic, to the appropriate address listed above. Comments may be inspected at the above address between 9:00 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Issued in Washington, DC on July 17, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

[FR Doc. 01–18400 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–52]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before August 13, 2001.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing the petition, any comments received, and any final disposition in person in this Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessas Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR §§ 11.85 and 11.91.

Issued in Washington, DC on July 19, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2001–9140.
Petitioner: Ameriflight, Inc.
Section of 14 CFR Affected: 14 CFR 119.3.
Description of Relief Sought: To permit Ameriflight to operate certain EMBRAER Brasilia EMB–120ER airplanes in cargo-only service under 14 CFR part 135 with a maximum payload of 8,500 pounds.

Docket No.: FAA–2001–8807.
Petitioner: Alaska Airlines, Inc.
Section of 14 CFR Affected: 14 CFR 119.49.
Description of Relief Sought: To allow ASA to (1) add aircraft to or delete aircraft from its operations specifications during nonbusiness hours, weekends, or holidays, and (2) have its certificate management office revise its operations specifications on the next business day.

[FR Doc. 01–18401 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–2001–1113]

Reports, Forms, and Record keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before September 24, 2001.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Mr. Walter Culbreath, NHTSA 400 Seventh Street, SW., Room 6132, NAD–40, Washington, DC 20590. Mr. Culbreath's telephone number is (202) 366–1566. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) 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;

(ii) 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;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond,

including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

(1) *Title:* Uniform Safety Program Cost Summary Form for Highway Safety Plan.

OMB Control Number: 2127–0003.

Affected Public: State, Local or Tribal Government.

Abstract: The Highway Safety Plan identifies State's traffic safety problems and describes the program and projects to address those problems. In order to account for funds expended under the priority areas and other program areas, States are required to submit a Program Cost Summary. The program cost summary is completed to reflect the state's proposed allocations of funds (including carry-forward funds) by program area, based on the projects and activities identified in the Highway Safety Plan.

Estimated Annual Burden: 570.

Number of Respondents: 57.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 01–18402 Filed 7–23–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration Office of Hazardous Materials Safety

Notice of Applications for Modification of Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for modification of exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation; and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application numbers with the suffix ''M'' denote a modification request. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before August 8, 2001.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street SW, Washington, DC or at http://dms.dot.gov.

This notice of receipt of applications for modification of exemptions is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on July 19, 2001.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

Application No.	Docket No.	Applicant	Modification of exemption
5022–M		Thiokol Propulsion Corp., Brigham City, UT (See Footnote [1])	5022
7954–M		Voltaix, Inc., North Branch, NJ (See Footnote [2])	7954
8971–M		Baker Atlas, Houston, TX (See Footnote [3])	8971
9401–M		Societe Nationale de Wagon-Reservoirs, 79009 Paris, FR (See Footnote [4]).	9401
10842–M		Autoliv ASP, Inc., Ogden, UT (See Footnote [5])	10832
10945–M		Structural Composites Industries, Pomona, CA (See Footnote [6])	10945
11434–M		Fisher Scientific Chemical Division, Fair Lawn, NJ (See Footnote [7])	11434
11761–M		Hawkins, Inc., Minneapolis, MN (See Footnote [8])	11761

Application No.	Docket No.	Applicant	Modification of exemption
12284–M	RSPA–99–5935	American Traffic Safety Services Assn. (ATSSA), Fredericksburg, VA (See Footnote [9]).	12284
12449–M	RSPA–00–7213	Chlorine Service Company, Inc., Kingwood, TX (See Footnote [10])	12449
12595–M	RSPA–01–8643	Marsulex, Inc., Toledo, OH (See Footnote [11])	12595
12643–M	RSPA–01–9066	TRW Space and Electronics Groups, Redondo Beach, CA (See Footnote [12]).	12643
12676–M	RSPA–01–9376	Environmental Management, Inc., Guthrie, OK (See Footnote [13])	12676
12688–M	RSPA–01–9530	Brenntag West, Inc., Santa Fe Springs, CA (See Footnote [14])	12688

[1] To modify the exemption to authorize the transportation of an additional Division 1.3C material in temperature controlled equipment.
[2] To modify the exemption to provide for germanine mixtures, Division 2.3, to be transported in DOT-Specification 3A2400, 3AA2400 or 3AAX2400 cylinders.
[3] To modify the exemption to authorize the use of additional design assemblies of the non-refillable, non-DOT specification steel cylinders for the transportation of certain Division 5.1 materials.
[4] To modify the exemption to authorize the transportation of an additional Division 2.2 materials in non-DOT specification IMO Type 5 portable tanks.
[5] To modify the exemption to authorize the transportation for disposal of unapproved waste explosive materials used in passive restraint systems by common carrier and relief from the outer packaging requirements.
[6] To modify the exemption to authorize the transportation of an additional Division 2.2 material in non-DOT specification fully wrapped carbon fiber reinforced aluminum lined cylinders.
[7] To modify the exemption to authorize the transportation of additional Class 3 material in tank cars authorized to remain standing with unloading connections attached when no product is being transferred.
[8] To modify the exemption to authorize the transportation of additional Class 8 materials in certain DOT Specification and AAR Specification tank cars with a modified inspection procedure.
[9] To modify the exemption to authorize an increase in the maximum capacity to 500 gallons of the non-DOT specification cargo tanks used for roadway striping.
[10] To modify the exemption to authorize the use of a hydrostatic proof pressure test of the non-DOT specification pressure vessel for use in transporting Division 2.1 an 2.2 materials.
[11] To modify the exemption to authorize rerouting a Division 2.3 residue tank car for reloading at a different site while the car is in transit without change of placard and the addition of a Division 2.3 material.
[12] To reissue the exemption originally issued on an emergency basis for the transportation of a Division 2.2 material in a non-DOT specification refrigeration system described as a pulse tube cooler.
[13] To reissue the exemption originally issued on an emergency basis for the use of a non-DOT specification full removable head steel salvage cylinder for overpacking and the transportation of damaged or leaking cylinders of pressurized and non-pressurized hazardous materials.
[14] To modify the exemption originally issued on an emergency basis for the transportation in commerce of a Class 8 material in drums that do not meet the minimum thickness requirements.

[FR Doc. 01–18403 Filed 7–23–01; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration; Office of Hazardous Materials Safety; Notice of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazrdous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1-Motor vehicle, 2-Rail freight, 3-Cargo vessel, 4-Cargo aircraft only, 5-Passenger-carrying aircraft.

DATES: Comments must be received on or before August 23, 2001.

ADDRESS COMMENTS TO: Records Center, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption application number.

FOR FURTHER INFORMATION: Copies of the applications (See Docket Number) are available for inspection at the New Docket Management Facility, PL–401, at the U.S. Department of Transportation, Nassif Building, 400 7th Street, SW., Washington, DC 20590 or at http://dms.dot.gov.

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117 (b); 49 CFR 1.53 (b)).

Issued in Washington, DC, on July 19, 2001.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

NEW EXEMPTIONS

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12661–N	RSPA–01–9217	United Parcel Service (UPS), Atlanta, GA.	49 CFR 171.2(a) & (b), 172, Subparts C, D & E, 173.1, 173.22, 173.24, 177.801, 177.817.	To authorize the transportation in commerce of certain hazardous materials that are not properly packaged, marked, labeled or classed in accordance with the 49 CFR. (mode 1).

NEW EXEMPTIONS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12741–N	RSPA–01–10116	Thunderbird Cylinder Inc., Phoenix, AZ.	49 CFR (e)(12), (e)(16), (e)(17), 173.302(c)(2), (3), (4), & (5), 173.34 (e)(1), (e)(3), (e)(4), (e)(5), (e)(6), (e)(8).	To authorize the transportation in commerce of certain DOT Specification 3A and 3AA cylinders which have been alternatively ultrasonically retested for use in transporting Division 2.1, 2.2 and 2.3 materials. (modes 1, 2, 3, 4, 5).
12744–N	RSPA–01–10126	Alcoa Inc. of Pittsburgh, Pittsburgh, PA.	49 CFR 171–180	To authorize the transportation in commerce of electric storage batteries containing electrolyte or corrosive battery fluid when transported in a motor vehicle containing no hazardous materials other than materials of trade (MOTs) as essentially unregulated. (mode 1).
12745–N	RSPA–01–10125	BioLab Inc., Decatur, GA	49 CFR 173.24(g)(4)	To authorize the transportation in commerce of Class 8 material in vented intermediate bulk containers (IBC). (modes 1, 2, 3).
12746–N	RSPA–01–10124	The Reichhold, Inc., Chickamauga, GA.	49 CFR 174.67(i) & (j)	To authorize rail cars containing Division 2.1 hazardous material to remain standing while connected without the physical presence of an unloader. (mode 2).
12747–N	RSPA–01–10103	Brenntag Southeast Inc., Durham, NC.	49 CFR 172.302(a) & (c)	To authorize the transportation in commerce of oxidizing solid, n.o.s. in flexible intermediate bulk containers (IBC) shipped in accordance with IMDG regulations without required markings or placardings transported inside box trailers with required placarding. (mode 2).
12748–N	RSPA–01–10123	Lockheed Martin Missiles & Space Co., Santa Cruz, CA.	49 CFR 178.601(a)	To authorize the transportation in commerce of alternative, non-POP tested containers for use in transporting small explosive articles for military and commercial spacecraft and missiles. (mode 1).
12749–N	RSPA–01–10122	Questar, North Canton, OH	49 CFR 173.12(b)(2)(i)	To authorize the manufacture, marking, sale and use of certain UN 11G fiberboard intermediate bulk containers (IBC) for use as the outer packaging for lab pack applications. (mode 1).
12750–N	RSPA–01–10121	Questar, North Canton, OH	49 CFR 173.12(b)(2)(i)	To authorize the manufacture, marking, sale and use of UN 13H4 Flexible Intermediate Bulk Containers (IBC) for use as outer packaging for lab pack application for us in transporting hazardous wastes. (mode 1).
12751–N	RSPA–01–10106	Defense Technology Corporation, Casper, WY.	49 CFR 173.302	To authorize the manufacture, marking, sale and use of refillable non-DOT specification cylinder similar to a DOT–Specification 39 cylinder for use in transporting compressed gas, Division 2.2. (modes 1, 3, 4).

NEW EXEMPTIONS—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of exemption thereof
12753–N	RSPA–01–10118	Praxair, Inc., Danbury, CT	49 CFR 173.304(a)	To authorize the transportation in commerce of certain toxic gases in 3AX and 3AAX cylinders not presently authorized for use in transporting dichlorosilane, Division 2.3, (mode 1).
12755–N	RSPA–01–10114	Air Canada, Ottawa, ON	49 CFR 175.75	To authorize the transportation in commerce of hazardous materials by aircraft that exceed the quantity limitations in the HMR. (modes 4, 5).
12756–N	RSPA–01–10112	Department of Energy, Oak Ridge, TN.	49 CFR 173 & 178	To authorize the one-time transportation in commerce of certain explosive materials that exceed their shelf life, are no longer need or are obsolete in specially designed containers and trailers. (mode 1).
12758–N	RSPA–01–10110	Pacific Northwest Equipment Inc., Seattle, WA.	49 CFR 172.101, 173.32c(g), 173.2, 176.83, 178.207–12.	To authorize the transportation in commerce of IM–102 tanks that are equipped with alternative internal discharge valves for use in transporting blasting agents. (mode 3).
12760–N	RSPA–01–10108	Thiokol Propulsion, Brigham City, UT.	49 CFR 173.3(a)(b), 173.62, 178, Subpart L and M.	To authorize the transportation in commerce of certain rocket propellants between its plant and test areas in non-DOT specification containers. (mode 1).
12762–N	RSPA–01–10104	Pro-Virus Inc., Gaithersburg, MD	49 CFR 172.203, 172.301(c), 172.303(a), 172.401(a)(1)(2).	To authorize the transportation in commerce of non-bulk prepacked combination packagings containing various classes of hazardous materials between facilities to be transported as essentially unregulated without proper shipping papers. (mode 1).
12768–N	RSPA–01–10133	BOC Gases, Murray Hill, NJ	49 CFR 173.31(a), 179.13	To authorize the transportation in commerce of tank cars, containing carbon dioxide, refrigerated liquid, Division 2.2 with a maximum gross weight on rails of 286,000 pounds. (mode 2).
12770–N	RSPA–01–10130	Empire Airlines, Inc., Coeur d'Alene, ID.	49 CFR 175.85(b)	To authorize an alternative loading method of hazardous materials on cargo aircraft. (mode 4).

[FR Doc. 01–18404 Filed 7–23–01; 8:45 am]
BILLING CODE 4910–60–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34071]

Raritan Central Railway, L.L.C.—Lease and Operation Exemption—Federal Business Centers, Inc. and Summit Associates, Inc.

Raritan Central Railway, L.L.C. (Raritan), a noncarrier, newly created to become a Class III railroad, has filed a notice of exemption under 49 CFR 1150.31 to lease and operate, pursuant to an agreement entered into with Federal Business Centers, Inc., and Summit Associates, Inc., approximately 14 miles of rail line properties, easements and right-of-way, located within the Raritan Center Business Park, in the Townships of Edison and Woodbridge, in Middlesex County, NJ. Raritan certifies that its projected annual revenues will not exceed those that would qualify it as a Class III rail carrier and that its annual revenues are not projected to exceed $5 million.[1]

The transaction is expected to be consummated on or shortly after August 15, 2001.

This transaction is related to STB Finance Docket No. 34070, *Eyal Shapira—Continuance in Control*

[1] Raritan states that it will interchange traffic with the Conrail Shared Assets Operations. Raritan further states that it is a substitute operator for Durham Transport, Inc., the current operator of the rail line. *See Durham Transport, Inc.—Acquisition and Operation Exemption—Center Realty, Federal Storage Warehouses, and Garden State Buildings, L.P.*, Finance Docket No. 31917 (ICC served Nov. 6, 1991).

Exemption—Raritan Central Railway, L.L.C., wherein Eyal Shapira has filed a notice of exemption to continue in control of Raritan upon its becoming a Class III rail carrier.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34071, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on John D. Heffner, REA, CROSS & AUCHINCLOSS, 1707 L Street, NW., Suite 570, Washington, DC 20036.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: July 17, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–18337 Filed 7–23–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34070]

Eyal Shapira—Continuance in Control Exemption—Raritan Central Railway, L.L.C.

Eyal Shapira (Shapira), an individual, has filed a notice of exemption to continue in control of Raritan Central Railway, L.L.C. (Raritan), upon Raritan's becoming a Class III railroad.

The transaction is scheduled to be consummated on or shortly after August 15, 2001.

This transaction is related to STB Finance Docket No. 34071, *Raritan Central Railway, L.L.C.—Lease and Operation Exemption—Federal Business Centers, Inc. and Summit Associates, Inc.*, wherein Raritan seeks to lease and operate approximately 14 miles of rail line properties, easements and right-of-ways from Federal Centers, Inc. and Summit Associates, Inc., in the Townships of Edison and Woodbridge, in Middlesex County, NJ.

At the time it filed this notice, Shapira owned and controlled one existing Class III rail carrier: The New York & Ogdensburg Railway Company, Inc., operating in the State of New York.

Shapira states that: (i) The railroads will not connect with each other or any other railroad in their corporate family; (ii) the continuance-in-control is not part of a series of anticipated transactions that would connect the railroads with each other or any railroad in their corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34070, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, REA, CROSS & AUCHINCLOSS, 1707 L Street, NW., Suite 570, Washington, DC 20036.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: July 17, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–18336 Filed 7–23–01; 8:45 am]

BILLING CODE 4915–00–P

Corrections

Federal Register
Vol. 66, No. 142
Tuesday, July 24, 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.

DEPARTMENT OF COMMERCE

Internation Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

Correction

In Notice document 01–16597 beginning on page 34910 in the issue of Monday, July 2, 2001, make the following correction:

On page 34910, in the table the entries for Taiwan through the The People's Republic of China should read as follows:

	Period
Antidumping Duty Proceedings	
Taiwan:	
Stainless Steel Sheet and Strip in Coils, A–583–831	7/1/00–6/30/01
Thailand:	
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

[FR Doc. C1–16597 Filed 7–23–01; 8:45 am]
BILLING CODE 1505–01–D

Federal Register

Tuesday,
July 24, 2001

Part II

Department of Health and Human Services

Administration for Children and Families

Second Request for Applications Under the Office of Community Services' Fiscal Year 2001 Assets for Independence Demonstration Program (IDA Program); Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. OCS–2001–08]

Second Request for Applications Under the Office of Community Services' Fiscal Year 2001 Assets for Independence Demonstration Program (IDA Program)

AGENCY: Office of Community Services (OCS), Administration for Children and Families, Department of Health and Human Services.

ACTION: Announcement of continuing availability of funds and request for a second round of competitive applications under the Office of Community Services' Assets for Independence Demonstration Program.

SUMMARY: Applications received pursuant to the ACF Program Announcement of February 27, 2001 revealed a need for applicants to have additional time to secure the required non-Federal matching funds. Therefore the Office of Community Services (OCS) is announcing a second invitation to eligible entities, including those which submitted applications under the Program Announcement of February 27, to submit (or re-submit) applications for new demonstration projects that will establish and support Individual Development Accounts (IDA's) for lower income individuals and families. This announcement invites applications from new applicants as well as those who were notified that their original applications under round one were deficient, or those who are able to commit larger amounts of non-Federal share than previously indicated and choose to resubmit applications for larger grant amounts. In this regard it should be noted that as explained in PART II Paragraph I, and PART III Evaluation Criterion 5 of this Announcement, applicants may themselves commit to providing the non-Federal share by including in the appendix a statement of commitment, on Applicant letterhead, signed by the official signing the SF–424 and countersigned by the Applicant's Board Chairperson or Treasurer, that the non-Federal matching funds will be provided contingent only on the award of the OCS grant. It should also be noted that under this Announcement the firm commitments of non-Federal share will be accepted as valid as long as they are provided to ACF/OCS no later than September 1, 2001. Subject to the above provisions, applications will be screened and competitively reviewed as they were under the previous round and as indicated in this Announcement. Awards will be contingent on the outcome of the competition and the availability of funds.

DATES: To be considered for funding applications must be received on or before August 23, 2001. Applications received after that date will not be accepted for consideration. However, as noted above, the firm commitments of non-Federal share will be accepted as valid as long as they are provided to ACF/OCS no later than September 1, 2001. See Part IV of this announcement for more information on submitting applications.

FOR FURTHER INFORMATION CONTACT: Sheldon Shalit (202) 401–4807, sshalit@acf.dhhs.gov, or Richard Saul (202) 401–9341, rsaul@acf.dhhs.gov, Department of Health and Human Services, Administration for Children and Families, Office of Community Services, 370 L'Enfant Promenade, SW, Washington, DC, 20447.

In addition, this Announcement will be accessible on the OCS WEBSITE for reading or downloading at: http://www.acf.dhhs.gov/programs/ocs/ under ''Funding Opportunities.''

The Catalog of Federal Domestic Assistance (CFDA) number for this program is 93.602. The title is Assets for Independence Demonstration Program (IDA Program).

SUPPLEMENTARY INFORMATION: This program announcement consists of seven parts plus Attachments:

Part I: Background Information: legislative authority, program purpose, project goals, definition of terms, and program evaluation.

Part II: Program Objectives and Requirements: program priority areas, eligible applicants, project and budget periods, funds availability and grant amounts, project eligibility and requirements, non-Federal matching funds requirements, preferences, multiple applications, treatment of program income, and agreements with partnering financial institutions.

Part III: The Project Description, Program Proposal Elements and Review Criteria: purpose, project summary/abstract; objectives and need for assistance, results or benefits expected, approach, organizational profiles, budget and budget justification, non-Federal resources, and evaluation criteria.

Part IV: Application Procedures: application development/availability of forms, application submission, intergovernmental review, initial OCS screening, consideration of applications, and funding reconsideration.

Part V: Instructions for Completing Application Forms: SF–424, SF–424A, SF–424B.

Part VI: Contents of Application and Receipt Process: content and order of program application, acknowledgment of receipt.

Part VII: Post Award Information and Reporting Requirements: notification of grant award, attendance at technical assistance and evaluation workshops/conferences, reporting requirements, audit requirements, prohibitions and requirements with regard to lobbying, applicable Federal regulations.

Attachments: Application forms and required attachments.

Paperwork Reduction Act of 1995

Public reporting burden for this collection of information is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection information.

The project description is approved under OMB control number 0970–0139 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.

Part I. Background Information

A. Legislative Authority

The Assets for Independence Demonstration Program (IDA Program) was established by the Assets for Independence Act (AFI Act), under Title IV of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998 (P.L. 105–285, 42 U.S.C. 604 Note), as amended.

B. Program Purpose

The purpose of the program is, in the language of the AFI Act: to provide for the establishment of demonstration projects designed to determine:

(1) The social, civic, psychological, and economic effects of providing to individuals and families with limited means an incentive to accumulate assets by saving a portion of their earned income;

(2) The extent to which an asset-based policy that promotes saving for postsecondary education, homeownership, and microenterprise development may be used to enable individuals and families with limited means to increase their economic self-sufficiency; and

(3) the extent to which an asset-based policy stabilizes and improves families and the community in which the families live.

There are some 300 IDA programs of various designs operating today in different communities across the country. Most are quite new and all are in the process of learning what design

features work best with a variety of circumstances and target populations. Applicants are encouraged to contact these programs to see what might be learned from their experiences: what pitfalls to avoid, what successes might be emulated or adapted. An excellent source of information and discussion about existing IDA programs is the website operated by the Corporation for Enterprise Development (CFED), and its ''IDA Learning Network'' and related ListServe. These can be reached at *www.idanetwork.org.* In addition, the OCS Demonstration Division expects its website to be up in February 2001 at www.acf.dhhs.gov/programs/ocs/demo.

C. Project Goals

The ultimate goals of the projects to be funded under the Assets for Independence Demonstration Program are:

(1) To create, through project activities and interventions, meaningful asset accumulation opportunities for households eligible for Temporary Assistance for Needy Families (TANF) and other eligible individuals and working families.

(2) To evaluate the projects to demonstrate the effectiveness of these activities and interventions and of the project designs through which they were implemented, and the extent to which an asset-based program can lead to economic self-sufficiency of members of the communities served through one or more qualified expenses; and

(3) Thus to make it possible to determine the social, civic, psychological, and economic effects of providing to individuals and families with limited means an incentive to accumulate assets by saving a portion of their earned income, and the extent to which an asset-based policy stabilizes and improves families and the community in which the families live.

D. Definition of Terms

For the purposes of this Announcement:

(1) *AFI Act* means the Assets for Independence Act (Title IV of the Community Opportunities, Accountability, and Training and Educational Services Act of 1998, as amended) which authorizes this program.

(2) *Custodial Account* means an alternative structure to a Trust for the establishment of an Individual Development Account, as described in PART II, Section G(5).

(3) *Eligible Individual* means an individual who meets the income and net worth requirements of the program as set forth in PART II, Section G(3)(a) below.

(4) *Emergency Withdrawal* means a withdrawal of only those funds, or a portion of those funds, deposited by the eligible individual (Project Participant) in an Individual Development Account of such individual. Such withdrawal must be approved by the Project Grantee, must be made for an allowable purpose as defined in the AFI Act and under the Project Eligibility Requirements set forth in PART II of this Announcement, and must be repaid by the individual Project Participant within 12 months of the withdrawal. [See PART II, Section G(7)(b)]

(5) *Household* means all individuals who share use of a dwelling unit as primary quarters for living and eating separate from other individuals.

(6) *Individual Development Account (IDA)* means a trust or a custodial account created or organized in the United States exclusively for the purpose of paying the qualified expenses of an eligible individual, or enabling the eligible individual to make an emergency withdrawal, but only if the written governing instrument creating the trust or custodial account meets the requirements of the AFI Act and of the Project Eligibility and Requirements set forth in this Announcement. [See PART II, Section G(4) and (5).]

(7) *Net Worth of a Household* means the aggregate market value of all assets that are owned in whole or in part by any member of the household, exclusive of the primary dwelling unit and one motor vehicle owned by a member of the household, minus the obligations or debts of any member of the household.

(8) *Project Grantee* means a Qualified Entity as defined in paragraph (11) below, which receives a grant pursuant to this Announcement.

(9) *Project Participant* means an Eligible Individual as defined in paragraph (3) above who is selected to participate in a demonstration project by a qualified entity.

(10) *Project Year* means, with respect to a funded demonstration project, any of the 5 consecutive 12-month periods beginning on the date the project is originally awarded a grant by ACF.

(11) *Qualified Entity* means an entity eligible to apply for and operate an assets for independence demonstration project, under Priority Area 1.0, as one or more not-for-profit 501(c)(3) tax exempt organizations, or a State or local government agency or a tribal government submitting an application jointly with such a not-for-profit organization, or an entity that—

(I) is—

(a) a credit union designated as a low-income credit union by the National Credit Union Administration (NCUA); or

(b) an organization designated as a community development financial institution (CDFI) by the Secretary of the Treasury (or the Community Development Financial Institutions Fund); and

(II) can demonstrate a collaborative relationship with a local community-based organization whose activities are designed to address poverty in the community and the needs of community members for economic independence and stability.

(12) *Qualified Expenses* means one or more of the expenses for which payment may be made from an individual development account by a project grantee on behalf of the eligible individual in whose name the account is held, and is limited to expenses of (A) post-secondary education, (B) first home purchase, and/or (C) business capitalization, as defined below:

(A) *Post-Secondary Educational Expenses* means post-secondary educational expenses paid from an individual development account directly to an eligible educational institution, and includes:

(i) *Tuition and Fees* required for the enrollment or attendance of a student at an eligible educational institution.

(ii) *Fees, Books, Supplies, and Equipment* required for courses of instruction at an eligible educational institution, including a computer and necessary software.

(iii) *Eligible Educational Institution* means the following:

(I) *Institution of Higher Education.*—An institution described in Section 101 or 102 of the Higher Education Act of 1965.

(II) *Post-Secondary Vocational Education School.*—An area vocational education school (as defined in subparagraph (C) or (D) of section 521(4) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471(4)) which is in any State (as defined in section 521(33) of such Act) as such sections are in effect on the date of enactment of the AFI Act.

(B) *First-Home Purchase* means qualified acquisition costs with respect to a principal residence for a qualified first-time homebuyer, if paid from an individual development account directly to the persons to whom the amounts are due. Within this definition:

(i) *Principal Residence* means a main residence, the qualified acquisition costs of which do not exceed 120 percent of the average purchase price

applicable to a comparable residence in the area.

(ii) *Qualified Acquisition Costs* means the cost of acquiring, constructing, or reconstructing a residence, including usual or reasonable settlement, financing, or other closing costs.

(iii) *Qualified First-Time Homebuyer* means an individual participating in the project involved (and, if married, the individual's spouse) who has no present ownership interest in a principal residence during the 3-year period ending on the date on which a binding contract is entered into for purchase of the principal residence to which this subparagraph applies.

(C) *Business Capitalization* means amounts paid from an individual development account directly to a business capitalization account that is established in a Qualified Financial Institution and is restricted to use solely for qualified business capitalization expenses of the eligible individual in whose name the account is held. Within this definition:

(i) *Qualified Business Capitalization Expenses* means qualified expenditures for the capitalization of a qualified business pursuant to a qualified plan, when so certified by a Qualified Entity (Grantee) as meeting the requirements of sub-paragraphs (ii), (iii), and (iv) below.

(ii) *Qualified Expenditures* means expenditures included in a qualified plan, including but not limited to capital, plant, equipment, working capital, and inventory expenses.

(iii) *Qualified Business* means any business that does not contravene any law or public policy (as determined by the Secretary).

(iv) *Qualified Plan* means a business plan, or a plan to use a business asset purchased, which—

(I) is approved by a financial institution, a microenterprise development organization, or a nonprofit loan fund having demonstrated fiduciary integrity;

(II) includes a description of services or goods to be sold, a marketing plan, and projected financial statements; and

(III) may require the eligible individual to obtain the assistance of an experienced entrepreneurial advisor.

(D) *Transfers to IDAs of Family Members*—Amounts paid from an individual development account directly into another such account established for the benefit of an eligible individual who is—

(i) the individual's spouse; or

(ii) any dependent of the individual with respect to whom the individual is allowed a deduction under section 151 of the Internal Revenue Code of 1986.

(13) *Qualified Financial Institution* means a Federally insured Financial Institution, or a State insured Financial Institution if no Federally insured Financial Institution is available.

(14) *Qualified Savings of the Individual for the Period* means the aggregate of the amounts contributed by an eligible individual from earned income to the individual development account of the individual during the period.

(15) *Secretary* means the Secretary of Health and Human Services, acting through the Director of the Office of Community Services.

(16) *Tribal Government* means a tribal organization, as defined in section 4 of the Indian Self-Determination and Education Assistance Act (24 U.S.C. 450b) or a Native Hawaiian organization, as defined in section 9212 of the Native Hawaiian Education Act (20 U.S.C. 7912).

(17) *Trust Agreement* means the instrument by which an Individual Development Account is established as a trust in the partnering Financial Institution under PART II Section G(4).

(18) *Trustee* means the Qualified Financial Institution responsible for management of an Individual Development Account established as a trust pursuant to a Trust Agreement.

E. Program Evaluation

Section 414 of the Assets for Independence Act requires that the Secretary enter into a contract with an independent research organization to evaluate the demonstration projects conducted under the Act, individually and as a group, including evaluating all qualified entities participating in and sources providing funds for the demonstration projects conducted under the AFIA Act. To support this evaluation, the AFIA also provides that not less than 2% of funds in the Reserve Fund be used by grantees to provide the independent research organization with such information regarding the demonstration project as may be required for the evaluation. The Secretary has contracted with Abt Associates, in Cambridge, Massachusetts, to carry out the required evaluation. OCS and ACF's Office of Planning, Research and Evaluation (OPRE) have worked together with the contractor in the development of an evaluation design whose implementation will get underway in the Spring of 2001.

Section 414 also lists the factors to be addressed by the research organization in its evaluation, which include:

(1) The effect of incentives and institutional support on savings behavior;

(2) The savings rates of individuals based on demographic characteristics and income;

(3) The economic, civic, psychological and social effects of asset accumulation and how such effects vary among different populations or communities;

(4) The effects of IDA's on savings rates, home ownership, level of post secondary education attained, and self-employment, and how such effects vary among different populations or communities;

(5) The potential financial returns to the Federal Government and to other public and private sector investors in IDA's over a 5 and 10 year period;

(6) The lessons to be learned from the demonstration projects and if a permanent program of IDA's should be established; and

(7) Such other factors as the Secretary may prescribe.

The section then stipulates that in evaluating any demonstration project under the AFIA, the research organization shall, before, during and after the project, obtain such quantitative data as are necessary to evaluate the program thoroughly. To this end OCS and its technical assistance contractor, PeopleWorks, Inc., have worked with OPRE and the research organization to develop a reporting format for AFIA grantees, and expect to make available to all grantees an Asset Development Information System to facilitate the maintenance, collection, verification and reporting of the data. In addition, section 414 directs that the research organization shall develop a qualitative assessment, derived from sources such as in-depth interviews, of how asset accumulation affects individuals and families.

Section 414 of the AFIA, as amended, further provides that of the funds appropriated for each Fiscal Year, beginning with FY 2001, $500,000 will be available to carry out the evaluation.

Part II. Program Objectives and Requirements

The Office of Community Services (OCS) invites qualified entities to submit competing grant applications for new demonstration projects that will establish, support, manage, and participate in the evaluation of Individual Development Accounts for eligible participants among lower income individuals and working families.

A. Program Priority Areas

There is one Program Priority Area under this program for Fiscal Year 2001: Priority Area 1.0, under which OCS will accept applications from Qualified Entities as described below and in Section G. Applications for continuation of grants funded under Priority Area 2.0 of the Fiscal Year 1999 Assets For Independence Program Announcement are not covered by this Program Announcement; but will be the subject of direct correspondence between OCS and the grantees.

B. Eligible Applicants

(1) In General. Eligible applicants for the Assets for Independence Demonstration Program Priority Area 1.0 are one or more not-for-profit 501(c)(3) tax exempt organizations, or a State or local government agency or a tribal government submitting an application jointly with such a not-for-profit organization, or an entity that—

(I) is—

(a) a credit union designated as a low-income credit union by the National Credit Union Administration (NCUA); or

(b) an organization designated as a community development financial institution by the Secretary of the Treasury (or the Community Development Financial Institutions Fund); and

(II) can demonstrate a collaborative relationship with a local community-based organization whose activities are designed to address poverty in the community and the needs of community members for economic independence and stability.

Not-for-profit Applicants, including those filing jointly with government agencies or Tribal Governments, must provide documentation of their tax exempt status. The applicant can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code *or* by providing a copy of their currently valid IRS tax exemption certificate. Failure to provide evidence of Section 501(c)(3) tax exempt status will result in rejection of the application. Similarly, eligible credit unions and CDFI's must provide written documentation of their status and evidence of their collaborative relationship with an appropriate local community-based organization.

(2) Applications Submitted Jointly by State or Local Government Agencies or Tribal Governments and Tax Exempt Non-Profit Organizations. Joint applications by government agencies and non-profit organizations must clearly identify the joint applicants; and the SF–424 Application for Federal Assistance must be signed by one of the joint applicants. The applicant signing the SF–424 will be responsible for proper implementation of the grant in accordance with the approved work program and the terms and conditions of the grant. (It may be either the government agency applicant or a non-profit applicant). In either case, a Reserve Fund must be established for the Project by a non-profit Joint Applicant, and maintained and managed as agreed by the Joint Applicants. The Reserve Fund must be established in accordance with Section G, Paragraphs (1) and (2), below; and where the project includes a group or consortium of operating partners, may include both a central and local Reserve Funds as described there. Such joint applications must also include:

(a) Proof of tax exempt status of the non-profit Joint Applicant, as described in Paragraph (1), above; and

(b) A Joint Applicant Agreement, signed by the responsible officials of both Joint Applicants, setting forth the responsibilities of each Joint Applicant for implementation of the proposed project, including management and oversight of the Reserve Fund and carrying out of the project activities and interventions described in Element II of the proposal narrative. (See PART III, below.) The Joint Applicant Agreement should be the first Appendix to the Application, and the responsibilities it sets out should be described in the Project Narrative under Elements I and II, PART III, Section I Evaluation Criteria (below).

(3) Applications Submitted by a Lead Agency on Behalf of a Consortium of Partnering Organizations. Where the Applicant is applying as the lead agency for a consortium or group of partnering organizations, each of these organizations must be briefly described in the Application, and background materials citing their relevant experience and staff capabilities should be included in the Appendix. In such cases the Applicant should document its capability and experience in managing such consortia, and the roles and responsibilities of all participating agencies should be clearly set forth in signed Partnering Agreements between the Applicant and each of the partnering members. Copies of the Partnering Agreements should be included in the Appendix, and the roles and responsibilities of each participating agency clearly explained in PART III, Element I and Element II(b), Project Design, and reflected in the Work Plan under Element II(d). These explanations must include the plans for establishing one or more Reserve Fund(s), and how and where IDA Accounts and Parallel Match Accounts will be maintained, as reflected in the Financial Institution Agreement(s)/Statement of Policy under PART III, Element II(c). (See also Section G. Paragraph (1), and Section M, below.)

C. Project and Budget Periods Under Priority Area 1.0

This announcement is inviting applications under Priority Area 1.0 for project and budget periods of five (5) years. Grant actions, on a competitive basis, will award funds for the full five year project and budget period. As noted below in Section E., subject to the availability of funds, grantees may be offered the opportunity to submit applications for supplementary funding in later years during the five-year project.

Note: Applicants should be aware that OCS funds awarded pursuant to this Announcement will be from FY 2001 funds and may not be expended after the end of the five-year Project/Budget Period to support administration of the project or matching contributions to Individual Development Accounts which may be open at that time. Consequently, Applicants should consider carefully the length of time participants will need to achieve their savings goals and at what point in the project they may wish to discontinue the opening of new accounts. Consequently, and as noted below, deposit of non-Federal share funds needs to be carried out on a schedule consistent with the planned schedule of new account opening. Applicants should provide assurance that in every case provision will be made for payment of all promised matching deposits to IDA accounts opened by project participants in the course of the demonstration project.

D. Funds Availability and Grant Amounts Under Priority Area 1.0

For the second round of competitive funding in Fiscal Year 2001 OCS expects approximately $6 million to be available under Priority Area 1.0 for funding commitments for up to 20 new projects, not to exceed $1,000,000 each for the five-year project and budget periods. Applicants are reminded that grant awards are limited to the amount of committed non-Federal cash matching contributions; and that OCS recognizes that this is a limiting factor in the amount of grant funds requested. Applicants are assured that OCS will welcome requests for less than the maximum grant amounts, and are urged to make realistic projections of project activity over the five year project and propose project budgets accordingly. Draw-down of grant funds over the five-

year budget period may be made in amounts that will match non-Federal deposits into the Project Reserve Fund. (See Section G. Paragraph (2) and Section I, below).

E. Funds Availability for Supplementing FY 1999 and 2000 Grantees

Inasmuch as this is the second Program Announcement for FY 2001 funding, it contains no provision for supplemental funding of FY 1999 and 2000 grantees. Rather, the awarding of grants for supplemental funding of existing grantees will be in accordance with funds availability as set forth in the original FY 2001 Assets for Independence Program Announcement published February 27, 2001.

F. Funds Availability and Grant Amounts for Continuation Funding of Grandfathered State Grantees (FY 1999 Priority Area 2.0 Grantees: Indiana and Pennsylvania)

In Fiscal Year 2001 up to approximately $2 million is expected to be available under Priority Area 2.0 for up to two continuation grants not to exceed $1 million each for the third budget year of a five-year State project funded under Priority Area 2.0 of the FY 1999 Assets for Independence Program Announcement. Any funds not expended in FY 2001 for these Continuation Grants will be available for project grants under Priority Area 1.0 or for supplementary grants as described above in Paragraph E.

G. Project Eligibility and Requirements under Priority Area 1.0

To be eligible for funding under Priority Area 1.0, projects must be sponsored and managed by Qualified Entities and must meet the following requirements:

(1) Reserve Fund. Every project funded under this Announcement must establish and maintain a Reserve Fund in accordance with this paragraph. Such Reserve Fund must be maintained in accordance with the accounting regulations prescribed by the Secretary (See Attachment ''L'' to this Announcement), in a Qualified Financial Institution or other insured financial institution satisfactory to the Secretary.

Note: Where an applicant is lead agency for a consortium or group of partnering organizations, each of which will be implementing an IDA program under the Applicant's grant pursuant to this Announcement, the Applicant/lead agency must maintain a Reserve Fund into which all required non-Federal share matching contribution funds and OCS grant funds shall be deposited in accordance with sub-Paragraph (a). The consortium has two alternatives for maintenance of Reserve Fund(s) in its IDA programs: First, participating organizations may all operate out of the one central Reserve Fund maintained by the Applicant/lead agency. In this case separate accounting structures would be maintained for each of the organizations and the funds assigned for their use in accordance with agreements between the Applicant and each organization. Or second, in addition to the Central Reserve Fund, participating organizations may each establish a local Reserve Fund in their community into which the Applicant/lead agency will deposit from the Central Reserve Fund the funds (grant and non-Federal share) allocated for use by the particular organization. Central and local Reserve Funds will be subject to all of the requirements of this Section. Whatever the arrangement, it must be spelled out and agreed to in the Partnering Agreements required under Section B. Paragraph (3) between the Applicant and each consortium member.

(a) Amounts in the Reserve Fund. As soon after receipt as is practicable, grantees shall deposit in the Reserve Fund the non-Federal matching contributions received pursuant to the ''Non-Federal Share Agreement'' or Agreements reached with the provider(s) of non-Federal matching contributions. Once such non-Federal funds are deposited in the Reserve Fund, grantees may draw down OCS grant funds in amounts equal to such deposits. Similarly, as soon after receipt as practical, grantees shall deposit in the Reserve Fund the income received from any investment made of those funds (see paragraph (d) below).

(b) Use of Amounts in the Reserve Fund. Grantees shall use the amounts in such Reserve Fund as follows:

(A) at least 85% of the federal grant funds, and an equal amount of the required non-Federal share funds, shall be used as matching contributions, equally divided between federal and non-federal monies, to individual development accounts for project participants, in an agreed upon ratio to deposits made in those accounts by project participants from earned income.

(B) at least 2% but no more than 15% of the Federal grant funds shall be used toward the expense of collecting and providing to the research organization evaluating the demonstration project the data and information required for the evaluation.

(C) up to 7.5% of the Federal grant funds may be used for administration of the demonstration project and, and an additional 5.5% shall go toward non-administrative support expenses of assisting project participants to obtain the skills (including economic literacy classes, budgeting, and business management skills), training, and information necessary to achieve economic self-sufficiency through activities requiring qualified expenses. If the cost of such non-administrative support expenses is less than 5.5% of the Federal grant funds, then any unused portion may be used for administrative expenses.

(D) up to 15% of the required matching non-Federal funds may be used for expenses outlined in Paragraphs (B) and (C), above, or other project-related expenses as agreed by the Applicant and the providing entity.

Note: If a grantee mobilizes matching non-Federal contributions in excess of the required 100 percent match, such non-Federal funds may be used however the grantee and provider of the funds may agree. Where the use of such funds is proposed within a Program Element/Proposal Review Criterion which formed the basis for the grant award, Grantees will be held accountable for commitments of such excess matching funds and additional resources, even though over the amount of the required non-Federal match.

(c) Authority to Invest Funds. A grantee shall invest the amounts in its Reserve Fund that are not immediately needed for payment under paragraph (b), in a manner that provides an appropriate balance between return, liquidity, and risk, and in accordance with Guidelines which will be issued by the Secretary prior to making of grant awards and provided to grantees at the time of grant award.

(d) Use of Investment Income. Income generated from investment of Reserve Fund monies that are not allocated to existing Individual Development Accounts may be added by grantees to the funds committed to program administration, participant support, or evaluation data collection. As noted in Paragraph M, below, once funds have been committed as matching contributions to Individual Development Accounts, then any income subsequently generated by such funds must be deposited/credited to the credit of such accounts.

Note: No part of such income is to be considered as a Federal funds contribution subject to the $2000/$4000 limitations under Paragraph (5)(b), below.

(e) Joint Project Administration. If two or more qualified entities are jointly administering a project, none shall use more than its proportional share for the purposes described in subparagraphs (B) and (C), of paragraph (b).

(2) Use of Grant Funds by State and Local Government Agencies and Tribal Governments. As set forth in Section B. Paragraph (2) above, grantees who are State or local government agencies or Tribal governments are required to

submit applications jointly with tax exempt non-profit organizations. In such cases, whether the lead applicant signing the SF–424 is the government agency or the non-profit organization, a Reserve Fund must be established for the Project by the non-profit Joint Applicant and maintained and managed as agreed by the Joint Applicants. The Reserve Fund shall be subject to the requirements of Paragraph (1) above, and Section I, below.

(3) Eligibility and Selection of Project Participants.

(a) Participant Eligibility. Eligibility for participation in the demonstration projects is limited to individuals who are members of households eligible for assistance under TANF, or of households whose adjusted gross income does not exceed the earned income amount described in Section 32 of the Internal Revenue Code of 1986, which establishes eligibility for the Earned Income Tax Credit (EITC)(taking into account the size of the household), or of households whose annual income does not exceed 200% of the poverty line, as provided in Section 408(a)(1) of the AFI Act, as amended; and whose net worth as of the end of the calendar year preceding the determination of eligibility does not exceed $10,000, excluding the primary dwelling unit and one motor vehicle owned by a member of the household.

Note: The most recent EITC Earned Income Guidelines which set the limits on annual income for eligibility in the IDA Program are as follows:

—For a household without a child: $10,380
—For a household with one child: $27,413
—For a household with more than one child: $31,152

Applicants are reminded that there is also a net worth assets test for eligibility in the program, as noted above.

(b) Participant Selection. In keeping with the statutory preference in Section 405(d)(3) of the AFI Act for applications that target individuals from neighborhoods or communities that experience high rates of poverty or unemployment, grantees in their selection of Project Participants may restrict participation in such neighborhoods or communities targeted by their demonstration projects to individuals and households with lower incomes and net worth than set forth above, provided that they shall nonetheless select individuals who they determine are well suited to participate in the demonstration project.

(4) Establishment of Individual Development Accounts. Project Grantees must create, through written governing instruments, either (a) Trusts, under this paragraph, or (b) Custodial Accounts described in Paragraph (5) below, which will be Individual Development Accounts on behalf of Project Participants. Trustees of Trusts must be Qualified Financial Institutions. Custodians of Custodial Accounts may be Qualified Financial Institutions, other insured financial institutions satisfactory to the Secretary, or Demonstration Project Grantees. In every case the Participant's personal savings from earned income shall be deposited in the Participant's Individual Development Account in a participating insured financial Institution, which in the case of Qualified Entities which are eligible Credit Unions or CDFI's, may be the Qualified Entity itself. In every case where the participating insured financial institution and the Demonstration Project Grantee are not one and the same, both shall be parties to the written governing instruments creating the Trust or Custodial Account. Such instruments must contain the following provisions:

(a) All contributions to the accounts must be either in cash, by check, money order, or by electronic transfer of funds.

(b) The assets of the account will be invested in accordance with the direction of the Project Participant after consultation with the grantee and pursuant to the guidelines of the Secretary (which will be issued prior to the making of grant awards and made available to grantees at the time of grant award).

(c) The assets of the account will not be commingled with other property except in a common trust fund or parallel account or common investment fund.

(d) In the event of the death of the Project Participant, any balance remaining in the account shall be distributed within 30 days of the date of death to another Individual Development Account established for the benefit of an eligible individual as directed by the deceased Participant in the Savings Plan Agreement under sub-paragraph (g), below; provided, that the Participant may at their option direct the disposition of any funds in the account which were deposited in the account by the Participant as he or she may see fit, except that where such disposition is not to another Individual Development Account, all matching contributions made by the grantee to the account, and any income earned thereby, shall be returned to the Reserve Fund. [Note that this will mean that each Project Participant must provide such direction at the time the Individual Development Account is established. Provision should be made by grantees for modification of such directions during the course of the project, in the event of changing circumstances.]

(e) Except in the case of the death of the Project Participant, amounts in the account attributable to deposits by the grantee from grant funds and matching non-federal contributions, and any interest thereon, may be paid, withdrawn or distributed out of the account only for the purpose of paying qualified expenses of the Project Participant including transfers under Paragraph (7)(d), below).

(f) The procedures governing the withdrawal of funds from the Individual Development Account, for both Qualified Expenses and Emergency Withdrawals, must comply with the provisions of Paragraph (7) Withdrawals from Individual Development Accounts, below.

(g) a ''Savings Plan Agreement'' between the grantee and the Project Participant, which may be incorporated by reference, and which should include: (1) Savings goals (including a proposed schedule of savings deposits by the Participant from earned income, which may be for a period of less than five years); (2) the rate at which participant savings will be matched (from one dollar to eight dollars for each dollar in savings deposited by Participant, the Federal grant funds portion of which may not exceed $2000 during the five-year project period); (3) the proposed qualified expense for which the Account is maintained, (4) agreement by the grantee to provide and the Participant to attend classes in Economic Literacy; (5) any additional training or education related to the qualified expense which the Grantee agrees to provide and of which the Participant agrees to partake, (6) contingency plans in the event that the Participant exceeds or fails to meet projected savings goals or schedules, (7) any agreement as to investments of assets described in subparagraph (b), above, (8) an explanation of withdrawal procedures and limitations, including the consequences of unauthorized withdrawal, (9) provision for disposition of the funds in the account in the event of the Participant's death (see sub-Paragraph (d), above; and (10) provision for amendment of the Agreement with the concurrence of both Grantee and Participant.

(5) Custodial Accounts. As provided in Paragraph (4), above, Grantees may, in the alternative, create, through written governing instruments, Custodial Accounts which shall be Individual Development Accounts on behalf of Project Participants, except that they will not be trusts. As in the case of trusts established under

paragraph (4), the written governing instruments of the accounts must contain the requirements outlined in subparagraphs (a) through (g) of that paragraph, with the following exceptions. Whereas trustees of the trusts created under Paragraph (4) must be Qualified Financial Institutions, the assets of the custodial account may be held by a bank or another ''person'' (or institution) who demonstrates to the satisfaction of the Secretary that the manner in which the account will be administered will be consistent with the provisions of the AFI Act, and that the IDA's will be created and maintained as described in paragraph (4) and Section 404(5)(A) of the AFI Act. In addition, in the case of a custodial account treated as a trust by reason of this paragraph, the custodian of such account may be the Project Grantee, provided that it can assure compliance with the requirements of Paragraph (4) above, and Section 404(5)(A) of the AFI Act. These arrangements would place the ''custodial'' responsibilities with the grantee, and relieve financial institutions of trustee obligations. The Secretary has determined that the assets of any such accounts must be held in an insured financial institution and be subject to the provisions of Paragraph M, below, pertaining to agreements between applicants/grantees and participating financial institutions.

Within the meaning of this OCS Program Announcement, IDA ''Custodial Accounts'' in which project participants deposit their savings may be solely owned by the participant and in the sole name of the participant. Funds in the account may only be expended for ''Qualified Expenses'' or an ''Emergency Withdrawal'' as defined in the AFIA and this Program Announcement; and in keeping with this restriction, any withdrawals must be approved in writing by a responsible official of the project grantee. At the same time, if the participant requests approval for an ''unauthorized withdrawal'', that is, for other than a ''Qualified Expense'' or ''Emergency Withdrawal'' as defined in the AFIA, and Part I, Section D (4) and (12), above, the project grantee must agree to approve such an ''Unauthorized Withdrawal'', with the explicit understanding on the part of both the grantee and the participant, that the participant thereby loses any matching funds credited to the account, and must exit the program.

(6) Deposits in Individual Development Accounts.

(a) Matching Contributions. Not less than once every three months during the demonstration project grantees will make deposits into Individual Development Accounts as matching contributions to deposits from earned income made by Project Participants during the period since the previous deposit. Such deposits may be made either into the accounts themselves or into a parallel account maintained by the grantee in an insured financial institution (or in the grantee institution itself, in the case of grantees which are eligible Credit Unions or CDFI's).

Note: Deposits made by Project Participants shall be deemed to have been made from earned income so long as the Participant's earned income (as defined in Section 911(d)(2) of the Internal Revenue Code of 1986) during the period since the Participant's previous deposit in the account is greater than the amount of the current deposit. Section 911(d)(2) provides, in relevant part, ''the term 'earned income' means wages, salaries, or professional fees, and other amounts received as compensation for personal services actually rendered''.

Matching contributions (as deposits to IDA accounts or to parallel accounts) must be made to IDA's in equal amounts from Federal grant funds and the non-Federal public and private funds committed to the project as matching contributions, as described in Section I below, and Sections 405(c)(4) and 406(b)(1) of the AFI Act. Such matching contribution deposits by grantees may be from $0.50 to $4 in non-Federal funds and an equal amount in Federal grant funds, for each dollar of earned income deposited in the account by the Project Participant in whose name the account is established. At the time matching contribution deposits are made, the grantee will also deposit into the Individual Development Account (or the parallel account) any interest or income that has accrued since the last deposit on amounts previously deposited in or credited to that IDA in the parallel account.

(b) Additional Matching Contributions. Once such equal matching contribution deposits are made, grantees may make additional matching contributions to IDA's from other non-Federal sources, or other Federal sources, such as TANF, where the legislation or policies governing such programs so permit. Such additional matching contributions would not be a use of funds falling within any Program Element/Proposal Review Criterion under Part III below, which formed the basis for the grant award, and as such, grantees will *not* be held accountable for their commitment to the project.

(c) Limitations on Matching Contributions. Over the course of the five year demonstration, not more than $2,000 in Federal grant funds shall be provided through matching contributions to any one individual; and not more than $4,000 shall be provided to IDA's in any one household. [As noted in Paragraph (1)(d), above, no part of any investment income earned by monies in the Reserve Fund or a parallel account credited to the Participant is to be considered as a Federal funds contribution subject to this limitation.]

(7) Withdrawals from Individual Development Accounts.

(a) Limitations. Under no circumstances may funds be withdrawn from an Individual Development Account earlier than six months after the initial deposit by a Project Participant in the Account. Thereafter funds may be withdrawn from such account only upon written approval of the Project Participant and of a responsible official of the project grantee, and only for one or more Qualified Expenses (as defined in Part I) or for an Emergency Withdrawal.

(But see Paragraph (5) Custodial Accounts, above, for the Participant's right to make ''unauthorized withdrawals'' and the consequences thereof.)

(b) Emergency Withdrawals. An Emergency Withdrawal may only be of those funds, or a portion of those funds, deposited in the account by the Project Participant, and only for the following purposes:

(i) expenses for medical care or necessary to obtain medical care for the Project Participant or a spouse or dependent of the Participant;

(ii) payments necessary to prevent eviction of the Project Participant from, or foreclosure on the mortgage for, the principal residence of the Participant;

(iii) payments necessary to enable the Project Participant to meet necessary living expenses (food, clothing, shelter—including utilities and heating fuel) following loss of employment.

(c) Reimbursement of Emergency Withdrawals. A Project Participant shall reimburse an Individual Development Account for any funds withdrawn from the account for an Emergency Withdrawal, not later than 12 months after the date of the withdrawal. If the Participant fails to make the reimbursement, the Project Grantee must transfer back to its Reserve Fund Federal and non-Federal matching contributions deposited into the account or a parallel account, and any income generated thereby. Any remaining funds deposited by the Project Participant (plus any income generated thereby) shall be returned to such Project Participant.

Applicants are urged to consider the establishment of a separate alternative

crisis or emergency loan fund that can respond to participant emergencies without having them risk putting their IDA in jeopardy because of an inability to make reimbursement within the required timeframe.

(d) Transfers to Individual Development Accounts of Family Members. At the request of a Project Participant, and with the written approval of a responsible official of the grantee, amounts may be paid from an individual development account directly into another such account established for the benefit of an eligible individual who is—

(i) the Participant's spouse, or

(ii) any dependent of the Participant with respect to whom the Participant is allowed a deduction under section 151 of the Internal Revenue Code of 1986.

Note that such transfers may be made to dependents who in turn would become IDA project participants who would be able to use these funds for any of the Qualified Expenditures defined in Part I. Applicants are reminded of the limit of $4000 in Federal IDA matching contributions per household.

H. Project Eligibility and Requirements under Priority Area 2.0

As previously noted in Part II Section A, there is no Priority Area 2.0 under this Announcement. Applications for continuation of grants funded under Priority Area 2.0 of the Fiscal Year 1999 Assets For Independence Program Announcement will be the subject of direct correspondence between OCS and the grantees.

I. Non-Federal Matching Funds Requirements

Applicants must obtain firm commitments for at least one hundred percent of the requested OCS grant amount in cash non-Federal share. These firm commitments of non-Federal share will be accepted as valid as long as they are provided to ACF/OCS no later than September 1, 2001. Public sector resources that can be counted toward the minimum required match include funds from State and local governments, and funds from various block grants allocated to the States by the Federal Government provided that the authorizing legislation for these grants permits such use. Note, for example, that Community Development Block Grant (CDBG) funds *may* be counted as matching funds; Community Services Block Grant *(CSBG) FUNDS MAY NOT.* With regard to State TANF funds, any State funds that comprise Maintenance Of Effort (MOE) under the TANF regulations may NOT be used as required non-Federal share under this Announcement. (But see discussion of Additional Matching Contributions in Paragraph (6)(a), above.)

To be considered for funding an Application must include a copy of an executed ''Non-Federal Share Agreement'' or a ''Statement of Commitment'', as described below, or a statement that the Applicant intends to provide to ACF/OCS, no later than September 1, 2001, a copy of such a ''Statement'', or of a ''Non-Federal Share Agreement'' or Agreements in writing executed by the Applicant and the organization or organizations providing the required non-Federal matching contributions, signed for the organization by a person authorized to make a commitment on behalf of the organization, and signed for the Applicant by the person signing the SF–424. Such Agreement(s) must include: (1) A commitment by the organization to provide the non-Federal funds contingent only on the grant award; and (2) an agreement as to the schedule of the opening of Individual Development Accounts by the Applicant, and the schedule of deposits by the organization to the project's Reserve Fund, such that the two schedules will together assure that there will be at all times in the Reserve Fund non-Federal matching contribution funds sufficient to meet the maximum pledges of matching contributions under the ''Savings Plan Agreements'' for all Individual Development Accounts then open and being maintained by the grantee as part of the demonstration project.

Thus, for example, if the provider of non-Federal share only agrees to a fixed schedule of deposits, this non-Federal share requirement can be met by the Applicant agreeing to a similar schedule for opening new accounts that will assure that new IDA accounts will only be opened when there are sufficient funds in the Reserve Fund to meet the maximum amount of matching contributions pledged under the ''Savings Plan Agreements''.

As noted above, the Applicant may itself commit to providing the required cash non-Federal share, by including a Statement of Commitment, on applicant letterhead, signed by the official signing the SF–424 *and countersigned by the Applicant's Board Chairperson or Treasurer, that the non-Federal matching funds will be provided, contingent only on the OCS grant award, and that non-Federal share deposits to the Reserve Fund and the opening of Individual Development Accounts will be coordinated so that new accounts will only be opened when there are sufficient funds in the Reserve Fund to cover the maximum matching requirements of the Savings Plan Agreements.* As with the ''Non-Federal Share Agreement'', such a Statement of Commitment by the applicant will be accepted as valid so long as it is provided to ACF/OCS no later than September 1, 2001.

With regard to Applicants which are State or local government agencies or Tribal governments, submitting jointly with tax exempt non-profit organizations, note that under Section G Paragraphs (1) and (2), above, Reserve Funds are required to be established as in other applications/projects.

OCS has determined that the strict legislative limitations on the use of Federal grant funds and of the minimum required non-Federal match (under the recent amendments to the AFIA, at least 85% of each must go toward matching deposits in Individual Development Accounts) mean that important training, counseling and support activities, critical to the success of a project, may best be supported by additional resources, both of the applicant itself and mobilized by the applicant in the community. Consequently, Applicants are encouraged to mobilize additional resources, which may be cash or in-kind contributions, Federal or non-Federal, for support of project administration and assistance to Project Participants in obtaining skills, knowledge, and needed support services. (See PART III, Element V) Applicants are reminded that they will be held accountable for commitments of such additional resources even if over the amount of the required non-Federal match.

J. Preferences

In accordance with the provisions of the AFI Act, in considering an application to conduct a demonstration project under this Announcement, OCS will give preference to an application that:

(1) demonstrates the willingness and ability of the applicant to select eligible individuals for participation in the project who are predominantly from households in which a child (or children) is living with the child's biological or adoptive mother or father, or with the child's legal guardian.

Note: Applications that target TANF eligible households will be deemed to have met this preference.

(2) provides a commitment of non-Federal funds with a proportionately greater amount of such funds committed from private sector sources; and

(3) targets individuals residing within one or more relatively well-defined neighborhoods or communities (including rural communities) that

experience high rates of poverty or unemployment.

Note: Applications which target residents of Empowerment Zones, Enterprise Communities, Public Housing, or CDFI Fund-designated Distressed Communities will be deemed to have met this preference. (For information on CDFI Fund designation of Distressed Communities applicants may visit the CDFI Help Desk Website at: http://www.cdfifundhelp.gov.)

Each of these preferences will be valued at 2 points in the Application Review process, so that applicants not meeting these preferences will have 2 points subtracted from its score for a given Proposal Element for each preference not met. [Preferences (1) and (3) fall under Proposal Element II(a); Preference (2) falls under Proposal Element V(a)]. In the case of a consortium of organizations operating programs funded through a lead agency, if a majority of the participating organizations meet these legislative preferences, the Application as a whole will be awarded these points.

K. Multiple Applications

Qualified Entities may submit more than one application for different demonstration projects, but no more than one such application will be funded to the same Qualified Entity pursuant to this Announcement.

L. Treatment of Program Income

As noted in Section G Paragraph (1)(d), above, income generated from investment of unallocated funds in the Reserve Fund may be added to the funds already committed from the Reserve Fund to program administration, participant support, or evaluation data collection. However, once funds have been committed as matching contributions to Individual Development Accounts, then any income subsequently generated by such funds must be deposited proportionately to the credit of such accounts.

Note: No part of such income is to be considered as a Federal funds contribution subject to the $2000/$4000 limitations under Section G Paragraph (6)(c), above.

M. Agreements With Partnering Financial Institutions/Statements of Policy.

One of the most critical parts of a successful IDA project is the relationship between the project operator and a partnering financial institution, be it a bank or credit union. Not only does the financial institution provide the situs of the Individual Development Accounts, but it also represents for IDA holders their doorway to mainstream economic life: savings and checking accounts, ATM machines, payroll deduction savings, home mortgages, and the opportunity for credit repair, student and business loans, all within a framework of sound financial planning. Moreover, many banks see non-Federal share contributions to the project's Reserve Fund as sound investments which not only offer them tax deductions and CRA credit, but also introduce them to a whole new body of potential long-term clients.

For all these reasons it is vitally important for applicants to develop strong and mutually supportive relationships with the financial institutions which will be their partners in carrying out the IDA project. Thus, all applicants under this Announcement must enter into agreements with one or more insured Financial Institutions, in collaboration with which Reserve Funds and Individual Development Accounts will be established and maintained. [For applicants which are eligible Credit Unions or CDFI's, see Note at end of this Section, below.]

To be considered for funding, an Application submitted by other than an eligible Credit Union or Community Development Financial Institution must include a copy of an Agreement or Agreements with one or more partnering insured Financial Institutions which include(s) the provisions set out in PART III Element II(c), which state(s) that the accounting procedures to be followed in account management will conform to Guidelines (CFR Part 74) established by the Secretary (Note: Such regulations may be found as Attachment ''L'' to this Announcement.), and under which the partnering insured Financial Institution agrees to provide data and reports as requested by the applicant. In the case of IDA's established as Trusts under Section G Paragraph (4), above, the partnering financial institution must be a Qualified Financial Institution as defined in PART I Section D(12). In the case of IDA's established as Custodial Accounts, the partnering financial institution must be insured and must meet the requirements of Section G Paragraph (5), above, to the satisfaction of the Secretary. [For applications submitted by eligible Credit Unions or Community Development Financial Institutions (CDFI's) see Note below.]

The Agreement may also include other services to be provided by the partnering Financial Institution that could strengthen the program, such as Financial Education Seminars, favorable pricing or matching contributions provided by the Financial Institution, and assistance in recruitment of Project Participants. Strong and complete Agreements with financial institutions will be recognized in the application review process under Sub-Element II(c) of the application Evaluation Criteria under Part III, below.

Note: In the case of applications submitted by eligible Credit Unions or Community Development Financial Institutions, where the Reserve Fund and IDA accounts are to be held by the applicant Institution itself, the applicant must submit, in lieu of a Financial Institution Agreement, a Statement of Policy, approved by its Board of Directors and attested to by its Chairperson and Chief Financial Officer, which meets the requirements set forth in this section (M.) and in Part III Sub-Element II(c). This Statement of Policy will be considered in the application review process under Sub-Element II(c). Where such applicants are proposing the establishment of Reserve Fund(s) or IDA's in other partnering Financial Institutions, they must submit as part of their applications copies of Agreements with such Partnering Financial Institution(s) in accordance with this section (M.).

Part III. The Project Description, Program Proposal Elements and Review Criteria

A. Purpose

The project description provides the major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered to be relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specific project for which funds are requested.

B. Project Summary/Abstract

Provide a summary of the project description (a page or less) with reference to the funding request.

C. Objectives and Need for Assistance

Clearly identify the physical, economic, social, financial, instructional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

D. Results or Benefits Expected

Identify the results and benefits to be derived. For example, describe the population to be recruited to the IDA program, how many accounts are projected to be opened, what qualified expenses are expected to be achieved, and how they will assist participants to move towards self-sufficiency.

E. Approach

Outline a plan of action which describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of accounts opened. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by ACF'.

List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

F. Organization Profiles

Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, *or,* by providing a copy of the currently valid IRS tax exemption certificate, *or,* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

G. Budget and Budget Justification

Provide a line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: ''Equipment'' means an article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients and subrecipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000.) Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

H. Non-Federal Resources

Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

I. Evaluation Criteria

Proposal Elements and Review Criteria for Applications

Each application which passes the initial screening will be assessed and scored by three independent reviewers. Each reviewer will give a numerical score for 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 the Announcement. Scoring will be based on a total of 100 points, and for each application will be the average of the scores of the three reviewers.

The competitive review of proposals will be based on the degree to which applicants:

(1) Adhere to the requirements in PART II and incorporate each of the Elements and Sub-Elements below into their proposals, so as to:

(2) Describe convincingly a project that will develop new asset accumulation opportunities for households eligible for TANF and other eligible individuals and working families that can lead to a transition from dependency to economic self-sufficiency through the accumulation of assets and the pursuit of activities requiring one or more qualified expenses; and

(3) Provide for the collection and validation of relevant data to support the national evaluation to be carried out by the independent research organization, under contract with ACF, of the project design, implementation, and outcomes of this Demonstration Program.

In order to simplify the application preparation and review process, OCS seeks to keep grant proposals cogent and brief. Applications with project narratives (excluding Project Summaries, Budget Justifications and Appendices) of more than 30 letter-sized pages of 12 c.p.i. type or equivalent on a single side will not be reviewed for funding.

Applicants should prepare and assemble their project description using the following outline of required project elements. They should, furthermore, build their project concept, plans, and application description upon the guidelines set forth for each of the project elements.

Project descriptions are evaluated on the basis of substance, not length. Pages should be numbered and a table of contents should be included for easy reference. For each of the Project Elements or Sub-Elements below there is at the end of the discussion a suggested number of pages to be devoted to the particular element or sub-element. These are suggestions only; but the applicant must remember that the overall Project Narrative must not be longer than 30 pages.

Evaluation Criteria 1: Organizational Profiles

Element I. Organizational Experience and Administrative Capability; Ability to Assist Participants. (0 to 20 points)

Criterion: The capability and relevant experience of the applicant and its partners and collaborators in developing and operating programs which deal with poverty problems similar to those to be addressed by the proposed project. Applicants should include their experience and capability in providing supportive services to TANF recipients and other low income individuals and working families seeking to achieve economic stability and self-sufficiency; and in recruiting, educating, and assisting project participants to increase their economic independence and general well-being through economic literacy education and the accumulation of assets.

Applications should briefly cite a few specific, concrete examples of successful programs and activities, with accomplishments, with which applicant has been involved which have contributed to its experience and capability to carry out the proposed project. This should include experience in working with the target or similar populations, as well as collaborative programming and operations which involve financial institutions and financial planning, budget counseling, educational guidance, preparation for home ownership, and/or self-employment training.

Applications should identify applicant agency executive leadership in this section and briefly describe their involvement in the proposed project

and provide assurance of their commitment to its successful implementation. (This can be achieved by a statement or letter from agency executive leadership which may be included in the Appendix.) The application should note and justify the priority that this project will have within the agency including the facilities and resources that it has available to carry it out.

The application must also identify the individual staff person(s) who will have the most responsibility for managing the project, coordinating services and activities for participants and partners, and for achieving performance targets. The focus should be on the qualifications, experience, capacity and commitment to the program of the key staff person(s) who will administer and implement the project, and the application should indicate the amount of time (in FTE) each will be expected to devote to the project. The person identified as Project Director should have supervisory experience, experience in working with financial institutions and budget related problems of the poor, and experience with the target population. Because this is a demonstration project within an already-established agency, OCS expects that the key staff person(s) would be identified, if not hired, in which case a resume or resumes should be included in the Appendix. If the person or persons have not been identified, then Position Description(s) should be included in the Appendix.

Finally, the application should cite the roles, responsibilities, and experience of any other organizations that will be collaborating with the Applicant to assist and support Project Participants in the pursuit of their goals under the project. Supporting documentation concerning these partnering agencies and their commitment to participation in the project should be included in the Appendix to the proposal.

Where the Applicant is applying as the lead agency for a consortium of partnering organizations, each of these organizations should be briefly described in this section of the Project Narrative; and background materials citing their relevant experience and staff capabilities should be included in the Appendix. In such cases the Applicant should document its capability and experience in managing such consortia, and the roles and responsibilities of all participating agencies should be clearly set forth in Partnering Agreements between the Applicant and each of the member organizations. Copies of the Agreements should be included in the Appendix, and the roles and responsibilities clearly explained in Element II(b), Project Design, and reflected in the Work Plan under Element II(d).

It is suggested that applicants use no more than 5 pages for this sub-Element, not counting actual resumes or position descriptions, which should be included in an Appendix to the proposal. Background materials on consortium members (if any) and other collaborating agencies, supportive materials, and Partnering Agreements with members should also be included in the Appendix.

Evaluation Criteria 2: Approach I

Element II. Sufficiency of the Project Theory, Design, and Plan (0–45 points)

Criterion: The degree to which the project described in the application appears likely to result in the establishment of a workable, fiscally sound program that will provide a structure of incentives and supports for TANF eligible households and other working families of limited means that will enable them to increase their economic self sufficiency through economic literacy training and asset accumulation for one or more ''qualified expenses''.

OCS seeks to learn from the application why and how the project as proposed is expected to establish the creation of new opportunities for asset accumulation by eligible individuals and families that can lead to significant improvements in individual and family self-sufficiency through activities requiring one or more qualified expenses: for post-secondary education, home ownership, and/or qualified business capitalization.

Applicants are urged to design and present their project in terms of a conceptual cause-effect framework that makes clear the relationship between what the project plans to do and the results it expects to achieve.

Sub-Element II(a). Description of Target Population, Analysis of Need, and Project Assumptions (0–10 points). In this sub-element of the proposal the applicant must precisely identify the target population(s) to be served. The geographic area to be impacted should then be briefly described, citing the percentage of residents who are low-income individuals and TANF recipients, as well as the unemployment rate, and other data that are relevant to the project design.

Note: Both the poverty rate and unemployment rate of the target community(s) are needed to be set forth in the Application so that its eligibility for the legislative preference may be determined (see below).

The project design or plan should begin with identifying the underlying assumptions about the program. These are the beliefs on which the proposed program is built. They should begin with assumptions about the strengths and needs of the population(s) to be served; about how the accumulation of assets will enable project participants to build on those strengths in their quest to achieve self-sufficiency; and about what anticipated needs of the participants could be barriers to that achievement.

In other words, the underlying assumptions of the program are the applicant's analysis of the participant strengths and potential to be supported and their needs and problems to be addressed by the project, and the applicant's theory of how its proposed interventions will address those strengths and needs to achieve the desired result. Thus a strong application is based upon a clear description of the strengths, opportunities, needs and problems to be supported and addressed, and a persuasive understanding of the nature of the opportunities and causes of the problems.

The application should include a discussion of the identified personal barriers to employment, job retention and greater self-sufficiency faced by the population to be targeted by the project. (These might include such problems as illiteracy, substance abuse, family violence, lack of skills training, health or medical problems, need for childcare, lack of suitable clothing or equipment, or poor self-image.) The application should also include an analysis of the identified community systemic barriers which the applicant will seek to overcome. These might include lack of public transportation; lack of markets; unavailability of financing, insurance or bonding; inadequate social services (employment service, child care, job training); high incidence of crime; lack of housing; inadequate health care; or environmental hazards. Applicants should be sure not to overlook the personal and family services and support needed by project participants which will enhance job retention and advancement, so as to assure continued ability to save from earned income, and which will also help to assure that benefits attainable through asset accumulation are not diverted by crises beyond the participants' control which would lead to emergency withdrawals. The applicant should thus be prepared to demonstrate that the proposed project activities will provide participants with

realistic prospects for being able to overcome these barriers and make the investments needed to acquire the assets which are the goal of the IDA.

Where applicant is the lead agency for a group or consortium of organizations, this narrative should briefly summarize the location, character, and unemployment and poverty status of the different target populations. More detailed information for each of the participating organizations should be included in the Appendix to the Application.

Note: In accordance with the legislative preferences set forth in PART II Section J, above, the maximum score for this sub-Element in the review of applications under Priority Area 1.0 will only be given to applications which:

(1) Demonstrate the willingness and ability of the applicant to select individuals for participation in the project who are predominantly from households in which a child (or children) is living with the child's biological or adoptive mother or father, or with the child's legal guardians. (Applications which target TANF eligible households will be deemed to have met this preference); and

(2) Target individuals residing within one or more relatively well-defined neighborhoods or communities (including rural communities, public housing developments, Empowerment Zones and Enterprise Communities) that experience high rates of poverty or unemployment. (Applications which target residents of Empowerment Zones, Enterprise Communities, Public Housing, or CDFI Fund-designated Distressed Communities will be deemed to have met this preference.) (See PART II, Section J)

Each of these preferences will be valued at 2 points in the proposal review, so that the absence of one will reduce the review score for the sub-Element by 2 points; the absence of both will reduce the review score by 4 points.

In the case of a consortium of organizations operating programs funded through a lead agency, if a majority of the participating organizations meet these legislative preferences, the Application as a whole will be awarded these points.

It is suggested that applicants use no more than 5 pages for this Sub-Element, not including any more detailed information about separate target populations, which should be included in the Appendix.

Sub-Element II(b). Project Approach and Design: Interventions, Outcomes, and Goals (0–15 points). The Application should outline a plan of action which describes the scope and detail of how the proposed activities will be undertaken. This Sub-Element should begin with a concise statement of the number of IDAs that are proposed to be established for each of the ''Qualified Expenses'' under the AFI Act, the projected monthly savings by IDA holders and the planned rate of matching contributions, and the projected savings goals of the participants. [It is recognized that these projections may be revised during the course of the project, based on actual experience of the participants.] The applicant should demonstrate that projected savings goals have a true relation to the ability of the Participant to save and to the value or cost of the ''Qualified Expense'' for which the IDA is to be used, be it housing, postsecondary education, or business capitalization.

Next, the Applicant should present a clear and straightforward description, from the point of view of the Project Participant, of just how the proposed IDA Project will operate. This description should take an eligible member of the target population through project activities from recruitment through the payment for the ''Qualified Expense'' (and beyond, if appropriate). It is suggested that the description generally follow the outline below, plus any additional activities that the Applicant proposes to undertake as part of its project:

(1) How/where does the potential participant learn information about the Project that will excite his/her interest? (*Recruitment*)

(2) Once interested, how, when, by whom, and on what basis is the recruit selected to participate in the project? (*Selection*)

(3) How and when and with what assistance (Case Management? Family Development?) does the new participant make decisions concerning the amount of weekly or monthly savings and the selection of ''Qualified Expense''? Or is this part of the Selection Process? (*Consultation*)

(4) When and where and with whom does the Participant reach agreement on and sign a ''Savings Plan Agreement''? [Include here a brief discussion of the provisions of the Agreement, or refer to a sample provided in the Appendix.] (*Savings Plan Agreement*)

(5) Where, when and how does the Participant actually open his/her IDA account with the Insured Financial Institution? Where is the Institution in relation to the Participant's home/place of work? How does the Participant get to the Institution? [Include here a brief discussion of the role of the Financial Institution in account management, data collection and reporting, and any other services it will provide, referring to copies of the agreement(s) with the Financial Institution(s) in the Appendix.] (*Opening of the IDA/Role of the Financial Institution*)

(6a) How and where will participant make savings deposits? In person? By mail? Through payroll deduction? (*Savings Deposits*)

(6b) What happens if a scheduled deposit is missed? Will the participant be sent a post card? Receive a supportive phone call? (*Delinquency*)

(7a) Where and when and from whom does the participant receive ''Economic Literacy'' or ''Budgeting'' training, and do childcare and transportation need to be provided? (*Training and Support*)

(7b) Where and when and from whom does participant receive Credit Repair Services if they are needed; and are there ways to escape from, or avoid Predatory Lenders? (*Credit Repair*)

(8a) Where and when and from whom does the participant receive needed support to remain on the job with opportunity for advancement (So as to assure continued savings from earned income)? (*Post Employment Support Services*)

(8b) Where and when and from whom does the participant receive emergency services so as to avoid having to make Emergency Withdrawals? (*Crisis Intervention*)

(9) Where and when and from whom does the participant receive ''Qualified Expenditure'' training related to home ownership, pursuit of educational goals, or business plan development and business management? (*Qualified Expenditure Support*)

(10) When the IDA savings/match goals have been achieved, where, when and how does the participant make or arrange withdrawals to support the ''Qualified Expenses''? (*Withdrawals*)

In this description the applicant should discuss all of the planned activities and interventions, including those supported by other available resources, and should explain the reasons for taking the approaches proposed. The description should give a clear picture of how the project as a whole will operate from day to day, including the recruiting, financial, program support, and data collection responsibilities of the applicant and any partners in the project, and just how they will interact with the financial institutions and other participating agencies.

Where the Applicant is a lead agency for a group or consortium of organizations, the role of each must be clearly defined in this section of the application. In such cases Applicants should attach copies of signed Partnering Agreements with each of the member organizations setting forth the roles and responsibilities of each. (See

Element I and PART II Section B.(3) above.)

Finally, and following the above description, the Applicant should explain how the proposed project activities will result in outcomes which will build on the strengths of the Program Participants and assist them to overcome the identified personal and systemic barriers to achieving self-sufficiency. In other words, what will the project staff do with the resources available to the project and how will what they do (interventions) assist project participants to accumulate assets in Individual Development Accounts and use those assets for ''Qualified Expenses'' in a manner that will help lead them to self-sufficiency?

It is suggested that applicants use no more than 9 pages for this Sub-Element, not including copies of agreements with financial institutions, partnering agencies or organizations, or sample ''Savings Plan Agreement'', which should be in an Appendix.

Sub-Element II(c). Financial Institution Agreement/Statement of Policy (0–10 points).

Note: In the case of applications submitted by eligible Credit Unions or Community Development Financial Institutions, where the Reserve Fund and IDA accounts are to be held by the applicant Institution itself, the applicant must submit, in lieu of a Financial Institution Agreement, a Statement of Policy, approved by its Board of Directors and attested to by its Chairperson and Chief Financial Officer, which sets forth the provisions listed under this Sub-Element, and which will be considered in like manner in the competitive review process. Where such applicants are proposing the establishment of Reserve Fund(s) or IDA's in other partnering Financial Institutions, they should submit as part of their applications copies Agreements with such Partnering Financial Institution(s) in accordance with this Sub-Element. It is suggested that applicants need not include discussion of these Agreements/Statements of Policy in their Proposal Narrative, but should only identify the Financial Institution(s) and reference the Agreement/Statement of Policy as included in an Appendix to the Application.

Applicants other than eligible Credit Unions or CDFI's must identify the Qualified Financial Institution(s) with which they are partnering in the development and implementation of its IDA Project, and all applicants must include in an Appendix a copy of a signed Agreement between the Applicant and the Financial Institution(s), or, in the case of eligible Credit Unions or CDFI's, a Statement of Policy, which sets forth:

(1) That the project's Reserve Fund will be established in the Financial Institution;

(2) That its management will conform to the requirements of the AFIA (see PART II–G(1) above);

(3) The rate of interest to be paid on amounts in the Reserve Fund;

(4) That IDA accounts will be established in the Financial Institution through written governing instruments in accordance with the requirements of Part II, Section G (4), paragraphs (a) through (g), above, including the requirements for deposits (by cash, check, money order or electronic transfer) and withdrawals (signature of the account holder and of a responsible official of the project grantee required);

(5) How, when, and where participant deposits will be made;

(6) How and when matching contributions will be made (e.g. in a parallel account);

(7) The rate and frequency of interest payments on accounts, including matching contributions;

(8) That the accounting procedures to be followed in account management will conform to the Guidelines established by the Secretary as set forth in Attachment ''L'' to this Announcement;

(9) The data and reports that will be furnished to the grantee concerning the Reserve Fund and IDA accounts;

(10) The Non-Federal Share contribution, if any, being made by the Financial Institution for deposit in the Reserve Fund, and the schedule of deposits of such contribution; and

(11) Other services to be provided by the Financial Institution(s) that could strengthen the project, such as Financial Education Seminars, favorable pricing on fees, out-stationing of services in community facilities, or assistance in recruitment of Project Participants.

Agreements/policies which meet the basic requirements of paragraphs (1) through (9), above will be awarded up to eight (8) points in the competitive review process. To be awarded a higher score Agreements/Statements of Policy must include some provisions from those included in paragraphs (10) and (11).

As noted above, the applicant need only identify the partnering Financial Institution(s) under this Sub-Element, and reference the Agreement(s) or Statement of Policy in the Appendix to the Application.

Sub-Element II(d). Work Plan, Projections, Time Lines. (0–10 points). Applicant should provide quantitative quarterly projections of the activities to be carried out and such information as the projected number of participants to be enrolled in each quarter, the number of Individual Development Accounts projected to be opened in each quarter for each of the ''Qualified Expenses'', the number and amount of projected deposits in each quarter, a projected schedule of IDA completions and qualified expense payments, and the number and types of services provided to participants. The plan should briefly describe the key project tasks, and show the timelines and major milestones for their implementation. Where the Applicant is a lead agency for a group or consortium of organizations, this information should be broken out for each of the member organizations. Applicant may be able to use a time line chart to convey this aspect of the work plan in minimal space.

Note: Applicants should make sure that these projections relate accurately to the amount of grant funds requested and rates of matching contributions that are planned for IDA's. In other words, applicants should not project a greater number of IDA accounts than that number that can be matched by the grant funds that will be available to the project. Applicants should also be aware that OCS funds awarded pursuant to this Announcement will be from FY 2001 funds and may not be expended after the end of the five-year Project/Budget Period to support administration of the project or matching contributions to Individual Development Accounts which may be open at that time. Consequently, Applicants should consider carefully the length of time participants will need to achieve their savings goals and at what point in the project they may wish to discontinue the opening of new accounts. Applicants should provide assurance that in every case provision will be made for payment of all promised matching deposits to IDA accounts opened by project participants in the course of the demonstration project.

This Element of the Proposal should also include a management plan or chart showing the responsibilities of the applicant agency, key personnel, and all partnering agencies and consortium members (where applicable), with an indication of who will be performing various tasks such as recruiting, training, economic education instruction, and support activities. (This plan or chart should be included in the Appendix to the Application.)

It is suggested that applicants use no more than 3 pages for this Sub-Element, not counting the management plan/chart, which should be included in the Appendix.

Evaluation Criteria 3: Budget and Budget Justification

Element III. Appropriateness of Budget and Proposed Use of Cash and In-Kind Resources. (0–5 points)

Criteria: Completeness of the Budget Justification, and the degree to which a description of the allocation of both cash and in-kind resources available to

the project (including any income generated for the project by the Reserve Fund) demonstrates a thoughtful plan that reflects the needs of Project Participants and the responsive activities and interventions to be undertaken by the Applicant and its partners.

Every application must include a Budget Justification, placed after the Budget Forms SF–424 and 424A, explaining the sources and uses of project funds, and completed in accordance with instructions found in Section G, above. The Budget Justification will not be counted as part of the Project Description subject to the thirty page limitation. Applicant should briefly but thoroughly describe how all of the resources available to the Project will be employed to carry out the Work Plan described in Element II, including those training elements and support services designed to help assure participant success in meeting their savings commitments and their chosen ''qualified expense'' use of their Individual Development Account assets. In the budget forms and supporting Budget Justification, Applicants must clearly distinguish between AFI Act/OCS grant funds and other funds, and between cash and in-kind resources described.

As noted above, the Budget Justification will not be counted as part of the Project Description subject to the thirty page limitation.

Evaluation Criteria 4: Approach II

Element IV. Project Data: Adequacy of Plan for Collecting, Validating and Providing Project-related Data for Management Information, Reporting, and Evaluation Purposes. (0–5 points)

Criteria: Adequacy of the plan for collecting, validating and providing relevant, accurate and complete data for internal management information, statutory reporting and project evaluation purposes; and clear expression of a commitment to cooperate with the statutorily mandated evaluation of the national Assets for Independence Demonstration Program.

Note: Under the AFI Act project grantees are required to use at least 2%—but not more than 15%—of grant funds to provide the research organization evaluating the demonstration project with such information with respect to the demonstration project as may be required for the evaluation.

The AFI Act allocates a portion of the appropriated funds to support an evaluation of the overall demonstration program in addition to the funds grantees are required to expend on data collection. This Element requires the Applicant to provide a well thought-out plan for collecting, validating and reporting or providing the necessary data in a timely fashion. The Applicant is also encouraged to identify the kinds of data it believes would facilitate the management information, reporting, and evaluation purposes. The Applicant should also declare its agreement to cooperate with the evaluation of the national program, and include a brief explanation of its perception of what that cooperation would entail. Applicants are urged to carry out an ongoing assessment of the data and information collected as an effective ''process'' management/feedback tool in implementing the project. If the Applicant anticipates such an undertaking, the plans should be briefly outlined here.

Note: To attain a maximum score for this Element, the Applicant must state its agreement to use the ''MIS IDA'' information system software developed by the Center for Social Development, or a comparable and compatible Asset Development Information System, now in development, which OCS expects to provide to grantees for the maintenance, collection, and transmission of data from the proposed project.

It is suggested that applicants use no more than 2 pages for this Element.

Evaluation Criteria 5: Non-Federal Resources

Element V. Commitment of Resources. (Total of 0–15 points)

Sub-Element V(a). Proportion of Public/Private Required Non-Federal Matching Contributions. (0–2 points)

Criterion: Whether a proportionately greater amount of committed required non-Federal matching contribution funds are from private sector as opposed to public sources.

In accordance with the legislative preferences set forth in Part III Section J Preferences, above, applications which provide a commitment of *required non-Federal cash matching contributions* with a proportionately greater amount of such funds committed from private sector as opposed to public sources will receive 2 points under this Element.

Applicants are reminded that as noted in PART II Section I Non-Federal Matching Funds Requirements, the Applicant may itself provide the required cash non-Federal share, by providing a Statement of Commitment, on applicant letterhead, signed by the official signing the SF–424 and countersigned by the Applicant's Board Chairperson or Treasurer, that the non-Federal matching funds will be provided, contingent only on the OCS grant award, and that non-Federal share deposits and the opening of Individual Development Accounts will be coordinated so that new accounts will only be opened when there are sufficient funds in the Reserve Fund to cover the maximum matching requirements of the Savings Plan Agreements. Such a Statement of Commitment (or a Non-Federal Share Agreement as described in PART II Section I) will be accepted as valid so long as it is provided to ACF/OCS no later than September 1, 2001.

Sub-Element V(b). Availability of Additional Resources. (0–13 points)

Criterion: The extent to which additional resources (beyond the required amount of direct funds from non-federal public sector and from private sources that are formally committed to the project as matching contributions) will be available to support those activities and interventions identified in sub-Element II(b), such as economic literacy classes, ''qualified expense''-related training, counseling, case management, post-employment support services, and crisis intervention.

OCS has determined that the strict legislative limitations on the use of Federal grant funds and of the minimum required non-Federal match (at least 85% of each must go toward matching deposits in Individual Development Accounts) mean that important training, counseling and support activities, critical to the success of a project, can best be supported by additional resources, both of the applicant itself and from the community.

In order to receive points in the review process under this sub-Element, the applicant must identify those additional resources, cash and in-kind, which will be dedicated to support of those activities and interventions identified in sub-Element II(b), such as economic literacy classes, training, counseling, case management, post-employment support services, and crisis intervention; and any staff data collection/verification activities described in Element III. Such resources may be existing programs of the applicant or a project partner, such as Family Development, Economic Literacy classes, or Small Business Training, in which Project Participants will be enrolled as part of their efforts to achieve self-sufficiency. This Element will be judged in the review process on the adequacy of the available resources to support the activities and interventions described in sub-Element II(b). The commitment of such resources to the project must be documented in writing and submitted as an Appendix to the Application. Because such additional resources are not part of the legislatively mandated non-Federal

matching requirement, these additional resources may be of Federal or non-Federal origin, public or private, in cash or in-kind. Applicants are reminded that they will be held accountable for commitments of such additional resources even if over the amount of the required match.

It is suggested that no more than 3 pages be used for this Element, not including non-Federal Share Agreements, assurances, letters of commitment, partnership agreements, or Memoranda of Understanding, which should be put in an Appendix to the proposal.

Evaluation Criteria 6: Results or Benefits Expected

Element VI. Significant and Beneficial Impacts/Critical Issues or Potential Problems. (0–10 points)

Criteria: The extent to which proposed project is expected to produce permanent and measurable results that will reduce the incidence of poverty in the community and lead TANF eligible households and other eligible individuals and working families toward economic self-sufficiency through economic literacy education and accumulation of assets; and the extent to which applicant convincingly explains how the project will meet any critical issues or potential problems in achieving these results.

Applicants should set forth their realistic goals and projections for attainment of these and other beneficial impacts of the proposed project and should demonstrate that projected savings goals have a true relationship to the ability of the participant to save the projected amounts and to the value or cost of the ''Qualified Expense'' for which the IDA is to be used.

Results are expected to be quantifiable in terms of the number of Individual Development Accounts opened, their rate of growth, the number and size of withdrawals for each of the three ''Qualified Expenses'', and the impact of the payment of those expenses on the participants' movement toward self-sufficiency.

Applicants should also in this Element explicitly address critical issues or potential problems that might affect the achievement of project objectives, with an explanation of how they would be overcome, and how the objectives will be achieved notwithstanding any such problems.

It is suggested that no more than 3 pages be used for this Element.

Part IV. Application Procedures

A. Application Development/ Availability of Forms

In order to be considered for a grant under this program announcement, an application must conform to the Program Requirements set out in Part II and be prepared in accordance with the required project elements set out in Part III, above. It must be submitted on the forms supplied in the attachments to this Announcement and in the manner prescribed below. Attachments A through I contain all of the standard forms necessary for the application for awards under this OCS program. These attachments and Parts IV and V of this Announcement contain all the instructions required for submittal of applications.

Additional copies may be obtained by writing or telephoning the office listed under the section entitled **FOR FURTHER INFORMATION CONTACT:** at the beginning of this announcement. In addition, this Announcement is accessible on the Internet through the OCS WEBSITE for reading or downloading at: http://www.acf.dhhs.gov/programs/ocs/ under ''Funding Opportunities''.

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, the Certification Regarding Environmental Tobacco Smoke, and debarment regulations set forth in Attachments G, H, and I.

PART III contains instructions for the substance and development of the project narrative, which should address the project elements in the order presented in Section I. PART V contains instructions for completing application forms. PART VI, Section A describes the contents and format of the application as a whole.

B. Application Submission

(1) *Number of Copies Required.* One signed original application and two copies should be submitted at the time of initial submission. (OMB 0976–0139). Two additional optional copies would be appreciated to facilitate the processing of applications.

(2) *Deadline.* Mailed applications shall be considered as meeting the announced deadline of August 23, 2001 if they are received on or before the deadline date. Mailed applications must be sent to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Office of Child Support Enforcement, ''Attention: IDA Program'', 370 L'Enfant Promenade, SW., Washington, DC 20447.

Applications submitted via overnight/ express delivery services should be addressed to the Administration for Children and Families, Office of Grants Management, Office of Child Support Enforcement, ''Attention IDA Program'', 901 D Street SW., Fourth Floor, Washington, DC 20024. Applicants are cautioned that express/overnight mail services do not always deliver as agreed.

Applications handcarried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, *between the hours of 8:00 a.m. and 4:30 p.m., EST,* at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Grants Management, Office of Child Support Enforcement, Mailroom, 2nd Floor (near loading dock), Aerospace Center, 901 D Street, SW., Washington, DC 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note ''Attention: IDA 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.

(3) *Late applications.* Applications which 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.

(4) *Extension of deadlines.* ACF may extend an application deadline for applicants affected by acts of God such as floods and hurricanes when there is widespread disruption of mail service, or for other disruptions of service, such as a prolonged blackout, that affect the public at large. A determination to waive or extend deadline requirements rests with ACF's Chief Grants Management Officer.

C. 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 Program and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

*All States and Territories except Alabama, Alaska, Arizona, Colorado, Connecticut, Hawaii, Idaho, Indiana, Kansas, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, Washington, Wyoming, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these twenty-eight jurisdictions need take no action regarding E.O. 12372. 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 the program office can obtain and review SPOC comments as 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 indicate ''not applicable'' if no submittal is required) on the Standard Form-424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline 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 may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, OCSE Office of Grants Management, 370 L'Enfant Promenade, SW., 4th floor East, Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included as Attachment J to this Announcement.

D. Initial OCS Screening

Each application submitted under this program announcement will undergo a pre-review to determine that the application was received by the closing date and submitted in accordance with the instructions in this announcement.

All applications that meet the published deadline requirements as provided in this Program Announcement will be screened for completeness and conformity with the following requirements. Only complete applications that meet the requirements listed below will be reviewed and evaluated competitively. Other applications will be returned to the applicants with a notation that they were unacceptable and will not be reviewed.

The following requirements must be met by all Applicants except as noted:

(1) The application must contain a signed 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 V and Attachments A, B, and C of this Program Announcement. The SF–424 and the SF–424B must be signed by an official of the organization applying for the grant who has authority to obligate the organization legally. Applicants must also 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) A project narrative must also accompany the standard forms. OCS requires that the narrative portion of the application be limited to 30 letter-size pages, numbered, and typewritten on one side of the paper only with one-inch margins and type face no smaller than 12 characters per inch (c.p.i.) or equivalent. Applications with project narratives (excluding Project Summaries and appendices) of more than 30 letter-sized pages of 12 c.p.i. type or equivalent on a single side will not be reviewed for funding. The Joint Applicant Agreement (where applicable), non-Federal share agreement, Budget Narrative, Charts, exhibits, resumes, position descriptions, letters of support or commitment, Agreements with Financial Institutions and other partnering organizations, and Business Plans (where required) are not counted against this page limit, and should be in the Appendix. It is strongly recommended that applicants follow the format and content for the narrative described in the proposal elements set out in Part III, Section I.

(3) Application submitted by other than a Credit Union or a CDFI must contain documentation of the applicant's (or joint applicant's) tax exempt status as required under PART II, Section B. The applicant can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code *or* by providing a copy of their currently valid IRS tax exemption certificate. Applications submitted by eligible credit unions and CDFI's must provide written documentation of their status and evidence of their collaborative relationship with an appropriate local community-based organization, as explained in PART II, Section B. (4) Application must include a copy of a ''Non-Federal Share Agreement'' or Agreements, or a Statement of Commitment, as described below, or a statement that the applicant intends to provide such an Agreement or Statement to ACF/OCS no later than September 1, 2001. The ''Non-Federal Share Agreement'' must be in writing executed with the entity or entities providing the required non-Federal matching contributions, signed by a person authorized to make a commitment on behalf of the entity and signed for the Applicant by the person signing the SF–424. Such Agreement(s) must include: (1) A commitment by the organization to provide the non-Federal funds contingent only on the grant award; and (2) an agreement as to the schedule of the opening of Individual Development Accounts by the Applicant, and the schedule of deposits by the organization to the project's Reserve Fund, such that the two schedules will together assure that there will be at all times in the Reserve Fund non-Federal matching contribution funds sufficient to meet the maximum pledges of matching contributions under the ''Savings Plan Agreements'' for all Individual Development Accounts then open and being maintained by the grantee as part of the demonstration project.

Where Applicants (or Joint Applicants) themselves are providing non-Federal share funding, then with regard to those funds the Applicant must provide a statement of commitment, written on the Applicant's letterhead, signed by the person signing the SF–424, and countersigned by the board Chairperson or Treasurer, that the required non-Federal share funds will be provided and that deposits and the opening of Individual Development Accounts will be coordinated so that new accounts will only be opened when there are sufficient funds in the Reserve Fund to cover the maximum matching requirements of the Savings Plan Agreements. (See Part II, Section I.) As noted above, such statements of commitment must be provided to ACF/OCS no later than September 1, 2001.

Applicants are strongly encouraged to mobilize additional resources, which may be cash or in-kind contributions, Federal or non-Federal, for support of project administration and assistance to Project Participants in obtaining skills,

knowledge, and needed support services. [See Part III—I Element V(b)] (5) All Applications other than those submitted by eligible Credit Unions or CDFI's must include a copy of an Agreement between the Applicant and one or more Qualified Financial Institutions, which includes the provisions set out in PART III, Element II(c), which states that the accounting procedures to be followed in account management will conform to Guidelines (45 CFR Part 74) established by the Secretary, and under which the partnering financial institution will agree to provide data and reports as requested by the applicant.

Note: The Accounting Guidelines may be found in Attachment L to this Announcement.

E. Consideration of Applications

Applications which pass the initial OCS screening will be reviewed and rated by an independent review panel on the basis of the specific review criteria described and discussed in Part III, above. Applications will be reviewed and rated under the Program Elements and Review Criteria set forth in PART III Section I. The review criteria were designed to assess the quality of a proposed project, and to determine the likelihood of its success. The review criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to the review criteria and program elements within the context of this Program Announcement. The results of these reviews will assist the Director and OCS program staff in considering competing applications. Reviewers' scores will weigh heavily in funding decisions, but will not be the only factors considered.

Applications generally will be considered in order of the average scores assigned by reviewers. However, highly ranked applications are not guaranteed funding since other factors are taken into consideration, including, but not limited to, the timely and proper completion by applicant of projects funded with OCS funds granted in the last five (5) years; comments of reviewers and government officials; staff evaluation and input; the amount and duration of the grant requested and the proposed project's consistency and harmony with OCS goals and policy; geographic distribution of applications; previous program performance of applicants; compliance with grant terms under previous HHS grants, including the actual dedication to program of mobilized resources as set forth in project applications; audit reports; investigative reports; and applicant's progress in resolving any final audit disallowances on previous OCS or other Federal agency grants.

Since non-Federal reviewers will be used for review of applications, Applicants may omit from the application copies which will be made available to the non-Federal reviewers, the specific salary rates or amounts for individuals identified in the application budget. Rather, only summary information is required. OCS reserves the right to discuss applications with other Federal or non-Federal funding sources to verify the applicant's performance record and the documents submitted.

F. Reconsideration

After Federal fund are exhausted for this grant competition, OCS may decide to reconsider applications which have been independently reviewed and ranked but have no final disposition (neither approved nor disapproved). Reconsideration may occur at any time funds become available within twelve (12) months following ranking. If a competition involving applications with no final disposition should occur, applications will be reviewed by independent reviewers in a new competition and ranked according to the new score. Applicants that will be reconsidered for possible funding will be afforded an opportunity to request reviewer comments from the prior competition, and can revise and reapply under the new competition. In this instance, the previous application will be discarded and the new application will be considered.

Part V. Instructions for Completing Application Forms

The standard forms attached to this announcement shall be used to apply for funds under this program announcement.

It is suggested that you reproduce single-sided copies of the SF–424 and SF–424A, and type your application on the copies. Please prepare your application in accordance with instructions provided on the forms (Attachments A and B) as modified by the instructions set forth in PART III G., above, and the OCS specific instructions set forth below:

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification which describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs. (Note: The Budget detail and Narrative Budget Justification should follow the SF–424 and 424A, and are not counted as part of the Project Narrative.)

A. SF–424—Application for Federal Assistance (Attachment A)

Top of Page

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 (third line from the top).

Item 1. For the purposes of this announcement, all projects are considered Applications; there are no Pre-Applications.

Item 7. If applicant is a State, enter ''A'' in the box. If applicant is an Indian Tribe enter ''K'' in the box. If applicant is a non-profit organization enter ''N'' in the box.

Item 9. Name of Federal Agency—Enter DHHS–ACF/OCS.

Item 10. The Catalog of Federal Domestic Assistance number for OCS programs covered under this announcement is 93.602. The title is ''Assets for Independence Demonstration Program (IDA Program)''.

Item 11. In addition to a brief descriptive title of the project, indicate the priority area for which funds are being requested. Use the following letter designations: I—Individual projects under Priority Area 1.0

Item 13. Proposed Project—The project start date must begin on or before September 30, 2001; the ending date should be calculated on the basis of 60-month Project Period.

Item 15a. This amount should be no greater than $1,000,000 for applications under Priority Area 1.0.

Item 15b–e. These items should reflect both cash and third-party, in-kind contributions for the Project Period (60 months).

B. SF–424A—Budget Information—Non-Construction Programs

(Attachment B)

In completing these sections, the Federal Funds budget entries will relate to the requested OCS funds only, and

Non-Federal will include mobilized funds from all other sources—applicant, state, local, and other. Federal funds other than requested OCS funding should be included in *Non-Federal* entries. Sections A, B, and C of SF–424A should reflect budget estimates for each year of the Project Period.

Section A—Budget Summary

You need only fill in lines 1 and 5 (with the same amounts)

Col. (a): Enter ''IDA Program'' as Item number 1. (Items 2, 3, 4, and 5 should be left blank.)

Col. (b): Catalog of Federal Domestic Assistance number is 93.602.

Col. (c) and (d): not relevant to this program.

Column (e)–(g): enter the appropriate amounts in items 1. and 5. (Totals)

Column e should not be more than $1,000,000 for applications under Priority Area 1.0, and in no case can it be more than the committed non-Federal matching cash contribution.

Section B—Budget Categories

(Note that the following information supersedes the instructions provided with the Form in Attachment C)

Columns (1)–(5): For each of the relevant Object Class Categories:

Column 1: Enter the OCS grant funds for the full 5-year budget period. With regard to Class Categories, no less than eighty-five percent (85%) of OCS grant funds should be entered in ''h. Other'', representing the funds to be deposited in the Reserve Fund and which will be used to match participant contributions in IDA's. The balance of up to fifteen percent (15%) of OCS grant funds should be allocated to Object Class Categories in accordance with the instructions found in Part III Section G of this Announcement.

Columns 2, 3 and 4 are not relevant to this program.

Column 5: Enter not less than 85% of OCS grant funds for the five year budget by Class Categories under ''other'', showing a total of not more than $1,000,000.

Section C—Non-Federal Resources

This section is to record the amounts of ''non-Federal'' resources that will be used to support the project, including both the required cash non-Federal ''matching contributions'' share, and the ''additional resources'' which will bring additional support to the project, which may be cash or in-kind, non-Federal or Federal. In this context, ''Non-Federal'' resources mean any and all resources other than the OCS funds for which the applicant is applying. Therefore, mobilized funds from other Federal programs, such as the Job Training Partnership Act program or the Welfare-to-Work program, should be entered on these lines. Provide a brief listing of these ''non-Federal'' resources on a separate sheet and describe whether it is a grantee cost or a third-party cash or in-kind contribution. The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process under the Non-Federal Resources program element.

Note: Even though non-Federal resources mobilized may go beyond the amount required as match under the IDA Program, grantees will be held accountable for any such cash or in-kind contribution proposed or pledged as part of an approved application where the use of such funds falls within a Program Element/Proposal Review Criterion which formed the basis for the grant award. [See PART II, Section I. and PART III, Element V(b).]

Sections D, E, and F may be left blank by Applicants under Priority Area 1.0. As noted in Part VI, a supporting Budget Justification must be submitted providing details of expenditures under each budget category, with justification of dollar amounts which relate the proposed expenditures to the work program and goals of the project.

C. SF–424B Assurances: Non-Construction Programs

Applicants requesting financial assistance for a non-construction project must file the Standard Form-424B, ''Assurances: Non-Construction Programs.'' (Attachment C) Applicants must sign and return the Standard Form-424B with their applications.

Applicants must provide a certification concerning Lobbying. Prior to receiving an award in excess of $100,000, applicants shall furnish an executed copy of the lobbying certification. (See Attachments D and E) Applicants must sign and return the certification with their applications. Applicants should note that the Lobbying Disclosure Act of 1995 has simplified the lobbying information required to be disclosed under 31 U.S.C. 1352.

Applicants must make the appropriate certification on their compliance with the Drug-Free Workplace Act of 1988 and the Pro-Children Act of 1994 (Certification Regarding Smoke Free Environment). (See Attachments G and H) By signing and submitting the applications, applicants are attesting to their intent to comply with these requirements and need not mail back the certification with the applications.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. (See Attachment I) By signing and submitting the applications, applicants are providing the certification and need not mail back the certification with the applications. Copies of the certifications and assurances are located at the end of this announcement.

Part VI. Contents of Application and Receipt Process

Application pages should be numbered sequentially throughout the application package, beginning with a Summary/Abstract of the proposed project as page number one; and each application must include all of the following, in the order listed below:

A. Content and Order of IDA Program Application

1. A Project Summary/Abstract—brief, not to exceed one page, on the Applicant's letterhead (that will not be counted as a part of the Project Narrative/Description) and that includes the following information:

—A brief identification of the geographic area to be served, indicating poverty and unemployment rates, and the specific population to be targeted by the project;
—The amount of the grant requested;
—The name of partnering financial institution(s) and collaborating organizations (if applicable);
—The amount of required non-Federal match committed;
—The number of IDA accounts projected to be opened in the course of the Demonstration Project;
—The proposed rate of matching contributions, and the types and numbers of ''Qualified Expenses'' expected to be achieved by participants; and
—A brief narrative description of the project indicating any of its innovative aspects.

2. Table of Contents;

3. A completed Standard Form-424 (Attachment A) which has been signed by an official of the organization applying for the grant who has authority to obligate the organization legally; [Note: The original SF–424 must bear the original signature of the authorizing representative of the applicant organization];

4. A completed Budget Information-Non-Construction Programs (SF–424A) (Attachment B);

5. A Budget Justification, including narrative budget justification for each object class category included under Section B, as described in PART III, Program Element III;

6. Proof of current tax-exempt status of Applicant or Joint Applicant (See PART II B.);

7. *A project narrative*, limited to the number of pages specified below, which includes all of the required elements described in Part III. [Specific information/data required under each component is described in Part III Section I, Evaluation Criteria.]

8. *Appendices*, which should include the following:

(a) (Where Application is submitted by a State or Local government agency or Tribal government jointly with a tax exempt non-profit organization) a properly executed *Joint Application Agreement* as described in PART II B.(2), above;

(b) Filled out, signed and dated *Assurances—Non-Construction Programs* (SF–424B), (Attachment C);

(c) *Restrictions on Lobbying—Certification for Contracts, Grants, Loans, and Cooperative Agreements:* filled out, signed and dated form found at Attachment D;

(d) *Disclosure of Lobbying Activities, SF–LLL:* Filled out, signed and dated form found at Attachment E, if appropriate (omit Items 11–15 on the SF LLL and ignore references to continuation sheet SF–LLL–A)

(e) *Maintenance of Effort Certification* (See Attachment F);

(f) Signed *Agreement(s)* with partnering Financial Institution(s) (or Statements of Policy in the case of Credit Union or CDFI applicants) including identification of insurance carrier and current insurance number (see Part III. Program Sub-Element II(c));

(g) Signed *''Non-Federal Share Agreement(s)'' with providers of required non-Federal matching contributions, and/or Statement of Commitment from the Applicant, or a statement that the applicant intends to provide ACF/OCS with such Agreement or Statement no later than September 1, 2001.* (See PART II, Section I.)

(h) Resumes and/or position descriptions (see Part III Program Element I);

(i) (Where Applicant is ''lead agency'' of a collaborative or consortium of organizations) Copies of *Partnering Agreements between the Applicant and each of the partnering members*, setting forth their roles and responsibilities. (See PART III, Elements I and II(b))

(j) Any letters and/or supporting documents from collaborating or partnering agencies in target communities, providing additional information on staffing and experience in support of narrative under PART III Element I. [Such documents are not part of the Narrative and should be included in the Appendices. These documents are therefore not counted against the page limitations of the Narrative.]; and

(k) Single points of contact comments, if applicable.

Applications must be uniform in composition since OCS may find it necessary to duplicate them for review purposes. Therefore, applications must be submitted on white 8½ x 11 inch paper only (See PART IV D. (2), above, concerning margins, type size, etc). They must not include colored, oversized or folded materials. Do not include organizational brochures or other promotional materials, slides, films, clips, etc. in the proposal. They will be discarded if included. The 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 plans, or plans enclosed in binders is specifically discouraged.

B. Acknowledgment of Receipt

Acknowledgment of Receipt—All applicants will receive an acknowledgment with an assigned identification number. Applicants are requested to supply a self-addressed mailing label with their Application, or a FAX number or e-mail address which can be used for acknowledgment. The assigned identification 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) 401–5307.

Part VII. Post Award Information and Reporting Requirements

A. Notification of Grant Award

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 provides the amount of Federal funds approved for use in the project, the project and budget period for which support is provided, the terms and conditions of the award, and the total project period for which support is contemplated.

B. Attendance at Technical Assistance and Evaluation Workshops/Conferences

OCS hopes to sponsor one or more national evaluation workshops in Washington, D.C. or in other locations during the course of the five-year project. Project Directors will be expected to attend such workshops provided additional funds can be made available by OCS for expenses of attending.

C. Reporting Requirements

Grantees will be required to submit a semi-annual program progress and financial report (SF 269) covering the six months after grant award, and similar reports after conclusion of the first Project Year. Such reports will be due 60 days after the reporting period. Thereafter grantees will be required to submit annual program progress and financial reports (SF 269), as well as a final program progress and financial report within 90 days of the expiration of the grant.

D. Audit Requirements

Grantees are subject to the audit requirements in 45 CFR Part 74 (non-profit organizations) or Part 92 (governmental entities) which require audits under OMB Circular A–133.

E. Prohibitions and Requirements With Regard to Lobbying

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 limited exemptions for Indian tribes and tribal organizations. Current and prospective recipients (and their subtier contractors and/or grantees) are prohibited from using appropriated funds 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 submit a declaration setting forth whether payments to lobbyists have been or will be made out of non-appropriated funds and, if so, the names, address, payment details, and purpose of any agreements with such lobbyists whom recipients or their subtier contractors or subgrantees will pay with the non-appropriated funds and (3) to file quarterly up-dates about the use of lobbyists if an event occurs that materially affects the accuracy of the information submitted by way of declaration and certification.

The law establishes civil penalties for noncompliance and is effective with respect to contracts, grants, cooperative agreements and loans entered into or

made on or after December 23, 1989. See Attachment H, for certification and disclosure forms to be submitted with the applications for this program.

F. Applicable Federal Regulations

Attachment K indicates the regulations which apply to all applicants/grantees under the Assets for Independence Demonstration Program.

Dated: July 17, 2001.

Robert Mott,

Deputy Director, Office of Community Services.

Assets for Independence Demonstration Program; List of Attachments

Attachment A Application for Federal Assistance (SF–424)
Attachment B Budget Information—Non-Construction Programs (SF–424A)
Attachment C Assurances—Non-Construction Programs (SF–424B)
Attachment D Certification Regarding Lobbying
Attachment E Disclosure of Lobbying Activities
Attachment F Certification Regarding Maintenance of Effort
Attachment G Certification Regarding Drug-Free Workplace Requirements
Attachment H Certification Regarding Environmental Tobacco Smoke
Attachment I Certification Regarding Debarment, Suspension and Other Responsibility Matters
Attachment J E.O. 12372 State Single Point of Contact List
Attachment K DHHS Regulations Applying to Applicants/Grantees Under the Assets for Independence Demonstration (IDA) Program
Attachment L Accounting Regulation

BILLING CODE 4184–01–P

APPLICATION FOR FEDERAL ASSISTANCE

Attachment A, Page 1

OMB Approval No. 0348-0043

2. DATE SUBMITTED	Applicant Identifier	
3. DATE RECEIVED BY STATE	State Application Identifier	
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier	

1. TYPE OF SUBMISSION:

Application
- ☐ Construction
- ☐ Non-Construction

Preapplication
- ☐ Construction
- ☐ Non-Construction

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

Start Date	Ending Date

14. CONGRESSIONAL DISTRICTS OF:

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, 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 of 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 inkind 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 be 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	$	$	$	$	$

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-10

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:	

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Standard Form 424A (Rev. 7-97) Page

BILLING CODE 4184–01–C

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 It 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 applications should contain a breakdown by the object class categories shown 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) and (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 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 8–11— 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 Line 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 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 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.

Assurances—Non-Construction Programs

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing

data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0040), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728–4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88–352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, and 1685–1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101–6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and treatment Act of 1972 (P.L. 92–255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91–616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§ 290 dd–3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and, (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements to 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.).

Will comply with P.L. 93–348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89–544, as amended, 7 U.S.C. §§ 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A–133 ''Audits of States, Local Governments, and Non-Profit Organizations.''

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

Administration for Children and Families U.S. Department of Health and Human Services, Attachment D

Certification Regarding Lobbying

Certification 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 attempting to influence an officer or employee of an agency, a Member of Congress, an officer or 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 than $10,000 and not more than $100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

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

DISCLOSURE OF LOBBYING ACTIVITIES **Attachment E, Page 1** Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action:	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:	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:
☐ Prime ☐ Subawardee Tier _____, *if known*: **Congressional District**, *if known*:	 **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

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5. If the organization filing the report in item 4 checks ''Subawardee,'' then

enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., ''RFP–DE–90–001.''

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348–0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348–0046), Washington, DC 20503.

Administration for Children and Families U.S. Department of Health and Human Services, Attachment F

Certification Regarding Maintenance of Effort

In accordance with the applicable statute(s) and regulation(s), the undersigned certifies that financial assistance provided by the Administration for Children and Families, for the specified activities to be performed under the _____ Program by _____ (Applicant Organization), will be in addition to, and not in substitution for, comparable activities previously carried on without Federal assistance.

_____

Signature of Authorized Certifying Official

_____

Title

_____

Date

_____

Developing ACF Program Announcements, Attachment G

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. Workplace 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.

[55 FR 21690, 21702, May 25, 1990]

Administration for Children and Families U.S. Department of Health and Human Servics, Attachment H

Certification Regarding Environmental Tobacco Smoke

Public Law 103227, 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 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.

Developing ACF Program Announcements, Attachment I

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 or 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 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 voluntarily 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 principles. 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 nor 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.

Office of Management and Budget, Attachment J

It is estimated that in 2001 the Federal Government will outlay $305.6 billion in grants to State and local governments. Executive Order 12372, ''Intergovernment 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

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California

Grants Coordination
State Clearinghouse
Office of Planning and Research
P.O. Box 3044, Room 222
Sacramento, California 95812–3044
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state.clearinghouse@opr.ca.gov

Delaware

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District of Columbia

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cherie.trainor@dca.state.fl.us

Georgia

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Illinois

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South Carolina

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Guam

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Puerto Rico

Jose Caballero/Mayra Silva
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San Juan, Puerto Rico 00940–1119
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North Mariana Islands

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Irmills@usvi.org

Changes to this list can be made only after OMB is notified by a State's officially designated representative. E-mail messages can be sent to *grants@omb.eop.gov*. If you prefer, you may send correspondence to the following postal address:

Attn: Grants Management, Office of Management and Budget, New Executive Office Building, suite 6025, 725 17th Street, NW, Washington, DC 20503.

Please note: Inquiries about obtaining a Federal grant should not be sent to the OMB e-mail or postal address shown

above. The best source for this information is the *CFDA.*

Attachment K—DHHS Regulations Applying to All Applicants/Grantees Under the Assets for Independence Demonstration Program (IDA Program),

Title 45 of the Code of Federal Regulations

Part 16—Department of Grant Appeals Process
Part 74—Administration of Grants (grants with subgrants to entities)
Part 75—Informal Grant Appeal Procedures
Part 76—Debarment and Suspension from Eligibility for Financial Assistance
Subpart F—Drug Free Workplace Requirements
Part 80—Non-Discrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services Effectuation of Title VI of the Civil Rights Act of 1964
Part 81—Practice and Procedures for Hearings Under Part 80 of this Title
Part 83—Regulation for the Administration and Enforcement of Sections 799A and 845 of the Public Health Service Act
Part 84—Non-discrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance
Part 85—Enforcement of Non-Discrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Health and Human Services
Part 86—Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance
Part 91—Non-discrimination on the Basis of Age in Health and Human Services Programs or Activities Receiving Federal Financial Assistance
Part 92—Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local Governments (Federal Register, March 11, 1988)
Part 93—New Restrictions on Lobbying
Part 100—Intergovernmental Review of Department of Health and Human Services Programs and Activities

Attachment L

Note: Attachment L can be found at 65 FR 10027, February 25, 2000.

Attachment M

2001 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Size of family unit	Poverty guideline	200%
1	$8,590	$17,180
2	11,610	23,220
3	14,630	29,260
4	17,650	35,300
5	20,670	41,340
6	23,690	47,380
7	26,710	53,420
8	29,730	59,460

For family units with more than 8 members, add $3,020 for each additional member. (For 200% add $6,040 for each additional member)

2001 POVERTY GUIDELINES FOR ALASKA

Size of family unit	Poverty guideline	200%
1	$10,730	$21,460
2	14,510	29,020
3	18,290	36,580
4	22,070	44,140
5	25,850	51,700
6	29,630	59,260
7	33,410	66,820
8	37,190	74,380

For family units with more than 8 members, add $3,780 for each additional member. (For 200% add $7,560 for each additional member)

2001 POVERTY GUIDELINES FOR HAWAII

Size of family unit	Poverty guideline	200%
1	$9,890	$19,780
2	13,360	26,720
3	16,830	33,660
4	20,300	40,600
5	23,770	47,540
6	27,240	54,480
7	30,710	61,420
8	34,180	68,360

For family units with more than 8 members, add $3,470 for each additional member. (For 200% add $6,940 for each additional member)

[FR Doc. 01–18177 Filed 7–23–01; 8:45 am]

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Federal Register

Tuesday,
July 24, 2001

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Proposed Frameworks for Early-Season Migratory Bird Hunting Regulations and Regulatory Alternatives for the 2001–02 Duck Hunting Season; Notice of Meeting; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN 1018–AH79

Migratory Bird Hunting; Proposed Frameworks for Early-Season Migratory Bird Hunting Regulations and Regulatory Alternatives for the 2001–02 Duck Hunting Season; Notice of Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: The U.S. Fish and Wildlife Service (hereinafter Service or we) is proposing to establish the 2001–02 early-season hunting regulations for certain migratory game birds. We annually prescribe frameworks, or outer limits, for dates and times when hunting may occur and the maximum number of birds that may be taken and possessed in early seasons. Early seasons generally open prior to October 1, and include seasons in Alaska, Hawaii, Puerto Rico, and the U.S. Virgin Islands. These frameworks are necessary to allow State selections of final seasons and limits and to allow recreational harvest at levels compatible with population status and habitat conditions. This supplement to the proposed rule of April 30, 2001, also provides the regulatory alternatives for the 2001–02 duck hunting season.

DATES: You must submit comments on the proposed migratory bird hunting-season frameworks for Alaska, Hawaii, Puerto Rico, the Virgin Islands, and other early seasons by August 3, 2001, and for the forthcoming proposed late-season frameworks by September 7, 2001.

ADDRESSES: Send your comments on these proposals to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, room 634—Arlington Square, 1849 C Street, NW, Washington, DC 20240. All comments received, including names and addresses, will become part of the public record. You may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Jonathan Andrew, Chief, or Ron W. Kokel, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2001

On April 30, 2001, we published in the **Federal Register** (66 FR 21298) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On June 14, 2001, we published in the **Federal Register** (66 FR 32297) a second document providing supplemental proposals for early-and late-season migratory bird hunting regulations frameworks and the proposed regulatory alternatives for the 2001–02 duck hunting season. The June 14 supplement also provided detailed information on the 2001–02 regulatory schedule and announced the Service Migratory Bird Regulations Committee (SRC) and Flyway Council meetings.

This document, the third in a series of proposed, supplemental, and final rulemaking documents for migratory bird hunting regulations, deals specifically with proposed frameworks for early-season regulations and the final regulatory alternatives for the 2001–02 duck hunting season. It will lead to final frameworks from which States may select season dates, shooting hours, and daily bag and possession limits for the 2001–02 season. We have considered all pertinent comments received through July 6, 2001, on the April 30 and June 14, 2001, rulemaking documents in developing this document. In addition, new proposals for certain early-season regulations are provided for public comment. Comment periods are specified above under **DATES.** We will publish final regulatory frameworks for early seasons in the **Federal Register** on or about August 20, 2001.

Service Migratory Bird Regulations Committee Meetings

Participants at the June 20–21, 2001, meetings reviewed information on the current status of migratory shore and upland game birds and developed 2001–02 migratory game bird regulations recommendations for these species plus regulations for migratory game birds in Alaska, Puerto Rico, and the U.S. Virgin Islands; special September waterfowl seasons in designated States; special sea duck seasons in the Atlantic Flyway; and extended falconry seasons. In addition, we reviewed and discussed preliminary information on the status of waterfowl as it relates to the development and selection of the regulatory packages for the 2001–02 regular waterfowl seasons. Participants at the previously announced August 1–2, 2001, meetings will review information on the current status of waterfowl and develop recommendations for the 2001–02 migratory game bird regulations pertaining to regular waterfowl seasons and other species and seasons not previously discussed at the early season meetings. In accordance with Department of the Interior policy, these meetings are open to public observation and you may submit written comments to the Director of the Service on the matters discussed.

Population Status and Harvest

The following paragraphs provide preliminary information on the status of waterfowl and information on the status and harvest of migratory shore and upland game birds.

May Breeding Waterfowl and Habitat Survey

Habitat conditions in the traditional survey area were variable, and the estimate of May ponds (U.S. and Prairie Canada combined) is up (4.6 million ± 0.1 million, +18 percent) compared to 2000, and slightly below (−6 percent), but not statistically different from the long-term average. Continued drought produced fair to poor conditions in most of Alberta, central and southern Saskatchewan, and eastern Montana. By contrast, North and South Dakota generally had good to excellent water conditions, with the best conditions in the eastern portions of these States, and drier conditions to the north and west. Nesting cover in the Dakotas was in above-average condition. Southern Manitoba and extreme southeastern Saskatchewan have had higher than normal water conditions for the past 2 years, and this water, along with above-normal precipitation due to an early, snowy winter, produced excellent habitat for breeding ducks. Average to above-average precipitation also made for excellent wetland conditions across northern Manitoba and Saskatchewan. The northernmost portion of Alberta was the exception to the record drought and poor wetland conditions in the rest of the province, as above-average winter and spring precipitation filled nearly all available wetland basins. Good conditions for breeding ducks prevailed in the Northwest Territories, except for a small northern area that was rated only fair due to late spring ice conditions that reduced available breeding habitat for early-nesting species. Overall, conditions were good in the traditional survey area, and

average to above-average waterfowl production is expected.

In Alaska, breeding conditions depend largely on the timing of spring, as wetland conditions are less variable than on the prairies. Although winter temperatures were mild, spring was late, and waterfowl production will likely be below average to the north and west, and average to the south and east.

In the eastern survey area, conditions were variable but generally good. Southern Ontario and Northern New York had an early spring, and with wetland basins nearly full, the outlook for breeding ducks is good. Spring was also early in Quebec, with good to excellent habitat in the central and northern portions. However, southern Quebec was drier with conditions ranging from fair to poor. In Maine and the Maritime provinces, spring was late, with lower than normal temperatures, but above-average precipitation, and habitat conditions were good. Overall, eastern habitats were in good condition, with average to above-average production expected.

The 2001 total duck population estimate for the traditional survey area was 36.1 ± 0.6 million birds, 14 percent below last year's near-record estimate of 41.8 ± 0.7 million birds, but still 9 percent above the 1955–2000 average. Mallard abundance was 7.9 ± 0.2 million, which is 17 percent below last year's estimate but still 5 percent above the 1955–2000 average. Blue-winged teal abundance was estimated at 5.8 ± 0.3 million. This is 23 percent below last year's record estimate of 7.4 million, but 29 percent above the 1955–2000 average. Gadwall (2.7 ± 0.1 million, +66 percent), green-winged teal (2.5 ± 0.2 million, +39 percent), and northern shovelers (3.3 ± 0.2 million, +60 percent) all remained above their long-term averages, while American wigeon (2.5 ± 0.1 million), redheads (0.7 ± 0.07 million), and canvasbacks (0.6 ± 0.05 million) did not differ from their long-term averages. Scaup (3.7 ± 0.2 million, −31 percent) and northern pintail (3.3 ± 0.3 million, −23 percent), were again below their long-term average.

The 2000 total duck population estimate for the eastern survey area was 3.3 ± 0.2 million birds, similar to last year's estimate of 3.2 ± 0.3 million birds. Abundances of individual species were similar to those of last year, with the exception of ring-necked ducks (353.0 ± 32 thousand, −43 percent) and buffleheads (95.0 ± 44 thousand, +93 percent). Buffleheads, goldeneyes and lesser scaup were above the 1996–2000 average in the east. Green-winged teal and ring-necked ducks were below the 1996–2000 average, and other species were similar to their long-term averages.

Status of Teal

Blue-winged teal abundance this spring was 5.8 ± 0.3 million, down from last year's record high of 7.4 ± 0.4 million, but 29 percent above the 1955–2000 average. This population size remains above the 4.7 million needed to trigger the liberal 16-day teal season in the Central and Mississippi Flyways. Green-winged teal abundance was estimated at 2.5 ± 0.2 million, which is 21 percent below last year's estimate, but 39 percent above the long-term average.

The 2000–01 season was the third consecutive year of an extended (16 days vs. 9 days) September teal season in the Central and Mississippi Flyways. Preliminary harvest estimates from last year's September teal season in the Mississippi Flyway indicate that harvest increased from 413,000 to 504,600 teal, an increase of 22 percent over the 1999 September teal season. The vast majority of these were blue-winged teal (483,000), and the remainder were green-winged teal (21,600). Preliminary estimates in the Central Flyway indicate a harvest of 126,600 birds, similar to the 126,000 estimated for the 1999 September teal season. In the Central Flyway, green-winged teal accounted for approximately 12 percent of the harvest (15,400), and the remainder (111,200) were blue-winged teal. The combined estimated harvest in the Mississippi and Central Flyways was 631,200 cinnamon, blue- and green-winged teal, which is 17 percent greater than the 1999 estimated September teal season harvest.

Last year, the Atlantic Flyway participated in the third year of its 3-year experimental September teal season. Six States harvested an estimated 31,000 blue- and green-winged teal, similar to the 32,000 harvested during 1999. Additionally, as part of its special early wood duck/teal season, Florida harvested approximately 10,100 blue-winged teal in 2000. The Atlantic Flyway also completed the third year of its Service's required spy-blind assessment of attempt rates at non-target species. Results indicate that the average non-target attempt rate for 2000 of 18 percent was virtually identical to those in other years (19 percent in 1998, and 24 percent in 1999). Although the data from the required 3-year study has been collected, results are incomplete at this time. We will conduct a full assessment of non-target attempt rates and review the further continuation of the season. However, we note that the Atlantic Flyway Council did not recommend renewing teal seasons in North Carolina, Pennsylvania, South Carolina, and West Virginia (see iii. September Teal Seasons under 1. Ducks).

Sandhill Cranes

The Mid-Continent Population of Sandhill Cranes has generally stabilized at comparatively high levels, since increases that were recorded in the 1970–80s. The Central Platte River Valley, Nebraska, spring index for 2001, uncorrected for visibility, was 396,000 cranes. The photo-corrected 3-year average for 1998–2000 was 435,283, which is within the established population-objective range of 343,000–465,000 cranes. All Central Flyway States, except Nebraska, allowed crane hunting in portions of their respective States in 2000–01. About 7,500 hunters participated in these seasons, which was 13 percent higher than the number that participated in the previous year's seasons. About 16,850 cranes were harvested in the Central Flyway during 2000–01 seasons, which was similar to estimated harvests for the previous year. Retrieved harvests in the Pacific Flyway, Canada, and Mexico were estimated to be about 13,500 cranes for the 2000–01 period. The total North American sport harvest, including crippling losses, was estimated to be about 34,600, which was about 2 percent lower than the previous year's estimates. The long-term trend analysis for the Mid-Continent Population during 1982–2000 indicates that harvests have been increasing at a higher rate than the trend in population growth over the same period.

The fall 2000 pre-migration survey estimate for the Rocky Mountain Population of sandhill cranes was 19,990, which was similar to the previous year's estimate of 19,501. Limited special seasons were held during 2000 in portions of Arizona, Idaho, Montana, New Mexico, Utah, and Wyoming, resulting in a record high harvest of 810 cranes.

Woodcock

Singing-ground and Wing Collection surveys were conducted to assess the population status of the American woodcock (*Scolopax minor*). Singing-ground Survey data from 2001 indicate that the number of displaying woodcock in the Eastern Region was not significantly different ($P>0.10$) from 2000 levels, although the point estimate of the trend was negative. In the Central Region, there was a 12.9 percent decrease ($P<0.05$) in the number of woodcock heard displaying, compared to levels observed in 2000. Trends from the Singing-ground Survey during

1991–2001 were negative (−2.6 and −2.5 percent per year for the Eastern and Central regions, respectively; P<0.01). There were long-term (1968–01) declines (P<0.01) of 2.5 percent per year in the Eastern Region and 1.6 percent per year in the Central Region.

The 2000 recruitment index for the Eastern Region (1.4 immatures per adult female) was 27 percent higher than the 1999 estimate, but was 18 percent below the long-term regional average. The recruitment index for the Central Region (1.2 immatures per adult females) was similar to 1999, but was 29 percent below the long-term regional average. The index of daily hunting success in the Eastern Region decreased from 2.1 woodcock per successful hunt in 1999 to 2.0 woodcock per successful hunt in 2000, and seasonal hunting success decreased 10 percent, from 9.3 to 8.4 woodcock per successful hunter in 1999 and 2000, respectively. In the Central Region, the daily success index decreased 5 percent from 2.1 woodcock per successful hunt in 1999 to 2.0 in 1998; and seasonal hunting success decreased 2 percent from 10.6 to 10.4 woodcock per successful hunter.

Band-Tailed Pigeons and Doves

While a significant decline in the Coastal population of band-tailed pigeons occurred between 1968–2000 as indicated by the Breeding Bird Survey (BBS), no trend was indicated over the most recent 10 years. Additionally, mineral site counts at 10 selected sites in Oregon indicate a steady increase over the past 10 years. The count in 2000 was 45 percent above the previous 32-year average. Call-count surveys conducted in Washington showed a nonsignificant decline between 1975–2000 and a nonsignificant increase between 1996–2000. Washington has opted not to select a hunting season for bandtails since 1991. The harvest of Coastal pigeons is estimated to be about 17,000 birds out of a population of about 3 million. The Interior band-tailed pigeon population is stable with no trend indicated by the BBS over the short- or long-term periods. The preliminary 2000–01 harvest estimate from the Harvest Information Program was 4,800 birds.

Analyses of Mourning Dove Call-count Survey data indicated significant declines in doves heard over the most recent 10 years and the entire 36 years of the survey in the Central and Western Management Units. In the Eastern Unit, there was a significant decline over 10 years while no significant decline was noted over 36 years. A project has been funded recently to develop mourning dove population models for each unit to provide guidance in what needs to be done to improve our decision-making process with respect to harvest management.

White-winged doves in Arizona are maintaining a fairly stable population since the 1970's. Between 2000–01, the average number of doves heard per route decreased from 30.8 to 27.5. A low harvest (123,000 in 2000) is being maintained compared with birds taken several decades ago. In Texas, the phenomenon of the white-winged dove expansion continues as they are found throughout Texas except for a large section in the northeast part of the State in the Piney Woods. North of their historical range, whitewings primarily inhabit urban areas. In 2001, the population of white-wing doves in the Lower Rio Grande Valley decreased 11 percent due to drought conditions to 453,000 birds; in Upper South Texas, the count increased 7 percent to 1,072,000; and, in West Texas, the count increased 11 percent to 36,700. A more inclusive count of whitewings in San Antonio indicated an estimate of over 1 million birds. Whitewings are increasing both in population density and expanding into suburban areas and cities where they have not previously existed. Further, hunting does not appear to be having any effect upon these northern urban nesters. White-wing dove nesting has been documented in Arkansas, Oklahoma, and Missouri, and they have been reported in Kansas, Nebraska, Iowa, Indiana, Minnesota, North Carolina, Ontario, and Newfoundland.

White-tipped doves are maintaining a relatively stable population in the Lower Rio Grande Valley of Texas. They are most abundant in cities and, for the most part, not available to hunting. The count in 2001 was 22 percent below that of 2000.

Review of Public Comments

The preliminary proposed rulemaking (April 30 **Federal Register**) opened the public comment period for migratory game bird hunting regulations. The supplemental proposed rule (June 14 **Federal Register**) defined the public comment period for the proposed regulatory alternatives for the 2001–02 duck hunting season. The public comment period for the proposed regulatory alternatives ended July 6, 2001. Early-season comments and comments pertaining to the proposed alternatives are summarized below and numbered in the order used in the April 30 **Federal Register** document. Only the numbered items pertaining to early-seasons issues and the proposed regulatory alternatives for which written comments were received are included. Consequently, the issues do not follow in direct numerical or alphabetical order.

We received recommendations from all four Flyway Councils. Some recommendations supported continuation of last year's frameworks. Due to the comprehensive nature of the annual review of the frameworks performed by the Councils, support for continuation of last year's frameworks is assumed for items for which no recommendations were received. Council recommendations for changes in the frameworks are summarized below. We seek additional information and comments on the recommendations in this supplemental proposed rule. New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items in the April 30, 2001, **Federal Register** document.

1. Ducks

Categories used to discuss issues related to duck harvest management are: (A) Harvest Strategy Considerations, (B) Regulatory Alternatives, (C) Zones and Split Seasons, and (D) Special Seasons/Species Management. The categories correspond to previously published issues/discussion, and only those containing substantial recommendations are discussed below.

A. Harvest Strategy Considerations

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the Adaptive Harvest Management (AHM) Working Group and the Service consider the following actions when AHM regulations packages are reconsidered:

(1) Eliminate the ''very restrictive'' option.

(2) Replace open cells with the ''restrictive'' alternative to a population level of ≤4.5 million. Below this level, year-specific decisions on closed seasons would be based on both biological and sociological considerations.

(3) Evaluate the influence of year-to-year constraints on regulations increments on AHM performance.

(4) Strongly consider limiting increments of year-to-year change to single regulations ''steps.''

(5) Formally consider the role of hunter satisfaction in the revision of the harvest management objective or the regulation packages.

Service Response: As we stated in the June 14, 2001, **Federal Register** (66 FR 32297), we recognize that periodic changes to the protocols for adaptive harvest management will be necessary to accommodate changing biological, social, and administrative needs. Revisions of the nature recommended by the Mississippi Flyway Council potentially have profound implications, however, as they involve specification of the set of regulatory alternatives, the harvest-management objective(s), and associated regulatory constraints (e.g., minimizing year-to-year changes in regulations). The AHM Working Group, comprised of both Service and Flyway Council representatives, currently is exploring the implications of these recommendations. We will consider the changes suggested by the Mississippi Flyway Council once these investigations are complete, and the results communicated to all interested parties.

B. Regulatory Alternatives

Council Recommendations: The Atlantic Flyway Council recommended that the regulations packages for 2001 be the same as those in 2000, except for an experimental framework opening date of the Saturday nearest September 24 and a framework closing date of the last Sunday in January with no offsets (reduced or restricted bag limits or reduction in season length) for the 2001–03 duck seasons in the ''moderate'' and ''liberal'' alternatives. The Council further recommended that the framework dates be applicable either Statewide or in zones and that the Service use the evaluation of the framework-date extensions for the next three years as a basis for establishing future framework dates.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that the regulations alternatives from 2000 be used in 2001. The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that the regulations packages for 2001 be the same as those in 2000, except that the framework opening and closing dates would be the Saturday nearest September 24 through the last Sunday in January, and there would be no offsets in season length or bag limit.

The Central Flyway Council recommended 2001–02 duck regulations packages and species/sex restrictions for the Central Flyway that are the same as those used in 2000–01, except for a framework opening date of the Saturday closest to September 24th in the ''liberal'' and ''moderate'' AHM regulations alternatives with no offset penalties. The framework closing date in the Central Flyway would remain the Sunday nearest January 20th.

The Pacific Flyway Council preferred that regulatory alternatives remain as adopted in 1999 and 2000 but recommends that if season extensions are allowed (without offsets), that they be classified as an experiment for 3 years. At the end of the experimental period, the distribution of mallard harvest during the experimental period shall be compared to the harvest distribution during the period of stabilized regulations (1979–84). If the distribution of mallard harvest has changed more than 5 percent between these two periods, AHM regulatory packages should be re-configured to realign mallard harvest distribution with the distribution that occurred in 1979–84. The Council also recommended a framework opening date of the Saturday nearest September 24 and a framework closing date of the last Sunday in January with no offsets for the 2001–03 duck seasons in the ''moderate'' and ''liberal'' alternatives. The Council further recommended that the framework dates be applicable either Statewide or in zones. The Council requested that the Service use the evaluation of the framework-date extensions for the next 3 years as a basis for establishing future framework dates.

Written Comments: The National Flyway Council (NFC), in a letter signed by the Atlantic, Central, and Pacific Flyway Councils and the Lower-Region Regulations Committee of the Mississippi Flyway Council, recommended an experimental framework opening date of the Saturday nearest September 24 and a framework closing date of the last Sunday in January with no offsets for the 2001–03 duck seasons in the ''moderate'' and ''liberal'' alternatives. The NFC further recommended that the framework dates be applicable either Statewide or in zones and that the Service use the evaluation of the framework-date extensions for the next 3 years as a basis for establishing future framework dates.

The Atlantic Flyway Council; Central Flyway Council; Florida Fish and Wildlife Conservation Commission; Georgia Wildlife Resources Division; Maryland Forest, Wildlife and Heritage Service; South Carolina Department of Natural Resources; South Dakota Department of Game, Fish, and Parks; Virginia Department of Game and Inland Fisheries; West Virginia Division of Natural Resources; and Wisconsin Department of Natural Resources expressed support for the NFC's recommendation. All urged implementation of the NFC's proposed changes this year.

A number of duck clubs and individual waterfowl hunters in Utah opposed granting any extension to framework dates because of concern for impacts to waterfowl seasons in Utah.

Service Response: We recognize and appreciate the efforts of the Flyway Councils to seek an acceptable approach to framework-date extensions for duck hunting. We also recognize that many States feel strongly about the framework-date issue, and would like to see changes implemented for the 2001–02 hunting season. We believe, however, that there are a number of critical technical and administrative issues that still need to be resolved before framework-date extensions could be implemented successfully.

An important issue involves the uncertainty about changes in mallard harvest rates that might occur with implementation of framework-date extensions. As stated in the June 14, 2001 **Federal Register** (66 FR 32299), we believe that this uncertainty can be addressed most effectively using an adaptive-management approach. This approach would be designed to help identify the effects of framework-date extensions, while ensuring that we can account for uncertainty surrounding harvest and population impacts in each regulatory decision. A necessary element of the adaptive approach is the specification of two or more alternative hypotheses about the change in mallard harvests that might be associated with widespread application of extended framework dates. These alternative hypotheses (and associated measures of credibility) have not yet been specified and agreed upon. We believe that the help of the AHM Working Group will be needed to specify these alternatives, to explore their management implications, and to work out other technical details regarding implementation.

Also needed for successful application of the adaptive approach is a reliable monitoring program for estimating realized harvest rates of mallards. Such a program does not exist at this time because of uncertainty about the rate at which hunters report band recoveries. This uncertainty resulted from the introduction in 1995 of a toll-free phone number for reporting band recoveries, which is a key feature of a campaign designed to increase band-reporting rates. We currently are developing plans and seeking funding to estimate band-reporting rates, but the program will not be ready for implementation this year. And we respectfully disagree with the contention that framework-date

extensions could be evaluated effectively without current estimates of band-reporting rates.

We also reiterate that proposed changes to traditional framework dates must consider the potential for adverse biological impacts to species other than mallards, such as wood ducks, and especially those currently below objective levels (e.g. pintails, scaup). While we recognize that such assessments cannot be done with the same rigor as those for mallards, compilation and consideration of relevant harvest and population data for other species of management interest is nonetheless necessary.

Finally, there are a number of administrative and procedural issues involved in extending framework dates for duck hunting. Under current framework dates (i.e., approximately October 1 and January 20), we propose the set of regulatory alternatives for consideration during the upcoming duck-hunting season in late May/early June with the comment period normally closing in early July, shortly after the early-season meeting of the SRC. The regulatory alternatives are normally finalized in the Proposed Early-Season Frameworks (this document), which is published in mid to late July. Following finalization of the regulatory alternatives, one of the alternatives is proposed for the upcoming hunting season at the late-season SRC meeting in early August, and provided for public comment in the Proposed Late-Season Frameworks, normally published in mid-to late August. Following a short comment period, the Final Late-Season Frameworks are published in mid to late September.

With extended framework dates (i.e., approximately September 24 and January 31), the primary procedural problem is with the framework opening date (which some years could be as early as September 21). If the opening date is earlier than the Saturday nearest October 1, because of legally-mandated public comment procedures, review and clearance by the Office of Management and Budget (OMB), and publishing schedules, the establishment of frameworks for duck seasons and State selections of seasons must be shifted from the late-season regulations process to the early-season regulations process. Under this scenario, and with the current process, we would still propose the set of regulatory alternatives in late May or early June. However, the Proposed Early-Season Frameworks would have to contain *both* the final set of regulatory alternatives *and* the proposed alternative for the upcoming season. This would mean that we would have to select one of the alternatives not only before the set of regulatory alternatives was finalized, but also before the comment period on the proposed set of alternatives closes. Procedurally and legally, this is not possible in any year. A solution to this problem might be to propose the set of regulatory alternatives in the initial **Federal Register** document (published in March prior to the spring Flyway Council meetings), and finalize it in late May or early June. Of course, it is too late to implement this solution for this year.

Lastly, another problem with extending the framework dates unique to this year (2001) relates to the need for adequate public notice. The schedule of meetings and intended **Federal Register** publication dates for early-season and late-season regulations was published in the initial proposed rule to establish hunting seasons in 2001. Frameworks for duck seasons have always been a part of the late-season regulations process, and shifting the establishment of duck-season frameworks to the early-season regulations process is a sufficiently major action that public notification of the change likely would be necessary.

We are prepared to work diligently with the Flyway Councils and States to address these outstanding technical and administrative issues. Until these issues are resolved, however, we cannot offer framework-date extensions. Therefore, for the 2001–02 hunting season, there will be no modifications to the four regulatory alternatives used last year (see accompanying table for specifics). Alternatives are specified for each Flyway and are designated as ''VERY RES'' for the very restrictive, ''RES'' for the restrictive, ''MOD'' for the moderate, and ''LIB'' for the liberal alternative. We will propose the choice of regulatory alternative for the 2001–02 hunting season following the August 1–2 meeting of the SRC.

C. Zones and Split Seasons

Council Recommendations: The Atlantic Flyway Council recommended that the State of Vermont be allowed to extend the New Hampshire Interior Zone boundary to the Vermont side of the Connecticut River without losing the ability to split their duck season.

Written Comments: The Maine Department of Inland Fisheries and Wildlife and the Wisconsin Department of Natural Resources expressed displeasure with the Service's decision not to make any changes in the 1996 guidelines. More specifically, the Flyway Councils had requested that the guidelines allow States the option of three zones and two-way splits.

Service Response: The guidelines for zones/split seasons for 2001–05 were finalized during the late-season regulations process last year (September 27, 2000, **Federal Register** (65 FR 58152)). We do not require Council recommendations for zone/split changes and plan to review all of the proposed changes in zones and splits, including those presented by the Atlantic Flyway Council above. We will work with individual States regarding changes to current zone/split arrangements relative to those guidelines and will respond to individual State zone and split proposals should inconsistencies with the previously approved guidelines arise.

D. Special Seasons/Species Management

iii. September Teal Seasons

Council Recommendations: The Atlantic Flyway Council recommended that States that have participated in the recent experimental September teal seasons and met the required criteria (Delaware, Maryland, Virginia, and Georgia) be offered an operational September teal season, beginning in 2001. The recommended season would run for 9 consecutive days during September 1–30, with a bag limit not to exceed 4 teal, whenever the breeding population of blue-winged teal exceeds 3.3 million. Delaware, Georgia, and Virginia would have shooting hours between one-half hour before sunrise to sunset, while Maryland would be between sunrise and sunset.

The Atlantic Flyway Council also recommended that Florida be offered an operational September teal season. The Council pointed out that Florida has requested and would prefer continuation of its current September teal/wood duck season, which the Council has previously supported. If the Service carries through with its intent to discontinue the current September teal/wood duck season, this recommendation would allow Florida's current season to be replaced by an operational September teal season. Florida's teal season would begin in 2001 and be structured similar to teal seasons offered in other Atlantic Flyway States (9 consecutive days during September 1–30, with a bag limit of no more than 4 teal), with shooting hours of one-half hour before sunrise to sunset, whenever the blue-winged teal breeding population exceeds 3.3 million.

The Central Flyway Council recommended continuation of the 16-day September teal season contingent

upon acceptable May breeding population estimates of blue-winged teal (>4.7 million).

Service Response: We support the continuation of a 9-day special teal season in the Atlantic Flyway for the States of Delaware, Maryland, Virginia, and Georgia during 2001–02, until a final report on the 3-year experimental period is prepared and submitted. With regard to the Florida proposal, we support approval of an experimental 9-day special teal season for 2001–02, as requested in lieu of their teal/wood duck season. Assessment of the cumulative impacts of this season with those in other Atlantic Flyway States should be included in the final report. We recognize that hunter performance evaluations associated with species-specific seasons in Florida have already been conducted, so these requirements are waived.

We support continuation of the 16-day special teal season in the Central and Mississippi Flyways, since it is consistent with the harvest strategy adopted in 1998. We also note that we requested a report reviewing the data from the first 3 years and look forward to receiving the report next year.

iv. September Teal/Wood Duck Seasons

Council Recommendations: The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended that Kentucky's and Tennessee's September duck seasons be continued on an experimental basis for 3 years with increased monitoring. The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended that Kentucky's and Tennessee's September duck seasons be given operational status in their current format under the early season regulation frameworks. As a condition of operational status, Kentucky and Tennessee would maintain wood duck population monitoring and banding efforts at levels consistent to that done during the period of the Wood Duck Initiative (1991–96).

Service Response: The Service grants operational status to September teal/wood duck seasons in the States of Florida, Kentucky, and Tennessee. Operational status is contingent on the ability of the three States to continue with monitoring efforts put forth during the Wood Duck Initiative. The September teal/wood duck season in all three States will be comprised of a 5-day season, with a daily bag limit of four birds, no more than two of which can be wood ducks. With respect to expansion of this season to other States in the Southern and Southeastern Reference Areas, such States may avail themselves of a September teal/wood duck season in lieu of a September teal season, provided that population-monitoring programs throughout the respective Reference Area are in place and are meeting the requirements outlined in the final report of the wood duck Initiative. The monitoring requirements were developed in cooperation with the Atlantic and Mississippi Flyway Councils and their Technical Sections, and were unanimously adopted by the Councils.

v. Youth Hunt

Council Recommendations: The Atlantic Flyway Council recommended that the Service allow States to hold a youth waterfowl hunt on 2 consecutive hunting days.

Service Response: We concur.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Atlantic Flyway Council recommended that the framework closing date for September Canada goose hunting seasons throughout upstate New York and Vermont be September 25, beginning in 2001, and that the September resident goose season framework dates in Rhode Island be extended from September 25 to September 30. The Council further recommended that the daily bag limit during September Canada goose seasons be increased to eight with no possession limit beginning with the 2001–02 hunting season.

The Upper-Region Regulations Committee of the Mississippi Flyway Council supported the development of comprehensive harvest management strategies for Canada geese throughout the Flyway that includes caution when expanding seasons impacting populations of concern as well as removing constraints when not warranted. The Lower-Region Regulations Committee of the Mississippi Flyway Council urged using caution in changing or expanding special goose seasons.

The Pacific Flyway Council recommended that the experimental portion (the period after September 15) of Northwest Oregon's September goose season related to the Pacific population of western Canada geese, be made operational.

Service Response: We support the framework changes in New York, Vermont, and Rhode Island, and approve operational status for the season in Oregon after September 15. However, we do not support the Atlantic Flyway's recommended bag limit increase from 5 to 8 for these special seasons. The requested increase is in conflict with the previously established criteria for special Canada goose seasons (August 29, 1995, **Federal Register** (60 FR 45020); bag and possession limits of 5 and 10, respectively). Additionally, this proposal did not gain support from the other Flyway Councils. We encourage further discussion within and among Councils regarding nationwide changes in bag limits. We also suggest that proposals of this nature be provided to the Service at the appropriate time during the review of the Environmental Impact Statement on management of resident Canada goose populations.

Regarding the Upper-and Lower-Region Regulation Committees' concern for cumulative impacts of special-season harvests on migrant Canada goose populations of concern, we are aware of the Committees' concern and are monitoring the harvests during these seasons.

B. Regular Seasons

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended the 2001 regular goose season opening date be as early as September 16 throughout Michigan and Wisconsin and September 15 in Missouri and Iowa.

The Pacific Flyway Council recommended that the flyway-wide prohibition of take of Aleutian Canada geese be removed since publication of the final rule removing this goose from the List of Endangered and Threatened Species. Existing special management areas in Alaska, Oregon, and California will remain closed to take of Canada geese until a population objective and harvest strategy are established by the Council, as indicated in the Flyway Management Plan.

Service Response: We support the earlier regular Canada goose season opening dates in Michigan and Wisconsin. Both States were granted exceptions to the general framework opening date several years ago to assist with the management of migrant populations of Canada geese.

We do not support the Mississippi Flyway recommendation for moving the opening date of the regular Canada goose season to September 15 in Missouri and Iowa. These extensions are intended to increase pressure on resident geese. Past experience has indicated that seasons during September 1–15 generally are effective at targeting resident geese, but later seasons can be comprised of a higher proportion of non-target goose stocks. Additionally,

we note that, under existing criteria for special Canada goose seasons, Missouri and Iowa have the option of holding seasons during September 1–15 without additional evaluation, or during September 16–30 with appropriate evaluations. We believe that these additional tools, which are already available to all States in the Flyway, should be used at the present time to address resident Canada goose impacts. We remain cautious regarding cumulative impacts of early seasons on some stocks of migrant geese. Furthermore, this change would require that regulations be promulgated during the early-season process, prior to the annual compilation of data on some migrant Canada goose populations; therefore these regulations could be inconsistent with goose population status.

During the period when Aleutians were listed as either threatened or endangered, Statewide closures were imposed in all Pacific Flyway Coastal States. Since de-listing has occurred, the proposal would eliminate the Statewide closure requirements, but retain all existing closure zones established to specifically protect Aleutian Canada geese. In effect, this would remove blanket restrictions that included areas not used or rarely used by Aleutians. We expect impacts to be negligible and support the simplification of Canada goose hunting regulations in these States.

9. Sandhill Cranes

Council Recommendations: The Central Flyway Council made a number of recommendations pertaining to sandhill cranes. The Council recommended that the sandhill crane open hunting area boundary be changed in Texas and North Dakota for 3 years beginning in the fall of 2001 and population status, harvest, and distribution be evaluated using existing population and harvest surveys. The new hunt area in Texas would include the Gulf Coast, south of Corpus Christi Bay and north of Lavaca Bay. In North Dakota, the hunt boundary would be extended eastward from US Highway 281 to the Minnesota border. Season length in these two new areas would be a maximum of 37 days, and the daily bag limit would be two birds.

The Central Flyway Council also recommended a 95-day hunting season on Mid-Continent Population (MCP) sandhill cranes and reinstatement of the option to split the season into no more than two segments for Texas and Oklahoma.

The Central and Pacific Flyway Councils recommended a change to the current New Mexico SW hunt boundary to include those portions of Grant and Hidalgo Counties south of Interstate 25. The Councils further recommended allowing New Mexico to conduct an experimental 3-year sandhill crane season in the Estancia Valley located in portions of Torrance, Santa Fe, and Bernalillo Counties following the guidelines outlined in the Pacific and Central Flyways Management Plan for the Rocky Mountain Population of Greater Sandhill Cranes.

Service Response: We support the requested change to the open hunting area boundary in Texas and North Dakota for 3 years. The season length in these two new areas would be a maximum of 37 days, and the daily bag limit would be two birds. This proposal represents several years of negotiation among Service and State biologists and also contains a compromise that will allow for expansion in hunting opportunity while providing for evaluation of the biological impacts.

We do not support the proposal for a 95-day hunting season on MCP sandhill cranes and reinstatement of the option to split the season into no more than two segments for Texas and Oklahoma. We understand that the additional 2 days in season length (93 to 95 days) would allow for a split to be used and maintain a Sunday closing for each segment. While we do not believe that the additional days or one split would significantly increase harvest, we are concerned that specific guidelines regarding the use of this option and biological impacts under various types of seasons have not been developed and incorporated into the harvest strategy for this population. Differential impacts and harvest characteristics with the use of the split season options on subspecies, season length, chronology, etc., are unknown.

We concur with the Councils' recommendations regarding New Mexico.

18. Alaska

Council Recommendations: The Pacific Flyway Council recommended modification of Alaska's tundra swan frameworks to: (1) Replace current harvest caps with maximum permit allowances (Unit 18—300, Unit 22—200, Unit 23—200); (2) make the swan season in Game Management Unit (GMU) 23 operational; and (3) establish a new experimental tundra swan season in GMU 17 (North Bristol Bay region). The new hunt would have a 61-day season from September 1–October 31; allow issuance of up to 200 registration permits; each permit to allow up to 3 swans per season; require reporting of hunter activity and harvest. The Council also recommended modification of Alaska's duck limit frameworks to include harlequin and long-tailed ducks in the special sea duck limit, with appropriate adjustment to retain current species limits.

Service Response: We concur with the recommendations. Regarding the recommended duck bag limits, we point out that this change will result in an overall reduction in bag limit for these two species and a simplification of regulations.

Public Comment Invited

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. We intend that adopted final rules be as responsive as possible to all concerned interests and, therefore, seek the comments and suggestions of the public, other concerned governmental agencies, nongovernmental organizations, and other private interests on these proposals. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations to the address indicated under the caption **ADDRESSES.**

Special circumstances involved in the establishment of these regulations limit the amount of time that we can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) The need to establish final rules at a point early enough in the summer to allow affected State agencies to adjust their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, we believe that to allow comment periods past the dates specified is contrary to the public interest.

Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments received. Such comments, and any additional information received, may lead to final regulations that differ from these proposals. You may inspect comments received on the proposed annual regulations during normal business hours at the Service's office in room 634, 4401 North Fairfax Drive, Arlington, Virginia. For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. However, as

in the past, we will summarize all comments received during the comment period and respond to them in the final rule.

NEPA Consideration

NEPA considerations are covered by the programmatic document, ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published a Notice of Availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). Copies are available from the address indicated under the caption **ADDRESSES.**

Endangered Species Act Consideration

Prior to issuance of the 2001–02 migratory game bird hunting regulations, we will consider provisions of the Endangered Species Act of 1973, as amended, (16 U.S.C. 1531–1543; hereinafter the Act) to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and that the proposed action is consistent with conservation programs for those species. Consultations under Section 7 of this Act may cause us to change proposals in this and future supplemental proposed rulemakings.

Executive Order (E.O.) 12866

While this individual supplemental rule was not reviewed by the Office of Management and Budget (OMB), the migratory bird hunting regulations are economically significant and are annually reviewed by OMB under E.O. 12866. E.O. 12866 requires each agency to write regulations that are easy to understand. We invite comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? What else could we do to make the rule easier to understand?

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail and issued a Small Entity Flexibility Analysis (Analysis) in 1998. The Analysis documented the significant beneficial economic effect on a substantial number of small entities. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The Analysis was based on the 1996 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $429 million and $1.084 billion at small businesses in 1998. Copies of the Analysis are available upon request from the address indicated under the caption **ADDRESSES.**

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808 (1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the Migratory Bird Harvest Information Program and assigned control number 1018–0015 (expires 09/30/2001). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Questionnaire and assigned control number 1018–0023 (expires 07/31/2003). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of harvest, and the portion it constitutes of the total population. A Federal 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.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not ''significantly or uniquely'' affect small governments, and will not produce a Federal mandate of $100 million or more in any given year on local or State government or private entities. Therefore, this proposed rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—E.O. 12988

The Department, in promulgating this proposed rule, has determined that this rule will not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988.

Energy Effects—E.O. 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211) on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As this supplemental proposed rule is not expected to significantly affect energy supplies, distribution, or use, this proposed action is not a significant energy action and no Statement of Energy Effects is required.

Takings Implication Assessment

In accordance with E.O. 12630, this proposed rule does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, this rule will allow hunters to exercise otherwise unavailable privileges, and, therefore, reduces restrictions on the use of private and public property.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections and employ

guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and Tribes to determine which seasons meet their individual needs. Any State or Tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with E.O. 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2001–02 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742a–j.

Dated: July 16, 2001.

Joseph E. Doddridge,

Acting Assistant Secretary for Fish and Wildlife and Parks.

Proposed Regulations Frameworks for 2001–02 Early Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department of the Interior approved the following proposed frameworks, which prescribe season lengths, bag limits, shooting hours, and outside dates within which States may select for certain migratory game birds between September 1, 2001, and March 10, 2002.

General

Dates: All outside dates noted below are inclusive.

Shooting and Hawking (taking by falconry) Hours: Unless otherwise specified, from one-half hour before sunrise to sunset daily.

Possession Limits: Unless otherwise specified, possession limits are twice the daily bag limit.

Flyways and Management Units

Waterfowl Flyways

Atlantic Flyway—includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Mississippi Flyway—includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

Central Flyway—includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

Pacific Flyway—includes Alaska, Arizona, California, Idaho, Nevada, Oregon, Utah, Washington, and those portions of Colorado, Montana, New Mexico, and Wyoming not included in the Central Flyway.

Management Units

Mourning Dove Management Units

Eastern Management Unit—All States east of the Mississippi River, and Louisiana.

Central Management Unit—Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Western Management Unit—Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

Woodcock Management Regions

Eastern Management Region—Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

Central Management Region—Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, and Wisconsin.

Other geographic descriptions are contained in a later portion of this document.

Compensatory Days in the Atlantic Flyway: In the Atlantic Flyway States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, North Carolina, Pennsylvania, and Virginia, where Sunday hunting is prohibited statewide by State law, all Sundays are closed to all take of migratory waterfowl (including mergansers and coots).

Special September Teal Season

Outside Dates: Between September 1 and September 30, an open season on all species of teal may be selected by the following States in areas delineated by State regulations:

Atlantic Flyway—Delaware, Florida, Georgia, Maryland, and Virginia. All seasons are experimental.

Mississippi Flyway—Alabama, Arkansas, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Ohio, and Tennessee.

Central Flyway—Colorado (part), Kansas, Nebraska (part), New Mexico (part), Oklahoma, and Texas. The season in Nebraska is experimental.

Hunting Seasons and Daily Bag Limits: Not to exceed 9 consecutive days in the Atlantic Flyway and 16 consecutive days in the Mississippi and Central Flyways, except in Nebraska where the season is not to exceed 9 consecutive days. The daily bag limit is 4 teal.

Shooting Hours:

Atlantic Flyway—One-half hour before sunrise to sunset except in Maryland, where the hours are from sunrise to sunset.

Mississippi and Central Flyways—One-half hour before sunrise to sunset, except in the States of Arkansas, Illinois, Indiana, Missouri, and Ohio, where the hours are from sunrise to sunset.

Special September Duck Seasons

Florida: In lieu of a special September teal season, a 5-consecutive-day season may be selected in September. The daily bag limit may not exceed 4 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks.

Kentucky and Tennessee: In lieu of a special September teal season, a 5-consecutive-day season may be selected in September. The daily bag limit may not exceed 4 teal and wood ducks in the aggregate, of which no more than 2 may be wood ducks.

Iowa: Iowa may hold up to 5 days of its regular duck hunting season in September. All ducks that are legal during the regular duck season may be taken during the September segment of the season. The September season segment may commence no earlier than the Saturday nearest September 20 (September 22). The daily bag and possession limits will be the same as

those in effect last year, but are subject to change during the late-season regulations process. The remainder of the regular duck season may not begin before October 10.

Special Youth Waterfowl Hunting Days

Outside Dates: States may select two consecutive days (hunting days in Atlantic Flyway States with compensatory days) per duck-hunting zone, designated as ''Youth Waterfowl Hunting Days,'' in addition to their regular duck seasons. The days must be held outside any regular duck season on a weekend, holidays, or other non-school days when youth hunters would have the maximum opportunity to participate. The days may be held up to 14 days before or after any regular duck-season frameworks or within any split of a regular duck season, or within any other open season on migratory birds.

Daily Bag Limits: The daily bag limit may include ducks, geese, mergansers, coots, moorhens, and gallinules and would be the same as that allowed in the regular season. Flyway species and area restrictions would remain in effect.

Shooting Hours: One-half hour before sunrise to sunset.

Participation Restrictions: Youth hunters must be 15 years of age or younger. In addition, an adult at least 18 years of age must accompany the youth hunter into the field. This adult could not duck hunt but may participate in other seasons that are open on the special youth day.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

Outside Dates: Between September 15 and January 20.

Hunting Seasons and Daily Bag Limits: Not to exceed 107 days, with a daily bag limit of 7, singly or in the aggregate of the listed sea-duck species, of which no more than 4 may be scoters.

Daily Bag Limits During the Regular Duck Season: Within the special sea duck areas, during the regular duck season in the Atlantic Flyway, States may choose to allow the above sea duck limits in addition to the limits applying to other ducks during the regular duck season. In all other areas, sea ducks may be taken only during the regular open season for ducks and are part of the regular duck season daily bag (not to exceed 4 scoters) and possession limits.

Areas: In all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, and New York; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in Delaware, Maryland, North Carolina and Virginia; and provided that any such areas have been described, delineated, and designated as special sea-duck hunting areas under the hunting regulations adopted by the respective States.

Special Early Canada Goose Seasons

Atlantic Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected for the Eastern Unit of Maryland and Delaware. Seasons not to exceed 20 days during September 1–20 may be selected for the Northeast Hunt Unit of North Carolina. Seasons not to exceed 30 days during September 1–30 may be selected by New Jersey. Seasons may not exceed 25 days during September 1–25 in the remainder of the Flyway, except Georgia and Florida, where the season is closed. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 5 Canada geese.

Experimental Seasons

Experimental Canada goose seasons of up to 25 days during September 1–25 may be selected by the Montezuma Region of New York, the Lake Champlain Region of New York and Vermont. Experimental seasons of up to 30 days during September 1–30 may be selected by New York (Long Island Zone), North Carolina (except in the Northeast Hunt Unit), and South Carolina. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Daily Bag Limits: Not to exceed 5 Canada geese.

Mississippi Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected, except in the Upper Peninsula in Michigan, where the season may not extend beyond September 10. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Experimental Seasons

An experimental Canada goose season of up to 7 consecutive days during September 16–22 may be selected by Minnesota, except in the Northwest Goose Zone. The daily bag limit may not exceed 5 Canada geese.

An experimental Canada goose season of up to 10 consecutive days during September 1–10 may be selected by Michigan for Huron, Saginaw, and Tuscola Counties, except that the Shiawassee National Wildlife Refuge, Shiawassee River State Game Area Refuge, and the Fish Point Wildlife Area Refuge will remain closed. The daily bag limit may not exceed 2 Canada geese.

Central Flyway

General Seasons

Canada goose seasons of up to 15 days during September 1–15 may be selected. The daily bag limit may not exceed 5 Canada geese. Areas open to the hunting of Canada geese must be described, delineated, and designated as such in each State's hunting regulations.

Experimental Seasons

An experimental Canada goose season of up to 14 consecutive days during September 16–29 may be selected by South Dakota. The daily bag limit may not exceed 5 Canada geese.

An experimental Canada goose season of up to 8 consecutive days during September 16–23 may be selected by Oklahoma. The daily bag limit may not exceed 5 Canada geese.

An experimental Canada goose season of up to 7 consecutive days during September 16–22 may be selected by North Dakota. The daily bag limit may not exceed 5 Canada geese.

Pacific Flyway

General Seasons

Wyoming may select an 8-day season on Canada geese between September 1–15. This season is subject to the following conditions:

1. Where applicable, the season must be concurrent with the September portion of the sandhill crane season.
2. All participants must have a valid State permit for the special season.
3. A daily bag limit of 3, with season and possession limits of 6 will apply to the special season.

Oregon may select a special Canada goose season of up to 15 days during the period September 1–15. In addition, in the NW goose management zone in Oregon, a 15-day season may be selected during the period September 1–20. Daily bag limits may not exceed 5 Canada geese.

Washington may select a special Canada goose season of up to 15 days during the period September 1–15. Daily bag limits may not exceed 5 Canada geese.

Idaho may select a 15-day season in the special East Canada Goose Zone, as described in State regulations, during the period September 1–15. All participants must have a valid State permit, and the total number of permits issued is not to exceed 110 for this zone. The daily bag limit is 2.

Idaho may select a 7-day Canada Goose Season during the period September 1–15 in Nez Perce County, with a bag limit of 4.

California may select a 9-day season in Humboldt County during the period September 1–15. The daily bag limit is 2.

Areas open to hunting of Canada geese in each State must be described, delineated, and designated as such in each State's hunting regulations.

Regular Goose Seasons

Regular goose seasons may open as early as September 16 in Wisconsin and Michigan. Season lengths, bag and possession limits, and other provisions will be established during the late-season regulations process.

Sandhill Cranes

Regular Seasons in the Central Flyway:

Outside Dates: Between September 1 and February 28.

Hunting Seasons: Seasons not to exceed 37 consecutive days may be selected in designated portions of North Dakota (Area 2) and Texas (Area 2). Seasons not to exceed 58 consecutive days may be selected in designated portions of the following States: Colorado, Kansas, Montana, North Dakota, South Dakota, and Wyoming. Seasons not to exceed 93 consecutive days may be selected in designated portions of the following States: New Mexico, Oklahoma, and Texas.

Daily Bag Limits: 3 sandhill cranes, except 2 sandhill cranes in designated portions of North Dakota (Area 2) and Texas (Area 2).

Permits: Each person participating in the regular sandhill crane seasons must have a valid Federal sandhill crane hunting permit and/or, in those States where a Federal sandhill crane permit is not issued, a State-issued Harvest Information Survey Program (HIP) certification for game bird hunting in their possession while hunting.

Special Seasons in the Central and Pacific Flyways:

Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming may select seasons for hunting sandhill cranes within the range of the Rocky Mountain Population (RMP) subject to the following conditions:

Outside Dates: Between September 1 and January 31.

Hunting Seasons: The season in any State or zone may not exceed 30 days.

Bag limits: Not to exceed 3 daily and 9 per season.

Permits: Participants must have a valid permit, issued by the appropriate State, in their possession while hunting.

Other provisions: Numbers of permits, open areas, season dates, protection plans for other species, and other provisions of seasons must be consistent with the management plan and approved by the Central and Pacific Flyway Councils with the following exceptions:

1. In Utah, the requirement for monitoring the racial composition of the harvest in the experimental season is waived, and 100 percent of the harvest will be assigned to the RMP quota;

2. In Arizona, the annual requirement for monitoring the racial composition of the harvest is changed to once every 3 years.

3. In Idaho, seasons are experimental, and the requirement for monitoring the racial composition of the harvest is waived; 100 percent of the harvest will be assigned to the RMP quota; and

4. In New Mexico, the season in the Estancia Valley is experimental, with a requirement to monitor the level and racial composition of the harvest; greater sandhill cranes in the harvest will be assigned to the RMP quota.

Common Moorhens and Purple Gallinules

Outside Dates: Between September 1 and January 20 in the Atlantic Flyway, and between September 1 and the Sunday nearest January 20 (January 20) in the Mississippi and Central Flyways. States in the Pacific Flyway have been allowed to select their hunting seasons between the outside dates for the season on ducks; therefore, they are late-season frameworks, and no frameworks are provided in this document.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 70 days in the Atlantic, Mississippi, and Central Flyways. Seasons may be split into 2 segments. The daily bag limit is 15 common moorhens and purple gallinules, singly or in the aggregate of the two species.

Rails

Outside Dates: States included herein may select seasons between September 1 and January 20 on clapper, king, sora, and Virginia rails.

Hunting Seasons: The season may not exceed 70 days, and may be split into 2 segments.

Daily Bag Limits:

Clapper and King Rails—In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, 10, singly or in the aggregate of the two species. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, and Virginia, 15, singly or in the aggregate of the two species.

Sora and Virginia Rails—In the Atlantic, Mississippi, and Central Flyways and the Pacific-Flyway portions of Colorado, Montana, New Mexico, and Wyoming, 25 daily and 25 in possession, singly or in the aggregate of the two species. The season is closed in the remainder of the Pacific Flyway.

Common Snipe

Outside Dates: Between September 1 and February 28, except in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia, where the season must end no later than January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 107 days and may be split into two segments. The daily bag limit is 8 snipe.

American Woodcock

Outside Dates: States in the Eastern Management Region may select hunting seasons between October 6 and January 31. States in the Central Management Region may select hunting seasons between the Saturday nearest September 22 (September 22) and January 31.

Hunting Seasons and Daily Bag Limits: Seasons may not exceed 30 days in the Eastern Region and 45 days in the Central Region. The daily bag limit is 3. Seasons may be split into two segments.

Zoning: New Jersey may select seasons in each of two zones. The season in each zone may not exceed 24 days.

Band-Tailed Pigeons

Pacific Coast States (California, Oregon, Washington, and Nevada)

Outside Dates: Between September 15 and January 1.

Hunting Seasons and Daily Bag Limits: Not more than 9 consecutive days, with a daily bag limit of 2 band-tailed pigeons.

Zoning: California may select hunting seasons not to exceed 9 consecutive days in each of two zones. The season in the North Zone must close by October 3.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

Outside Dates: Between September 1 and November 30.

Hunting Seasons and Daily Bag Limits: Not more than 30 consecutive days, with a daily bag limit of 5 band-tailed pigeons.

Zoning: New Mexico may select hunting seasons not to exceed 20 consecutive days in each of two zones. The season in the South Zone may not open until October 1.

Mourning Doves

Outside Dates: Between September 1 and January 15, except as otherwise provided, States may select hunting seasons and daily bag limits as follows:

Eastern Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. The hunting seasons in the South Zones of Alabama, Florida, Georgia, Louisiana, and Mississippi may commence no earlier than September 20. Regulations for bag and possession limits, season length, and shooting hours must be uniform within specific hunting zones.

Central Management Unit

Hunting Seasons and Daily Bag Limits: Not more than 70 days with a daily bag limit of 12, or not more than 60 days with a daily bag limit of 15.

Zoning and Split Seasons: States may select hunting seasons in each of two zones. The season within each zone may be split into not more than three periods. Texas may select hunting seasons for each of three zones subject to the following conditions:

A. The hunting season may be split into not more than two periods, except in that portion of Texas in which the special white-winged dove season is allowed, where a limited mourning dove season may be held concurrently with that special season (see white-winged dove frameworks).

B. A season may be selected for the North and Central Zones between September 1 and January 25; and for the South Zone between September 20 and January 25.

C. Each zone may have a daily bag limit of 12 doves (15 under the alternative) in the aggregate, no more than 2 of which may be white-tipped doves, except that during the special white-winged dove season, the daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

D. Except as noted above, regulations for bag and possession limits, season length, and shooting hours must be uniform within each hunting zone.

Western Management Unit

Hunting Seasons and Daily Bag Limits: Idaho, Nevada, Oregon, Utah, and Washington—Not more than 30 consecutive days with a daily bag limit of 10 mourning doves (in Nevada, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate).

Arizona and California—Not more than 60 days, which may be split between two periods, September 1–15 and November 1-January 15. In Arizona, during the first segment of the season, the daily bag limit is 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves. During the remainder of the season, the daily bag limit is restricted to 10 mourning doves. In California, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

White-Winged and White-Tipped Doves

Hunting Seasons and Daily Bag Limits:

Except as shown below, seasons in Arizona, California, Florida, Nevada, New Mexico, and Texas must be concurrent with mourning dove seasons.

Arizona may select a hunting season of not more than 30 consecutive days, running concurrently with the first segment of the mourning dove season. The daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate, of which no more than 6 may be white-winged doves.

In Florida, the daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative) in the aggregate, of which no more than 4 may be white-winged doves.

In the Nevada Counties of Clark and Nye, and in the California Counties of Imperial, Riverside, and San Bernardino, the daily bag limit may not exceed 10 mourning and white-winged doves in the aggregate.

In New Mexico, the daily bag limit may not exceed 12 mourning and white-winged doves (15 under the alternative) in the aggregate.

In Texas, the daily bag limit may not exceed 12 doves (15 under the alternative) in the aggregate, of which not more than 2 may be white-tipped doves.

In addition, Texas may also select a hunting season of not more than 4 days for the special white-winged dove area of the South Zone between September 1 and September 19. The daily bag limit may not exceed 10 white-winged, mourning, and white-tipped doves in the aggregate, of which no more than 5 may be mourning doves and 2 may be white-tipped doves.

Alaska

Outside Dates: Between September 1 and January 26.

Hunting Seasons: Alaska may select 107 consecutive days for waterfowl, sandhill cranes, and common snipe in each of five zones. The season may be split without penalty in the Kodiak Zone. The seasons in each zone must be concurrent.

Closures: The season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain. The hunting season is closed on emperor geese, spectacled eiders, and Steller's eiders.

Daily Bag and Possession Limits:

Ducks—Except as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone, they are 8 and 24, respectively. The basic limits may include no more than 1 canvasback daily and 3 in possession and may not include sea ducks.

In addition to the basic duck limits, Alaska may select sea duck limits of 10 daily, 20 in possession, singly or in the aggregate, including no more than 6 each of either harlequin or long-tailed ducks. Sea ducks include scoters, common and king eiders, harlequin ducks, long-tailed ducks, and common and red-breasted mergansers.

Light Geese—A basic daily bag limit of 3 and a possession limit of 6.

Dark Geese—A basic daily bag limit of 4 and a possession limit of 8.

Dark-goose seasons are subject to the following exceptions:

1. In Units 5 and 6, the taking of Canada geese is permitted from September 28 through December 16. A special, permit-only Canada goose season may be offered on Middleton Island. No more than 10 permits can be issued. A mandatory goose identification class is required. Hunters must check-in and check-out. Bag limit of 1 daily and 1 in possession. Season to close if incidental harvest includes 5 dusky Canada geese. A dusky Canada goose is any dark-breasted Canada goose (Munsell 10 YR color value five or less) with a bill length between 40 and 50 millimeters.

2. In Unit 10 (except Unimak Island), the taking of Canada geese is prohibited.

3. In Unit 9(D) and the Unimak Island portion of Unit 10, the limits for dark geese are 6 daily and 12 in possession.

Brant—A daily bag limit of 2.

Common snipe—A daily bag limit of 8.

Sandhill cranes—Bag and possession limits of 2 and 4, respectively, in the Southeast, Gulf Coast, Kodiak, and Aleutian Zones, and Unit 17 in the Northern Zone. In the remainder of the Northern Zone (outside Unit 17), bag and possession limits of 3 and 6, respectively.

Tundra Swans—Open seasons for tundra swans may be selected subject to the following conditions:

1. All seasons are by registration permit only.

2. All season framework dates are September 1–October 31.

3. In Game Management Unit (GMU) 17, an experimental season may be selected. No more than 200 permits may be issued for this during the experimental season. No more than 3 tundra swans may be authorized per permit with no more than 1 permit issued per hunter per season. An evaluation of the season must be completed, adhering to the guidelines for experimental seasons as described in the Pacific Flyway Management Plan for the Western Population of (Tundra) Swans.

4. In Game Management Unit (GMU) 18, no more than 500 permits may be issued during the operational season. Up to 3 tundra swans may be authorized per permit. No more than 1 permit may be issued per hunter per season.

5. In GMU 22, no more than 300 permits may be issued during the operational season. Each permittee may be authorized to take up to 3 tundra swan per permit. No more than 1 permit may be issued per hunter per season.

6. In GMU 23, no more than 300 permits may be issued during the operational season. No more than 3 tundra swans may be authorized per permit with no more than 1 permit issued per hunter per season.

Hawaii

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 65 days (75 under the alternative) for mourning doves.

Bag Limits: Not to exceed 15 (12 under the alternative) mourning doves.

Note: Mourning doves may be taken in Hawaii in accordance with shooting hours and other regulations set by the State of Hawaii, and subject to the applicable provisions of 50 CFR part 20.

Puerto Rico

Doves and Pigeons:

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida, mourning, and white-winged doves in the aggregate. Not to exceed 5 scaly-naped pigeons.

Closed Areas: There is no open season on doves or pigeons in the following areas: Municipality of Culebra, Desecheo Island, Mona Island, El Verde Closure Area, and Cidra Municipality and adjacent areas.

Ducks, Coots, Moorhens, Gallinules, and Snipe:

Outside Dates: Between October 1 and January 31.

Hunting Seasons: Not more than 55 days may be selected for hunting ducks, common moorhens, and common snipe. The season may be split into two segments.

Daily Bag Limits:

Ducks—Not to exceed 6.

Common moorhens—Not to exceed 6.

Common snipe—Not to exceed 8.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck, which are protected by the Commonwealth of Puerto Rico. The season also is closed on the purple gallinule, American coot, and Caribbean coot.

Closed Areas: There is no open season on ducks, common moorhens, and common snipe in the Municipality of Culebra and on Desecheo Island.

Virgin Islands

Doves and Pigeons:

Outside Dates: Between September 1 and January 15.

Hunting Seasons: Not more than 60 days for Zenaida doves.

Daily Bag and Possession Limits: Not to exceed 10 Zenaida doves.

Closed Seasons: No open season is prescribed for ground or quail doves, or pigeons in the Virgin Islands.

Closed Areas: There is no open season for migratory game birds on Ruth Cay (just south of St. Croix).

Local Names for Certain Birds: Zenaida dove, also known as mountain dove; bridled quail-dove, also known as Barbary dove or partridge; Common ground-dove, also known as stone dove, tobacco dove, rola, or tortolita; scaly-naped pigeon, also known as red-necked or scaled pigeon.

Ducks

Outside Dates: Between December 1 and January 31.

Hunting Seasons: Not more than 55 consecutive days.

Daily Bag Limits: Not to exceed 6.

Closed Seasons: The season is closed on the ruddy duck, white-cheeked pintail, West Indian whistling duck, fulvous whistling duck, and masked duck.

Special Falconry Regulations

Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season for taking migratory game birds in accordance with the following:

Extended Seasons: For all hunting methods combined, the combined length of the extended season, regular season, and any special or experimental seasons shall not exceed 107 days for any species or group of species in a geographical area. Each extended season may be divided into a maximum of 3 segments.

Framework Dates: Seasons must fall between September 1 and March 10.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during extended falconry seasons, any special or experimental seasons, and regular hunting seasons in all States, including those that do not select an extended falconry season.

Regular Seasons: General hunting regulations, including seasons and hunting hours, apply to falconry in each State listed in 50 CFR 21.29(k). Regular-season bag and possession limits do not apply to falconry. The falconry bag limit is not in addition to gun limits.

Area, Unit, and Zone Descriptions

Mourning and White-Winged Doves

Alabama

South Zone—Baldwin, Barbour, Coffee, Conecuh, Covington, Dale, Escambia, Geneva, Henry, Houston, and Mobile Counties.

North Zone—Remainder of the State.

California

White-winged Dove Open Areas—Imperial, Riverside, and San Bernardino Counties.

Florida

Northwest Zone—The Counties of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Okaloosa, Santa Rosa, Walton, Washington, Leon (except that portion north of U.S. 27 and east of State Road 155), Jefferson (south of U.S. 27, west of

State Road 59 and north of U.S. 98), and Wakulla (except that portion south of U.S. 98 and east of the St. Marks River).

South Zone—Remainder of State.

Georgia

Northern Zone—That portion of the State lying north of a line running west to east along U.S. Highway 280 from Columbus to Wilcox County, thence southward along the western border of Wilcox County; thence east along the southern border of Wilcox County to the Ocmulgee River, thence north along the Ocmulgee River to Highway 280, thence east along Highway 280 to the Little Ocmulgee River; thence southward along the Little Ocmulgee River to the Ocmulgee River; thence southwesterly along the Ocmulgee River to the western border of Jeff Davis County; thence south along the western border of Jeff Davis County; thence east along the southern border of Jeff Davis and Appling Counties; thence north along the eastern border of Appling County, to the Altamaha River; thence east to the eastern border of Tattnall County; thence north along the eastern border of Tattnall County; thence north along the western border of Evans to Candler County; thence east along the northern border of Evans County to U.S. Highway 301; thence northeast along U.S. Highway 301 to the South Carolina line.

South Zone—Remainder of the State.

Louisiana

North Zone—That portion of the State north of Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell and Interstate Highway 10 from Slidell to the Mississippi State line.

South Zone—The remainder of the State.

Nevada

White-winged Dove Open Areas—Clark and Nye Counties.

Texas

North Zone—That portion of the State north of a line beginning at the International Bridge south of Fort Hancock; north along FM 1088 to TX 20; west along TX 20 to TX 148; north along TX 148 to I–10 at Fort Hancock; east along I–10 to I–20; northeast along I–20 to I–30 at Fort Worth; northeast along I–30 to the Texas-Arkansas State line.

South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to San Antonio; then east on I–10 to Orange, Texas.

Special White-winged Dove Area in the South Zone—That portion of the State south and west of a line beginning at the International Bridge south of Del Rio, proceeding east on U.S. 90 to Uvalde; south on U.S. 83 to TX 44; east along TX 44 to TX 16 at Freer; south along TX 16 to TX 285 at Hebbronville; east along TX 285 to FM 1017; southwest along FM 1017 to TX 186 at Linn; east along TX 186 to the Mansfield Channel at Port Mansfield; east along the Mansfield Channel to the Gulf of Mexico.

Area with additional restrictions—Cameron, Hidalgo, Starr, and Willacy Counties.

Central Zone—That portion of the State lying between the North and South Zones.

Band-Tailed Pigeons

California

North Zone—Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity Counties.

South Zone—The remainder of the State.

New Mexico

North Zone—North of a line following U.S. 60 from the Arizona State line east to I–25 at Socorro and then south along I–25 from Socorro to the Texas State line.

South Zone—Remainder of the State.

Washington

Western Washington—The State of Washington excluding those portions lying east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Woodcock

New Jersey

North Zone—That portion of the State north of NJ 70.

South Zone—The remainder of the State.

Special September Canada Goose Seasons

Atlantic Flyway

Connecticut

North Zone—That portion of the State north of I–95.

Maryland

Eastern Unit—Anne Arundel, Calvert, Caroline, Cecil, Charles, Dorchester, Harford, Kent, Queen Anne's, St. Mary's, Somerset, Talbot, Wicomico, and Worcester Counties, and those portions of Baltimore, Howard, and Prince George's Counties east of I–95.

Western Unit—Allegany, Carroll, Frederick, Garrett, Montgomery, and Washington Counties, and those portions of Baltimore, Howard, and Prince George's Counties west of I–95.

Massachusetts

Western Zone—That portion of the State west of a line extending south from the Vermont border on I–91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut border.

Central Zone—That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire border on I–95 to U.S. 1, south on U.S. 1 to I–93, south on I–93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I–195, west to the Rhode Island border; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone—That portion of Massachusetts east and south of the Central Zone.

New York

Lake Champlain Zone—The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone—That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone—That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border, except for the Montezuma Zone.

Montezuma Zone—Those portions of Cayuga, Seneca, Ontario, Wayne, and Oswego Counties north of U.S. Route 20, east of NYS Route 14, south of NYS Route 104, and west of NYS Route 34.

Northeastern Zone—That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the

Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone—The remaining portion of New York.

North Carolina

Northeast Hunt Unit—Counties of Bertie, Camden, Chowan, Currituck, Dare, Hyde, Pasquotank, Perquimans, Tyrrell, and Washington.

South Carolina

Early-season Hunt Unit—Clarendon County and those portions of Orangeburg County north of SC Highway 6 and Berkeley County north of SC Highway 45 from the Orangeburg County line to the junction of SC Highway 45 and State Road S–8–31 and west of the Santee Dam.

Vermont

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to the Canadian border.

Interior Zone: The remaining portion of Vermont.

Mississippi Flyway

Illinois

Northeast Canada Goose Zone—Cook, Du Page, Grundy, Kane, Kankakee, Kendall, Lake, McHenry, and Will Counties.

North Zone: That portion of the State outside the Northeast Canada Goose Zone and north of a line extending east from the Iowa border along Illinois Highway 92 to Interstate Highway 280, east along I–280 to I–80, then east along I–80 to the Indiana border.

Central Zone: That portion of the State outside the Northeast Canada Goose Zone and south of the North Zone to a line extending east from the Missouri border along the Modoc Ferry route to Modoc Ferry Road, east along Modoc Ferry Road to Modoc Road, northeasterly along Modoc Road and St. Leo's Road to Illinois Highway 3, north along Illinois 3 to Illinois 159, north along Illinois 159 to Illinois 161, east along Illinois 161 to Illinois 4, north along Illinois 4 to Interstate Highway 70, east along I–70 to the Bond County line, north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to I–70, then east along I–70 to the Indiana border.

South Zone: The remainder of Illinois.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of, Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, east along U.S. 10 BR to U.S. 10, east along U.S. 10 to Interstate Highway 75/U.S. Highway 23, north along I–75/U.S. 23 to the U.S. 23 exit at Standish, east along U.S. 23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canada border.

South Zone: The remainder of Michigan.

Minnesota

Twin Cities Metropolitan Canada Goose Zone—

A. All of Hennepin and Ramsey Counties.

B. In Anoka County, all of Columbus Township lying south of County State Aid Highway (CSAH) 18, Anoka County; all of the cities of Ramsey, Andover, Anoka, Coon Rapids, Spring Lake Park, Fridley, Hilltop, Columbia Heights, Blaine, Lexington, Circle Pines, Lino Lakes, and Centerville; and all of the city of Ham Lake except that portion lying north of CSAH 18 and east of U.S. Highway 65.

C. That part of Carver County lying north and east of the following described line: Beginning at the northeast corner of San Francisco Township; thence west along the north boundary of San Francisco Township to the east boundary of Dahlgren Township; thence north along the east boundary of Dahlgren Township to U.S. Highway 212; thence west along U.S. Highway 212 to State Trunk Highway (STH) 284; thence north on STH 284 to County State Aid Highway (CSAH) 10; thence north and west on CSAH 10 to CSAH 30; thence north and west on CSAH 30 to STH 25; thence east and north on STH 25 to CSAH 10; thence north on CSAH 10 to the Carver County line.

D. In Scott County, all of the cities of Shakopee, Savage, Prior Lake, and Jordan, and all of the Townships of Jackson, Louisville, St. Lawrence, Sand Creek, Spring Lake, and Credit River.

E. In Dakota County, all of the cities of Burnsville, Eagan, Mendota Heights, Mendota, Sunfish Lake, Inver Grove Heights, Apple Valley, Lakeville, Rosemount, Farmington, Hastings, Lilydale, West St. Paul, and South St. Paul, and all of the Township of Nininger.

F. That portion of Washington County lying south of the following described line: Beginning at County State Aid Highway (CSAH) 2 on the west boundary of the county; thence east on CSAH 2 to U.S. Highway 61; thence south on U.S. Highway 61 to State Trunk Highway (STH) 97; thence east on STH 97 to the intersection of STH 97 and STH 95; thence due east to the east boundary of the State.

Northwest Goose Zone—That portion of the State encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

Southeast Goose Zone—That part of the State within the following described boundaries: beginning at the intersection of U.S. Highway 52 and the south boundary of the Twin Cities Metro Canada Goose Zone; thence along the U.S. Highway 52 to State Trunk Highway (STH) 57; thence along STH 57 to the municipal boundary of Kasson; thence along the municipal boundary of Kasson County State Aid Highway (CSAH) 13, Dodge County; thence along CSAH 13 to STH 30; thence along STH 30 to U.S. Highway 63; thence along U.S. Highway 63 to the south boundary of the State; thence along the south and east boundaries of the State to the south boundary of the Twin Cities Metro Canada Goose Zone; thence along said boundary to the point of beginning.

Five Goose Zone—That portion of the State not included in the Twin Cities

Metropolitan Canada Goose Zone, the Northwest Goose Zone, or the Southeast Goose Zone.

West Zone—That portion of the State encompassed by a line beginning at the junction of State Trunk Highway (STH) 60 and the Iowa border, then north and east along STH 60 to U.S. Highway 71, north along U.S. 71 to Interstate Highway 94, then north and west along I–94 to the North Dakota border.

Tennessee

Middle Tennessee Zone—Those portions of Houston, Humphreys, Montgomery, Perry, and Wayne Counties east of State Highway 13; and Bedford, Cannon, Cheatham, Coffee, Davidson, Dickson, Franklin, Giles, Hickman, Lawrence, Lewis, Lincoln, Macon, Marshall, Maury, Moore, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, and Wilson Counties.

East Tennessee Zone—Anderson, Bledsoe, Bradley, Blount, Campbell, Carter, Claiborne, Clay, Cocke, Cumberland, DeKalb, Fentress, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, Marion, McMinn, Meigs, Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren, Warren, Washington , and White Counties.

Wisconsin

Early-Season Subzone A—That portion of the State encompassed by a line beginning at the intersection of U.S. Highway 141 and the Michigan border near Niagara, then south along U.S. 141 to State Highway 22, west and southwest along State 22 to U.S. 45, south along U.S. 45 to State 22, west and south along State 22 to State 110, south along State 110 to U.S. 10, south along U.S. 10 to State 49, south along State 49 to State 23, west along State 23 to State 73, south along State 73 to State 60, west along State 60 to State 23, south along State 23 to State 11, east along State 11 to State 78, then south along State 78 to the Illinois border.

Early-Season Subzone B—The remainder of the State.

Central Flyway

Kansas

September Canada Goose Kansas City/Topeka Unit—That part of Kansas bounded by a line from the Kansas-Missouri State line west on K–68 to its junction with K–33, then north on K–33 to its junction with US–56, then west on US–56 to its junction with K–31, then west-northwest on K–31 to its junction with K–99, then north on K–99 to its junction with US–24, then east on US–24 to its junction with K–63, then north on K–63 to its junction with K–16, then east on K–16 to its junction with K–116, then east on K–116 to its junction with US–59, then northeast on US–59 to its junction with the Kansas-Missouri line, then south on the Kansas-Missouri line to its junction with K–68.

September Canada Goose Wichita Unit—That part of Kansas bounded by a line from I–135 west on US 50 to its junction with Burmac Road, then south on Burmac Road to its junction with 279 Street West (Sedgwick/Harvey County line), then south on 279 Street West to its junction with K–96, then east on K–96 to its junction with K–296, then south on K–296 to its junction with 247 Street West, then south on 247 Street West to its junction with US–54, then west on US–54 to its junction with 263 Street West, then south on 263 Street West to its junction with K–49, then south on K–49 to its junction with 90 Avenue North, then east on 90 Avenue North to its junction with KS–55, then east on KS–55 to its junction with KS–15, then east on KS–15 to its junction with US–77, then north on US–77 to its junction with Ohio Street, then north on Ohio to its junction with KS–254, then east on KS–254 to its junction with KS–196, then northwest on KS–196 to its junction with I–135, then north on I–135 to its junction with US–50.

South Dakota

September Canada Goose North Unit—Clark, Codington, Day, Deuel, Grant, Hamlin, Marshall, and Roberts County.

September Canada Goose South Unit—Beadle, Brookings, Hanson, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, and Turner Counties,

Pacific Flyway

Idaho

East Zone—Bonneville, Caribou, Fremont, and Teton Counties.

Oregon

Northwest Zone—Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Multnomah, Tillamook, Washington, and Yamhill Counties.

Southwest Zone—Coos, Curry, Douglas, Jackson, Josephine, and Klamath Counties.

East Zone—Baker, Gilliam, Malheur, Morrow, Sherman, Umatilla, Union, and Wasco Counties.

Washington

Area 1—Skagit, Island, and Snohomish Counties.

Area 2A (SW Quota Zone)—Clark County, except portions south of the Washougal River; Cowlitz, and Wahkiakum counties.

Area 2B (SW Quota Zone)—Pacific and Grays Harbor counties.

Area 3—All areas west of the Pacific Crest Trail and west of the Big White Salmon River which are not included in Areas 1, 2A and 2B.

Area 4—Adams, Benton, Chelan, Douglas, Franklin, Grant, Kittitas, Lincoln, Okanogan, Spokane, and Walla Walla Counties.

Area 5—All areas east of the Pacific Crest Trail and east of the Big White Salmon River which are not included in Area 4.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Farson-Eden Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

Teton Area—Those portions of Teton County described in State regulations.

Bridger Valley Area—The area described as the Bridger Valley Hunt Unit in State regulations.

Ducks

Atlantic Flyway

New York

Lake Champlain Zone: The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

Long Island Zone: That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I–95, and their tidal waters.

Western Zone: That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, and south along I–81 to the Pennsylvania border.

Northeastern Zone: That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I–81, south along I–81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I–87, north along I–87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the

Vermont border, exclusive of the Lake Champlain Zone.

Southeastern Zone: The remaining portion of New York.

Mississippi Flyway

Indiana

North Zone: That portion of the State north of a line extending east from the Illinois border along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio border.

Ohio River Zone: That portion of the State south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, east along State Road 62 to State 56, east along State 56 to Vevay, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border.

South Zone: That portion of the State between the North and Ohio River Zone boundaries.

Iowa

North Zone: That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I–80 to the Illinois border.

South Zone: The remainder of Iowa.

Central Flyway

Colorado

Special Teal Season Area: Lake and Chaffee Counties and that portion of the State east of a line extending east from the Wyoming border, south along U.S. 85 to I–76, south along I–76 to I–25, south along I–25 to the New Mexico border.

Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That portion of the State east of the High Plains Zone and west of a line extending south from the Nebraska border along KS 28 to U.S. 36, east along U.S. 36 to KS 199, south along KS 199 to Republic County Road 563, south along Republic County Road 563 to KS 148, east along KS 148 to Republic County Road 138, south along Republic County Road 138 to Cloud County Road 765, south along Cloud County Road 765 to KS 9, west along KS 9 to U.S. 24, west along U.S. 24 to U.S. 281, north along U.S. 281 to U.S. 36, west along U.S. 36 to U.S. 183, south along U.S. 183 to U.S. 24, west along U.S. 24 to KS 18, southeast along KS 18 to U.S. 183, south along U.S. 183 to KS 4, east along KS 4 to I–135, south along I–135 to KS 61, southwest along KS 61 to KS 96, northwest on KS 96 to U.S. 56, west along U.S. 56 to U.S. 281, south along U.S. 281 to U.S. 54, then west along U.S. 54 to U.S. 283.

Low Plains Late Zone: The remainder of Kansas.

Nebraska

Special Teal Season Area: That portion of the State south of a line beginning at the Wyoming State line; east along U.S. 26 to Nebraska Highway L62A; east to U.S. 385; south to U.S. 26; east to NE 92; east along NE 92 to NE 61; south along NE 61 to U.S. 30; east along U.S. 30 to the Iowa border.

New Mexico (Central Flyway Portion)

North Zone: That portion of the State north of I–40 and U.S. 54.

South Zone: The remainder of New Mexico.

Pacific Flyway

California

Northeastern Zone: That portion of the State east and north of a line beginning at the Oregon border; south and west along the Klamath River to the mouth of Shovel Creek; south along Shovel Creek to Forest Service Road 46N10; south and east along FS 46N10 to FS 45N22; west and south along FS 45N22 to U.S. 97 at Grass Lake Summit; south and west along U.S. 97 to I–5 at the town of Weed; south along I–5 to CA 89; east and south along CA 89 to the junction with CA 49; east and north on CA 49 to CA 70; east on CA 70 to U.S. 395; south and east on U.S. 395 to the Nevada border.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as ''Aqueduct Road'' in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the ''Desert Center to Rice Road'' to the town of Desert Center; east 31 miles on I–10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east 7 miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I–15; east on I–15 to CA 127; north on CA 127 to the Nevada border.

Southern San Joaquin Valley Temporary Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and Colorado River Zones, and the Southern San Joaquin Valley Temporary Zone.

Canada Geese

Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of, Stony Creek to Scenic Drive, easterly and southerly along Scenic Drive to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, east along U.S. 10 BR to U.S. 10, east along U.S. 10 to Interstate Highway 75/U.S. Highway 23, north along I–75/U.S. 23 to the U.S. 23 exit at Standish, east along U.S. 23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canada border.

South Zone: The remainder of Michigan.

Sandhill Cranes

Central Flyway

Colorado—The Central Flyway portion of the State except the San Luis Valley (Alamosa, Conejos, Costilla, Hinsdale, Mineral, Rio Grande, and Saguache Counties east of the Continental Divide) and North Park (Jackson County).

Kansas—That portion of the State west of a line beginning at the Oklahoma border, north on I–35 to Wichita, north on I–135 to Salina, and north on U.S. 81 to the Nebraska border.

New Mexico

Regular-Season Open Area—Chaves, Curry, De Baca, Eddy, Lea, Quay, and Roosevelt Counties.

Middle Rio Grande Valley Area—The Central Flyway portion of New Mexico in Socorro and Valencia Counties.

Estancia Valley Area—Those portions of Santa Fe, Torrance and Bernallilo Counties within an area bounded on the west by New Mexico Highway 55 beginning at Mountainair north to NM 337, north to NM 14, north to I–25; on the north by I–25 east to U.S. 285; on the east by U.S. 285 south to U.S. 60; and on the south by U.S. 60 from U.S. 285 west to NM 55 in Mountainair.

Southwest Zone—Sierra, Luna, Dona Ana Counties, and those portions of Grant and Hidalgo Counties south of I–25.

Oklahoma—That portion of the State west of I–35.

Texas

Area 1—That portion of the State west of a line beginning at the International Bridge at Laredo, north along I–35 to the Oklahoma border.

Area 2—That portion of the State east and south of a line from the International Bridge at Laredo northerly along I–35 to U.S. 290; southeasterly along U.S. 290 to I–45; south and east on I–45 to State Highway 87, south and east on TX 87 to the channel in the Gulf of Mexico between Galveston and Point Bolivar; EXCEPT: That portion of the State lying within the area bounded by the Corpus Christi Bay Causeway on U.S. 181 at Portland; north and west on U.S. 181 to U.S. 77 at Sinton; north and east along U.S. 77 to U.S. 87 at Victoria; east and south along U.S. 87 to Texas Highway 35; north and east on TX 35 to the west end of the Lavaca Bay Bridge; then south and east along the west shoreline of Lavaca Bay and Matagorda Island to the Gulf of Mexico; then south and west along the shoreline of the Gulf of Mexico to the Corpus Christi Bay Causeway.

North Dakota

Area 1—That portion of the State west of U.S. 281.

Area 2—That portion of the State east of U.S. 281.

South Dakota—That portion of the State west of U.S. 281.

Montana—The Central Flyway portion of the State except that area south of I–90 and west of the Bighorn River.

Wyoming

Regular-Season Open Area—Campbell, Converse, Crook, Goshen, Laramie, Niobrara, Platte, and Weston Counties.

Riverton-Boysen Unit—Portions of Fremont County.

Park and Big Horn County Unit—Portions of Park and Big Horn Counties.

Pacific Flyway

Arizona

Special-Season Area—Game Management Units 30A, 30B, 31, and 32.

Montana

Special-Season Area—See State regulations.

Utah

Special-Season Area—Rich and Cache Counties and that portion of Box Elder County beginning on the Utah-Idaho State line at the Box Elder-Cache County line; west on the State line to the Pocatello Valley County Road; south on the Pocatello Valley County Road to I–15; southeast on I–15 to SR–83; south on SR–83 to Lamp Junction; west and south on the Promontory Point County Road to the tip of Promontory Point; south from Promontory Point to the Box Elder-Weber County line; east on the Box Elder-Weber County line to the Box Elder-Cache County line; north on the Box Elder-Cache County line to the Utah-Idaho State line.

Wyoming

Bear River Area—That portion of Lincoln County described in State regulations.

Salt River Area—That portion of Lincoln County described in State regulations.

Eden-Farson Area—Those portions of Sweetwater and Sublette Counties described in State regulations.

All Migratory Game Birds in Alaska

North Zone—State Game Management Units 11–13 and 17–26.

Gulf Coast Zone—State Game Management Units 5–7, 9, 14–16, and 10 (Unimak Island only).

Southeast Zone—State Game Management Units 1–4.

Pribilof and Aleutian Islands Zone—State Game Management Unit 10 (except Unimak Island).

Kodiak Zone—State Game Management Unit 8.

All Migratory Birds in the Virgin Islands

Ruth Cay Closure Area—The island of Ruth Cay, just south of St. Croix.

All Migratory Birds in Puerto Rico

Municipality of Culebra Closure Area—All of the municipality of Culebra.

Desecheo Island Closure Area—All of Desecheo Island.

Mona Island Closure Area—All of Mona Island.

El Verde Closure Area—Those areas of the municipalities of Rio Grande and Loiza delineated as follows: (1) All lands between Routes 956 on the west and 186 on the east, from Route 3 on the north to the juncture of Routes 956 and 186 (Km 13.2) in the south; (2) all lands between Routes 186 and 966 from the juncture of 186 and 966 on the north, to the Caribbean National Forest Boundary on the south; (3) all lands lying west of Route 186 for 1 kilometer from the juncture of Routes 186 and 956 south to Km 6 on Route 186; (4) all lands within Km 14 and Km 6 on the west and the Caribbean National Forest Boundary on the east; and (5) all lands within the Caribbean National Forest Boundary whether private or public.

Cidra Municipality and adjacent areas—All of Cidra Municipality and portions of Aguas Buenas, Caguas, Cayey, and Comerio Municipalities as encompassed within the following boundary: beginning on Highway 172 as it leaves the municipality of Cidra on the west edge, north to Highway 156, east on Highway 156 to Highway 1, south on Highway 1 to Highway 765, south on Highway 765 to Highway 763, south on Highway 763 to the Rio Guavate, west along Rio Guavate to Highway 1, southwest on Highway 1 to Highway 14, west on Highway 14 to Highway 729, north on Highway 729 to Cidra Municipality boundary to the point of the beginning.

BILLING CODE 4310–55–P

FINAL REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 2001-02 SEASON

	ATLANTIC FLYWAY				MISSISSIPPI FLYWAY (a)				CENTRAL FLYWAY (b)				PACIFIC FLYWAY (c)(d)			
	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB	VERY RES	RES	MOD	LIB
Begining Shooting Time	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise
Ending Shooting Time	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset
Opening Date	Oct. 1	Oct. 1	Oct. 1	Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1	Sat. nearest Oct. 1
Closing Date	Jan. 20	Jan. 20	Jan. 20	Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20	Sun. nearest Jan. 20
Season Length (in days)	20	30	45	60	20	30	45	60	25	39	60	74	38	60	86	107
Daily Bag/ Possession	3 6	3 6	6 12	6 12	3 6	3 6	6 12	6 12	3 6	3 6	6 12	6 12	4 8	4 8	7 14	7 14
Species/Sex Limits within the Overall Daily Bag Limit																
Mallard (Total/Female)	3/1	3/1	4/2	4/2	2/1	2/1	4/1	4/2	3/1	3/1	5/1	5/2	3/1	3/1	5/2	7/2
Pintail	<----ACCORDING TO THE PINTAIL INTERIM HARVEST STRATEGY---->															
Black Duck	1	1	1	1	1	1	1	1	-	-	-	-	-	-	-	-
Scaup (e)	<----TO BE DETERMINED BASED ON CURRENT SCAUP STATUS INFORMATION---->															
Canvasback	<----0 OR 1, ACCORDING TO THE CANVASBACK HARVEST STRATEGY---->															
Redhead	2	2	2	2	1	1	2	2	1	1	2	2	2	2	2	2
Wood Duck	2	2	2	2	2	2	2	2	2	2	2	2	-	-	-	-
Whistling Ducks	1	1	1	1	-	-	-	-	-	-	-	-	-	-	-	-
Harlequin	Closed	Closed	Closed	Closed	-	-	-	-	-	-	-	-	-	-	-	-
Mottled Duck	1	1	1	1	3	3	3	3	1	1	1	1	-	-	-	-

(a) In the States of Alabama, Mississippi, and Tennessee, the season length will be 51 days in the liberal alternative and 38 days in the moderate alternative with a framework closing date in both alternatives of January 31.

(b) In the High Plains Mallard Management Unit, all regulations would be the same as the remainder of the Central Flyway with the exception of season length. Additional days would be allowed under the various alternatives as follows: very restrictive - 8, restrictive - 12, moderate and liberal - 23. Under all alternatives, additional days must be on or after the Saturday nearest December 10.

(c) In the Columbia Basin Mallard Management Unit, all regulations would be the same as the remainder of the Pacific Flyway, with the exception of season length. Under all alternatives except the liberal alternative, an additional 7 days would be allowed.

(d) In Alaska, framework dates, bag limits, and season length would be different than the remainder of the Pacific Flyway. The bag limit would be 5-7 under the very restrictive and restrictive alternatives, and 8-10 under the moderate and liberal alternatives. There would be no restrictions on pintails, and canvasback limits would follow those for the remainder of the Pacific Flyway. Under all alternatives, season length would be 107 days and framework dates would be Sep 1 - Jan 26.

(e) Scaup daily bag limits will be based on current scaup status information until an agreed upon harvest strategy is completed and implemented.

[FR Doc. 01–18366 Filed 7–23–01; 8:45 am]

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Federal Register

Tuesday,
July 24, 2001

Part IV

Department of Justice

Department of State

28 CFR Part 1100

Protection and Assistance for Victims of Trafficking; Interim Rule

DEPARTMENT OF JUSTICE

DEPARTMENT OF STATE

28 CFR Part 1100

[INS No. 2133–01; AG Order No. 2493–2001]

RIN 1115–AG20

Protection and Assistance for Victims of Trafficking

AGENCY: Department of Justice and Department of State.

ACTION: Interim rule with request for comments.

SUMMARY: This rule sets forth guidance for all appropriate federal officials, including but not limited to officials of the Department of Justice (DOJ) and the Department of State (DOS) in implementing provisions of section 107(c) of the Trafficking Victims Protection Act of 2000. It establishes overall implementation procedures and assigns responsibilities for DOJ and DOS officials to carry out certain requirements related to the identification and protection of victims of severe forms of trafficking in persons. This rule establishes and/or identifies mechanisms that will allow officials to appropriately address the particular needs of these victims. Specifically it addresses: the identification of victims of a severe form of trafficking in persons; the protection of victims of severe forms of trafficking in persons while in custody; access to information and translation services for victims of severe forms of trafficking in persons; legal mechanisms for allowing victims of severe forms of trafficking in persons, who are potential witnesses, continued presence in the United States; and development of appropriate DOJ and DOS training.

DATES: *Effective Date:* This interim rule is effective August 23, 2001.

Comment Date: Written comments must be submitted on or before October 22, 2001.

ADDRESSES: Please submit your written comments to the Immigration and Naturalization Service, Policy Directive and Instructions Branch, Attention TVPA Implementation Team, 425 I Street, NW, Room 4034, Washington, DC 20536 by mail or e-mail your comments through the Immigration and Naturalization Service Website Feedback Option at *http://www.ins.usdoj.gov/graphics/feedback.htm.* To ensure proper handling, please reference INS No. 2133–01 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Anne M. Veysey, Director, Program Strategy and Development Branch, Immigration and Naturalization Service, Office of Investigations, 425 I Street, NW., Room 1000, Washington, DC 20536, telephone: (202) 514–3479.

SUPPLEMENTARY INFORMATION:

Background and Legislative Authority

The Trafficking Victims Protection Act of 2000 (TVPA), Division A of Public Law 106–386, Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), was signed into law on October 28, 2000. When Congress passed this law, it provided a comprehensive set of tools for the federal government to combat trafficking in persons, in the United States and around the world, through prevention, prosecution and enforcement against traffickers, and protection and assistance for victims of trafficking in persons.

This regulation implements section 107(c) of the TVPA and provides guidance concerning: (1) Protections for victims of severe forms of trafficking in persons while in custody (section 107(c)(1)); (2) victims' access to information and translation services (section 107(c)(2)); (3) authority to permit continued presence in the United States of a victim and potential witness (section 107(c)(3)); and (4) training of government personnel (section 107(c)(4)).

This law's purposes ''are to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims.'' Section 102(a), Purposes and Findings, TVPA. Congress found that ''[t]rafficking in persons . . . is the largest manifestation of slavery today. At least 700,000 persons annually, primarily women and children, are trafficked within or across international borders. Approximately 50,000 women and children are trafficked into the United States each year.'' Section 102(b)(1), TVPA. Congress further found that ''[t]raffickers often transport victims from their home communities to unfamiliar destinations, including foreign countries away from family and friends, religious institutions, and other sources of protection and support, leaving the victims defenseless and vulnerable.'' Id. at section 102(b)(5). Moreover, Congress recognized that victims are often ''forced through physical violence to engage in sex acts or perform slavery-like labor'' and that ''[t]raffickers often make representations to their victims that physical harm may occur to them or others.'' Id. at sections 102(b)(6) and (7).

Stakeholders' meetings were held with key federal agencies and other groups to consider how best to accomplish the objectives of the TVPA. Input and feedback from these stakeholders were used in the drafting of this regulation. Additionally, a DOJ working group on implementation of the new trafficking law was established. Input from these meetings also was utilized in the development of this rule.

Section 107(c) provides certain protections and assistance to victims of severe forms of trafficking in persons. However, it should be noted that the TVPA contains other forms of protection and assistance to be administered by various federal agencies, including the Departments of Health and Human Services, Labor, Justice, and State, and the Legal Services Corporation. The forms of protection and assistance identified in the TVPA include the establishment and implementation of programs and initiatives in foreign countries to assist in the safe integration, reintegration, or resettlement, as appropriate, of victims of trafficking in persons; and the eligibility for benefits and services under federal or state programs that are funded or administered by federal agencies without regard to the immigration status of such victims. The law also authorizes grants to States, Indian tribes, units of local government, and nonprofit, nongovernmental victims' service organizations to develop, expand, or strengthen victim service programs for victims of trafficking in persons. The law also provides for protection from removal for certain trafficking victims through the establishment of two new nonimmigrant classifications. The ''T'' visa allows victims of severe forms of trafficking in persons to remain in the United States if they have complied with any reasonable request for assistance in the investigation or prosecution of acts of trafficking in persons or are under 15 years of age, and would suffer extreme hardship involving unusual and severe harm upon removal. Trafficking victims may also be eligible for the new ''U'' visa contained in section 1513 of the Battered Immigrant Women Protection Act of 2000, which is Title V of Division B of the Victims of Trafficking and Violence Protection Act 2000, Public Law 106–386. This rulemaking does not

address these issues. Relevant federal agencies or components with primary responsibility regarding this protection and assistance may develop regulations or guidance in the coming months.

Discussion of the Interim Rule

Victims of Severe Forms of Trafficking in Persons

Who Are Victims of Severe Forms of Trafficking in Persons?

A victim of a severe form of trafficking in persons is anyone who has been subjected either (1) to sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform the commercial sex act is under 18 years of age, or (2) to the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Victims of a severe form of trafficking in persons may include United States citizens or nationals, lawful permanent residents, and other aliens lawfully or unlawfully present in the United States.

How Will Federal Officials Identify Victims of Severe Forms of Trafficking in Persons?

Federal officials will follow the definition of severe forms of trafficking in persons articulated in section 103 of the TVPA. Indeed, certain federal officials already have obligations to identify victims of federal crime. Under 42 U.S.C. 10607, the head of each department and agency of the United States engaged in the detection, investigation, or prosecution of crime must designate ''responsible officials'' to identify victims of crime. Section 107(c) will be implemented consistent with these pre-existing obligations to identify victims of crime.

What Is the Difference Between Alien Smuggling and Severe Forms of Trafficking in Persons?

Federal law makes a distinction between alien smuggling—in which the smuggler arranges for an alien to enter the country illegally for any reason, including where the alien has voluntarily contracted to be smuggled—and severe forms of trafficking in persons. Unlike alien smuggling, as the following definition indicates, severe forms of trafficking in persons must involve both a particular means such as the use of force, fraud, or coercion, and a particular end such as involuntary servitude or a commercial sex act (with regards to a commercial sex act, however, the use of force, fraud, or coercion is not necessary if the person induced to perform a commercial sex act is under the age of 18). Pursuant to the TVPA, victims of severe forms of trafficking are persons who are recruited, harbored, transported, provided, or obtained for: (1) Labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery; or (2) the purpose of a commercial sex act in which such act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age. Aliens who are voluntarily smuggled into the United States, in most cases, will not be considered victims of severe forms of trafficking in persons. However, individuals who are smuggled into the United States in order to be used for labor or services may become victims of a severe form of trafficking in persons if, for example, after arrival the smuggler uses threats of serious harm or physical restraint to force the individual into involuntary servitude, peonage, debt bondage, or slavery. Federal law prohibits forced labor regardless of the victim's initial consent to work. This distinction between alien smuggling and severe forms of trafficking in persons is consistent with the separate treatment of the trafficking and smuggling issues internationally.

Who Receives Protections Under the TVPA?

Once identified as a victim of a severe form of trafficking in persons, section 107(c)(1) of the TVPA requires that all victims of severe forms of trafficking in persons be protected while in federal custody. Under section 107(c)(3), victims of severe forms of trafficking in persons who are potential witnesses to trafficking in persons and whom federal law enforcement officials seek to keep in this country in order to prosecute traffickers also receive necessary protections, even when the victims are not in custody. Pursuant to the TVPA and 42 U.S.C. 10607(c)(2), federal law enforcement officials should arrange for victims of severe forms of trafficking in persons to receive reasonable protections from suspected traffickers and persons acting in concert with or at the behest of the suspected traffickers.

Which Family Members Are Covered in the Protection and Continued Presence Provisions of the TVPA?

In the TVPA, Congress recognized that traffickers may use threats of intimidation or reprisals against the family members of victims of severe forms of trafficking in persons as a tool to force trafficking victims to comply with their wishes. For victims of severe forms of trafficking in persons who are in custody or whose continued presence the Attorney General has authorized, the TVPA requires law enforcement personnel, immigration officials, and DOS officials to take measures to protect them and their family members from intimidation, threats of reprisals, and reprisals from traffickers. For the purpose of determining immigration benefits under the T visa, the definition of family members is narrowly drawn. For the protections afforded by this rule, federal law enforcement personnel, immigration officials, and DOS officials are not limited to that specific definition. Instead, in this context, family members may include those members of a victim's family whom traffickers have chosen to target or whom traffickers are likely to target.

Federal law enforcement personnel, immigration officials, and DOS officials should work with victims of severe forms of trafficking in persons to determine whether a member of the victim's family is likely to be threatened, intimidated, or harmed. Federal law enforcement personnel, immigration officials, and DOS officials have discretion to determine whom they can reasonably protect from such reprisals, given such parameters, for instance, as the inability of the United States to provide protection in foreign countries.

Who Provides the Protection?

Federal law enforcement personnel, immigration officials, and DOS officials are responsible for protecting victims of severe forms of trafficking in persons. Under 42 U.S.C. 10607, federal officials involved in the detection, investigation, or prosecution of crime are required to arrange for a victim to receive reasonable protection from suspected offenders and persons acting in concert with or at the behest of the suspected offenders. (See ''Attorney General Guidelines for Victim and Witness Assistance 2000,'' at 21, currently available at *http://www.ojp.usdoj.gov/ovc/infores/agg2000*.) This rule will help to identify victims as early as possible in the investigation and prosecution processes, so that they are provided the protection and services available to them under the laws of the United States. Victims of severe forms of trafficking, by virtue of being victims of a federal crime, already are eligible to receive reasonable protections and services in accordance with 42 U.S.C. 10606 and 10607.

Victims of severe forms of trafficking in persons, however, are often particularly vulnerable, because they have experienced physical and psychological trauma, are far from home without nearby friends or family, have limited or no English proficiency, and come from cultural traditions different from those in the United States. In accordance with the intent of the TVPA, the particular needs of these victims should be taken into account by federal law enforcement personnel, immigration officials, and DOS officials. As such, where practicable and appropriate, this protection and these services should be specifically tailored to meet the particular needs of victims of severe forms of trafficking in persons.

For this rule, federal officials as defined by 42 U.S.C. 10606(a) also include federal law enforcement personnel who work cooperatively with the federal law enforcement agencies with the primary responsibility for enforcing trafficking laws.

Will Alien Victims of a Severe Form of Trafficking in Persons, who are not Legally in the United States, Be Placed in U.S. Immigration Removal Proceedings?

The Immigration and Naturalization Service (INS or Service) has prosecutorial discretion whether to place alien victims of severe forms of trafficking in persons into removal proceedings. INS officials, when deciding whether to place alien victims into removal proceedings, will take into account the facts and circumstances of each individual situation, including specific recommendations from federal law enforcement officials relating to individual victims for whom they are requesting continued presence. If these alien victims are potential witnesses to trafficking in persons, their continued presence in the United States may be authorized. The INS reserves the right to initiate removal proceedings, where necessary and appropriate, against aliens whose continued presence in the United States has been authorized. In cases where proceedings have been initiated, the INS may use various tools to exercise its prosecutorial discretion to accomplish the goal of allowing the alien victim to remain in the United States. Victims of severe forms of trafficking in persons also may be eligible for other forms of immigration relief, including the new nonimmigrant T and U visas, that would prevent their removal.

Will the INS Keep Alien Victims of Severe Forms of Trafficking in Persons in Custody?

The INS will not detain victims unless individual circumstances or the law requires detention and the INS has the authority under the Immigration and Nationality Act (Act or INA) to detain them for removal proceedings. If INS does take victims of a severe form of trafficking in persons into custody, to the extent practicable, these individuals should not be detained in facilities inappropriate to their crime victim status. Additionally, unless the law prohibits release, the INS, an Immigration Judge or the Board of Immigration Appeals (BIA)—whoever has proper jurisdiction—may decide whether to release the alien. The need to continue custody in order to protect the victim and the victim's desire to remain in custody for protection purposes should be taken into consideration when making this decision. In general, an alien victim of severe forms of trafficking in persons will not be required to remain in INS custody for the sole purpose of protection.

Will Other Federal Officials Detain Victims of Severe Forms of Trafficking in Persons?

Such victims will only be held in federal detention if authority to detain exists under statutory authority separate from the TVPA. If victims are detained by federal officials, to the extent practicable, they shall not be detained in facilities inappropriate to their status as crime victims.

Access to Information and Translation Services

What Information Will Be Provided to Victims of Severe Forms of Trafficking In Persons?

Section 107(c)(2) of the TVPA mandates that ''[v]ictims of severe forms of trafficking in persons shall have access to information about their rights and translation services.'' Under § 1100.33 of the interim rule, victims of severe forms of trafficking in persons will be provided with notice about their rights and services, including information about legal services, federal and state benefits and services, victim service organizations, protections available, rights of privacy and confidentiality issues, victim compensation and assistance programs, immigration benefits and programs that might be relevant including those available under the TVPA, the right to restitution, the right to notification of case status, and the availability of medical services. We are planning to prepare updated versions of standardized victim-assistance brochures targeted for victims of severe forms of trafficking in persons. The Departments of Justice, State, Health and Human Services, and Labor are working collaboratively to develop these brochures, which will provide basic information or points of contact about victims' rights and potential services and benefits that may be available to victims, depending on their eligibility. Where information more specific to a geographic area is required by this regulation—for instance, in providing information about low-cost or pro bono legal services—local agency representatives may need to supplement the general information provided in the brochures. These brochures will be distributed and copied for use by federal agencies that may encounter victims of severe forms of trafficking in persons and will contain general information about relevant immigration benefits and programs. Specific advice, relevant to individual circumstances, about a victim's eligibility for such immigration benefits is more appropriately given by an independent legal advisor than by federal law enforcement personnel, immigration officials, or DOS officials. We welcome public comment on the notification arrangements set out in § 1100.33. Any such comments should include suggestions about how information can be provided to trafficking victims most effectively and without undue burden to law enforcement officers operating in a range of contexts and with varying areas of expertise.

Who Will Provide Victims Of Severe Forms of Trafficking in Persons Information About Their Rights and Available Services Under the Law?

Federal law enforcement personnel, immigration officials, and DOS officials, as appropriate, are required by the TVPA to make available to victims of severe forms of trafficking in persons information about their rights under United States law, as well as reasonable access to translation services. In addition, victims of federal crime, including victims of severe forms of trafficking in persons, have certain rights, as outlined in 42 U.S.C. 10606. These rights include the right to be treated with fairness and respect, the right to be notified of court proceedings, and the right to be present at all public court proceedings. Moreover, under 42 U.S.C. 10607, responsible federal officials must provide certain services to federal crime victims, including victims of severe forms of trafficking in persons.

Section 1100.31 of this rule specifies that victims of severe forms of trafficking in persons also will receive information about services.

Continued Presence

Who May Be Allowed To Remain in the United States Under the Continued Presence Provision of Section 107(c) of The TVPA?

Victims of severe forms of trafficking in persons who are aliens and potential witnesses to such trafficking may be allowed to remain temporarily in the United States to effectuate prosecution of those responsible for the trafficking.

Can Any Law Enforcement Officer or Agency Permit an Alien Victim of a Severe Form of Trafficking in Persons to Remain in the United States Without Proper Immigration Status?

No. Only the Attorney General or someone delegated the authority under the immigration laws can authorize an alien to enter or to remain in the United States.

What if a Law Enforcement Agency Has a Genuine Need To Have a Victim/Witness Remain in the United States for the Purpose of Investigation and Prosecution of a Case?

Any federal law enforcement agency may request an alien's continued presence in the United States in order to investigate and prosecute traffickers if the alien is a victim of a severe form of trafficking in persons and a potential witness to such trafficking. The agency may contact the INS, Headquarters Office of Field Operations, and request that an alien be allowed to remain temporarily in the country. When appropriate, the INS will grant continued presence in the United States through one of several mechanisms available under the law. These mechanisms may include parole, voluntary departure, stay of final order, deferred action under section 107(c)(3), or any other authorized form of relief, including applicable nonimmigrant visas. Aliens granted deferred action based upon section 107(c)(3) are considered to be present in the United States pursuant to a period of stay authorized by the Attorney General for purposes of INA sections 212(a)(9)(B)(I) and (c) and therefore do not accrue time toward unlawful presence.

The requirements of this rule do not apply to state or local law enforcement. However, if state or local law enforcement officials want assistance in having victims of severe forms of trafficking in persons remain in this country to effectuate prosecution of traffickers, those law enforcement officials should contact the Criminal Section of the Civil Rights Division of the U.S. Department of Justice or other appropriate federal law enforcement officials who may investigate or prosecute trafficking in persons. The federal law enforcement officials may then contact the INS, Headquarters Office of Field Operations, and request that an alien be allowed to remain temporarily in the country.

In most cases, victims whose continued presence has been authorized may be eligible for temporary employment authorization, as employment is often one of the particular needs of victims of severe forms of trafficking in persons.

If the Victim is an Alien and Does Not Wish to Remain in the United States, Will the Alien Be Prevented From Departing?

Generally, the INS will not require victims of severe forms of trafficking in persons, regardless of their immigration status, to remain in the United States. However, under unusual circumstances, a victim may be required to stay. An alien can be prevented from departing the United States if that departure is deemed prejudicial to the interests of the United States. One example of this could be if the alien is needed in the United States as a witness in, or a party to, any criminal case under investigation or action pending in a court in the United States. An alien also can be prevented from departing the United States for national security reasons, if the alien is a fugitive from justice, or if it is believed that the alien is being forced to depart involuntarily under conditions other than removal, exclusion, or extradition. The procedures governing these actions are established in 8 CFR part 215.

Who Is Responsible for Implementing This Rule?

All federal law enforcement personnel, immigration officials, and Department of State officials who are involved in investigating or prosecuting traffickers in persons, or in identifying, encountering, or detaining victims of severe forms of trafficking in persons, are responsible for implementing this rule. Those officials responsible for implementation include federal officers who work cooperatively with the federal law enforcement agencies with the primary jurisdiction for enforcing trafficking laws, such as screening for and referring suspected victims of severe forms of trafficking in persons.

Does a Victim as a Private Individual Have any Legal Recourse Against the United States Government if Benefits Under Section 107(c) Are Somehow Not Provided?

No. Nothing in section 107(c) shall be construed as creating any private cause of action against the United States, or its officers or employees. See section 107(d) of the TVPA. Furthermore, this regulation does not abrogate existing laws with respect to immigration admission and status or the United States Government's obligation to provide consular notice and access under the Vienna Convention on Consular Relations, April 24, 1963, 21 U.S.T. 77, T.I.A.S. No. 6820, 596 U.N.T.S. 261, and applicable bilateral agreements, which are described at the DOS website in ''Consular Notification and Access'' at http://www.state.gov.

Who Will Receive Training Under This Rule and What Type of Training Will Be Provided?

Section 1100.37 requires that appropriate DOJ and DOS personnel receive training in identifying victims of severe forms of trafficking in persons and providing for protections for such victims. The training will also include the rights of victims of crimes, as well as the benefits and services available to them and the victims of trafficking in persons in particular.

Regulatory Procedures

Good Cause Exception

Pursuant to 5 U.S.C. 553(b)(B), the Attorney General has determined that there is ''good cause'' to issue this rule as an interim rule with a provision for post-promulgation public comment; any delay in issuing these regulations would be contrary to the public interest. In the TVPA, Congress clearly recognized the need to promulgate these regulations expeditiously in order to provide for protection and assistance to victims of severe forms of trafficking in persons. Indeed, Congress provided the Department of Justice and the Department of State only 180 days within which to issue these required regulations. Without the protections and procedures provided in this interim rule, victims of severe forms of trafficking in persons currently in the United States may be held inappropriately in federal custody and not accorded the assistance due such victims. This regulation also outlines a mechanism that enables federal law enforcement officials to provide a legal means for individuals who have been victimized through a severe form of trafficking in persons to remain in the

United States. Without the prompt promulgation of this rule, victims of severe forms of trafficking in persons might inadvertently be sent back to their home countries, thus hindering the ability of federal law enforcement to investigate and prosecute cases. Moreover, the safety of victims of severe forms of trafficking in persons might be placed at risk, if the protections and assistance set forth in the TVPA were not available as soon as possible. The issuance of these regulations as an interim rule effective thirty days after publication will allow victims of severe forms of trafficking in persons to be accorded these needed protections as soon as possible. Finally, these regulations also implement training requirements for certain federal law enforcement personnel in order to facilitate the identification and protection of victims of severe forms of trafficking in persons and to provide methods to inform such victims of possible benefits and services. Since prior notice and comment with respect to this interim rule are impractical and contrary to the public interest, there is ''good cause'' under 5 U.S.C. 553 to make this rule effective August 23, 2001.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation, and by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities as defined under section 3 of the Small Business Act. The rule deals with issues related to victims of severe forms of the trafficking in persons into the United States and the protection of those victims. Therefore, this rule does not affect small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, or tribal governments in the aggregate, or by the private sector, of $100 million or more in any 1-year period, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996. 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866, Regulatory Planning and Review

This rule is considered by the Department of Justice to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this regulation has been submitted to the Office of Management and Budget for review.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, Public Law 104–13, all Departments are required to submit to the Office of Management and Budget (OMB), for review and approval, any reporting or recordkeeping requirements inherent in a final rule. This rule does not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act.

Clarity of the Regulations

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in this regulation clearly stated? (2) Do the regulations contain technical language or jargon that interferes with their clarity? (3) Does the format of these regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? (4) Would the regulations be easier to understand if they were divided into more (but shorter) sections? (5) Is the description of these regulations in the **SUPPLEMENTARY INFORMATION** section helpful in understanding the regulations? How could this description be more helpful in making these regulations easier to understand?

Please send any comments you have on the clarity of the regulations to the address specified in the **ADDRESSES** section.

Executive Order 13132, Federalism

This rule does 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, in accordance with section 6 of Executive Order 13132, the Attorney General, by approving this rule, has determined that it does not have sufficient federalism implications to warrant preparation of a federalism summary impact statement.

Executive Order 12988, Civil Justice Reform

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 28 CFR Part 1100

Administrative practice and procedure, Aliens, Civil rights, Crime, Immigration, Investigations, Intergovernmental relations, Labor, Law enforcement, Law enforcement officers, Victims.

Accordingly, for the reasons set forth and pursuant to section 107(c) of the TVPA, title 28 of the Code of Federal Regulations is amended by establishing a new chapter XI consisting of part 1100 to read as follows:

CHAPTER XI—DEPARTMENT OF JUSTICE AND DEPARTMENT OF STATE

PART 1100—TRAFFICKING IN PERSONS

Subpart A—[Reserved]

Subpart B—Victims of Severe Forms of Trafficking in Persons

Sec.

Authority: 5 U.S.C. 552, 552a; 8 U.S.C. 1101, 1103, 1104, 1252; 22 U.S.C. 7101, 7105; 42 U.S.C. 10606 and 10607; and section 107(c) of Public Law 106–386 (114 Stat. 1464, 1477).

Subpart A—[Reserved]

Subpart B—Victims of Severe Forms of Trafficking in Persons

§ 1100.25 Definitions.

In this subpart, the following definitions apply:

Admission and *Admitted* mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer (8 U.S.C. 1101).

Alien means any person not a citizen or national of the United States (8 U.S.C. 1101).

Attorney General Guidelines means the *Attorney General Guidelines for Victim and Witness Assistance 2000,* which contain a policy guidance on how to treat crime victims and witnesses; these guidelines are available through the Internet on the Department of Justice's website.

Coercion means threats of serious harm to or physical restraint against any person; or any scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; or the abuse or threatened abuse of law or the legal process (22 U.S.C. 7102).

Commercial sex act means any sex act on account of which anything of value is given to or received by any person (22 U.S.C. 7102).

Debt bondage means the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or of those of a person under his or her control as a security for debt, if the value of those services as reasonably assessed is not applied toward the liquidation of the debt or the length and nature of those services are not respectively limited and defined (22 U.S.C. 7102).

Family members of victims of severe forms of trafficking in persons means spouses, children, parents, or siblings whom traffickers have targeted or are likely to target and for whom protections from harm may reasonably be provided. At the discretion of the responsible official, this classification may be extended to include other family members. This definition is only applicable to the protections from harm referred to in this subpart.

Federal custody means that statutory detention and custodial authority exercised by personnel of federal agencies, bureaus, boards, divisions, programs, and offices.

Federal victims' rights legislation means the following statutes, as amended: the Victim and Witness Protection Act of 1982 (VWPA), Public Law 97–291, 96 Stat. 1248; the Victims of Crime Act of 1984, Public Law 98–473, 98 Stat. 2170; the Victims Rights and Restitution Act of 1990, Public Law 101–647, 104 Stat. 4820; the Violent Crime Control and Law Enforcement Act of 1994, Public Law 103–322, 108 Stat. 1796; the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104–132, 110 Stat. 1214; the Victim Rights Clarification Act of 1997, Public Law 105–6, 111 Stat. 12; and the Victims of Trafficking and Violence Protection Act of 2000 (VTVPA), Public Law 106–386, 114 Stat. 1464.

INA means the Immigration and Nationality Act, 8 U.S.C. 1101 et seq.

Involuntary servitude includes a condition of servitude induced by means of any scheme, plan, or pattern intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another person would suffer serious harm or physical restraint; or the abuse or threatened abuse of the legal process (22 U.S.C. 7102).

Responsible official refers to the agency official designated to provide the services described in 42 U.S.C. 10607(a).

Section 107(c) means section 107(c) of TVPA, Division A of Public Law 106–386.

Services to victims refer to those services to be provided pursuant to 42 U.S.C. 10607(c), unless otherwise specified in the TVPA or this subpart.

Severe forms of trafficking in persons means sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery (22 U.S.C. 7102).

Sex trafficking means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act (22 U.S.C. 7102).

TVPA means the Trafficking Victims Protection Act of 2000, Public Law 106–386, Division A, October 28, 2000, 114 Stat. 1464, as amended, 22 U.S.C. 7105, et seq.

United States means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States (22 U.S.C. 7102).

Victims' rights refer to crime victims' rights under 42 U.S.C. 10606(b), as well as in other federal victims' rights legislation.

§ 1100.27 Purpose and scope.

(a) Under section 107(c) of the TVPA, both the Department of Justice (DOJ) and the Department of State (DOS) have been directed to promulgate regulations to implement the following:

(1) Procedures for appropriate federal employees to ensure, to the extent practicable, that victims of severe forms of trafficking in persons are housed in a manner appropriate to their status as crime victims, afforded proper medical care and other assistance, and protected while in federal custody, in accordance with their status as victims of severe forms of trafficking in persons;

(2) Procedures to provide victims of severe forms of trafficking in persons with access to information about their rights and with translation services;

(3) Procedures for federal law enforcement officials to request that certain victims of severe forms of trafficking in persons, who are aliens and are also potential witnesses, be permitted to remain in the United States to effectuate the prosecution of those responsible, and procedures to protect their safety, including taking measures to protect victims of severe forms of trafficking in persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates (these procedures should be appropriate to their status as victims of severe forms of trafficking in persons); and

(4) Training of appropriate DOJ and DOS personnel in identifying victims of severe forms of trafficking in persons, in understanding the particular needs common to victims of severe forms of trafficking in persons, and in providing for the protection of such victims.

(b) The regulations in this subpart apply to all federal law enforcement personnel, immigration officials and DOS officials, insofar as their duties involve investigating or prosecuting traffickers in persons, or may involve identifying, encountering or detaining victims of severe forms of trafficking in persons.

(c) The rights and protections made available to victims of severe forms of trafficking in persons under section 107(c) supplement those rights and protections provided to victims and witnesses in federal victims' rights legislation as defined in this subpart. The intent of this subpart is to ensure that the protections available under the provisions of federal victims' rights legislation as well as the TVPA are fully provided to victims of severe forms of trafficking in persons, in keeping with

their status as victims of severe forms of trafficking in persons. This subpart will ensure that these victims are identified as early as possible in the investigation and prosecution process, so that services and protections available to them under the laws of the United States are provided.

(d) The regulations under this subpart set forth the general procedures to ensure these rights are protected in cases involving victims of severe forms of trafficking in persons. All agencies, bureaus, boards, divisions, programs, and offices in the DOJ and the DOS with specific responsibilities under this subpart shall adopt such regulations and/or operating procedures as may be necessary to ensure compliance with section 107(c) and the requirements of this subpart.

§ 1100.29 The roles and responsibilities of federal law enforcement, immigration, and Department of State officials under the Trafficking Victims Protection Act (TVPA).

(a) *Department of Justice officials.* The various agencies, bureaus, boards, divisions, programs, and offices of the DOJ have most of the responsibilities assigned by section 107(c). The goals of section 107(c) are to identify victims of severe forms of trafficking in persons as early as possible in the investigation and prosecution process, to ensure efforts are made to see that such victims are accorded the rights described in 42 U.S.C. 10606, and to provide the protections and services required under 42 U.S.C. 10607 and under the TVPA.

(b) *Department of State officials.* Department of State missions throughout the world are often the initial contact for aliens in foreign countries who wish to come to the United States. Appropriate DOS personnel should be trained in identifying victims of severe forms of trafficking in persons. Furthermore, considering the international nature of trafficking in persons, appropriate DOS personnel, upon encountering victims of severe forms of trafficking in persons in foreign countries, should consider referrals to local law enforcement or service providers in the host country, but only if the local host country conditions support such actions.

(c) *Federal law enforcement officials.* Federal law enforcement officials who, during the performance of their duties, encounter a person whom they believe may be a victim of a severe form of trafficking in persons as defined by this subpart, are responsible for bringing such an individual to the attention of those federal law enforcement officials primarily responsible for enforcing trafficking laws, specifically INS or FBI. In addition, DOS's Diplomatic Security Service has investigative authority in visa and passport fraud cases that may involve trafficking in persons. Federal law enforcement officials also include federal law enforcement personnel working cooperatively with law enforcement officials who have primary investigative jurisdiction in such trafficking cases. Each federal agency having law enforcement responsibilities should ensure that its officers are trained in identifying victims of severe forms of trafficking in persons, and are familiar with the rights, services, and protections such victims are to be accorded under the TVPA and 42 U.S.C. 10606 and 10607.

§ 1100.31 Procedures for protecting and providing services to victims of severe forms of trafficking in persons in federal custody.

(a) While in federal custody, all victims of severe forms of trafficking in persons must be provided, to the extent practicable, the protections and services outlined in this section in accordance with their status as victims of severe forms of trafficking in persons. Under 42 U.S.C. 10607(a), each agency must designate officials who are responsible for identifying victims of crime and providing services to them. The designations appear in the *Attorney General Guidelines.* This responsibility also extends to those who are responsible for victims of severe forms of trafficking in persons while they are in federal custody.

(b) To the extent practicable and allowed by law, alternatives to formal detention of victims of severe forms of trafficking in persons should be considered in every case. However, if detention is required, victims of severe forms of trafficking in persons in federal custody, to the extent practicable, shall not be detained in facilities inappropriate to their status as crime victims. The responsible official shall make all efforts, where appropriate and practicable, to house those victims separately from those areas in which criminals are detained. The responsible official must also provide protections and security to those victims as required by federal standards, policies, and procedures. Information on the federal prohibitions against intimidation and harassment, and the remedies available for such actions should routinely be made available to victims.

(c) Victims of severe forms of trafficking in persons in federal custody shall receive necessary medical care and other assistance. This care should include free optional testing for HIV and other sexually transmitted diseases in cases involving sexual assault or trafficking into the sex industry, as well as a counseling session by a medically-trained professional on the accuracy of such tests and the risk of transmission of sexually transmitted diseases to the victim. Other forms of mental health counseling or social services also may be appropriate to address the trauma associated with trafficking in persons.

(d) As mandated by 42 U.S.C. 10607, federal officials are responsible for arranging for victims to receive reasonable protection from a suspected offender and persons acting in concert with or at the behest of the suspected offender. Federal law enforcement agencies also should protect victims of a severe form of trafficking in persons from harm and intimidation pursuant to section 6 of the Victim and Witness Protection Act of 1982 and 18 U.S.C. 1512 note. It may also be appropriate to discuss with the victims the available remedies described in 18 U.S.C. 1512 and 1513. Federal officials also should employ civil procedures for protecting victims and witnesses, including application for temporary restraining orders and protective orders, as set out in 18 U.S.C. 1514, if practicable. If the victim's safety is at risk or if there is danger of the victim's recapture by the trafficker, the responsible official should take the following steps under the TVPA:

(1) Use available practical and legal measures to protect the trafficked victim and family members from intimidation, harm, and threats of harm; and

(2) Ensure that the names and identifying information pertaining to trafficked victims and family members are not disclosed to the public.

§ 1100.33 Access to information and translation services for victims of severe forms of trafficking in persons.

(a) All federal investigative, prosecutorial, and correctional agencies engaged in the detection, investigation, or prosecution of crime shall use their best efforts to see that victims of severe forms of trafficking in persons are accorded all rights under federal victims' rights legislation. In cases involving severe forms of trafficking in persons, federal officials should provide victims within the United States, as defined by this subpart, information about their rights and applicable services, including:

(1) Pro bono and low-cost legal services, including immigration services;

(2) Federal and state benefits and services (victims who are minors and adult victims who are certified by the United States Department of Health and

Human Services (HHS) are eligible for assistance that is administered or funded by federal agencies to the same extent as refugees; others may be eligible for certain, more limited, benefits);

(3) Victim service organizations, including domestic violence and rape crisis centers;

(4) Protections available, especially against threats and intimidation, and the remedies available as appropriate for the particular individual's circumstances;

(5) Rights of individual privacy and confidentiality issues;

(6) Victim compensation and assistance programs;

(7) Immigration benefits or programs that may be relevant to victims of severe forms of trafficking in persons, including those available under the VTVPA;

(8) The right to restitution;

(9) The right to notification of case status; and

(10) The availability of medical services.

(b) The federal agencies as defined in paragraph (a) of this section must ensure reasonable access to translation services and/or oral interpreter services in the event the victim is not able to communicate in English.

§ 1100.35 Authority to permit continued presence in the United States for victims of severe forms of trafficking in persons.

(a) Federal law enforcement officials who encounter alien victims of severe forms of trafficking in persons who are potential witnesses to that trafficking may request that the Immigration and Naturalization Service (INS) grant the continued presence of such aliens in the United States. All law enforcement requests for continued presence must be submitted to the INS, Headquarters Office of Field Operations, in accordance with INS procedures. Each federal law enforcement agency will designate a headquarters office to administer submissions and coordinate with the INS on all requests for continued presence. The designated headquarters office will be responsible for meeting all reporting requirements contained in INS procedures for the processing and administering of the requests for continued presence in the United States of eligible aliens.

(b) Upon receiving a request, the INS will determine the victim's immigration status. When applicable and appropriate, the INS may then use a variety of statutory and administrative mechanisms to ensure the alien's continued presence in the United States. The specific mechanism used will depend on the alien's current status under the immigration laws and other relevant facts. These mechanisms may include parole, voluntary departure, stay of final order, section 107(c)(3)-based deferred action, or any other authorized form of continued presence, including applicable nonimmigrant visas.

(1) The alien's continued presence in the United States under this subpart does not convey any immigration status or benefit apart from that already encompassed by the particular form of authorized continued presence granted. In most circumstances, victims granted continued presence will be eligible for temporary employment authorization.

(2) The continued presence granted through any of the mechanisms described in this paragraph (b) will contain the terms normally associated with the particular type of authorized continued presence granted, including, but not limited to, duration of benefit, terms and procedures for receiving an extension, travel limitations, and employment authorization unless expressly waived in an individual approval. Aliens granted deferred action based upon section 107(c)(3) are considered to be present in the United States pursuant to a period of stay authorized by the Attorney General for purposes of INA sections 212(a)(9)(B)(I) and (C).

(c) (1) In cases where it is determined that the granting to an alien of continued presence in the United States poses a threat to national security or to the safety and welfare of the public, the INS may require the requesting agency to meet special conditions or requirements prior to approval. The INS will promptly convey any such condition or requirement to the requesting agency in writing. Upon agreement by the requesting agency to comply with the conditions and accept the costs associated with the implementation of those conditions, the INS will grant the continued presence of the alien in the United States.

(2) Although the INS and the requesting law enforcement agency will make every effort to reach a satisfactory agreement for the granting of continued presence, the INS may deny a request for continued presence in the following instances:

(i) Failure, on the part of the requesting agency, to provide necessary documentation or to adhere to established INS procedures;

(ii) Refusal to agree or comply with conditions or requirements instituted in accordance with paragraph (c)(1) of this section;

(iii) Failure, on the part of the requesting agency, to comply with past supervision or reporting requirements established as a condition of continued presence; or

(iv) When the INS determines that granting continued presence for the particular alien would create a significant risk to national security or public safety and that the risk cannot be eliminated or acceptably minimized by the establishment of agreeable conditions.

(3) In the case of a denial, the INS shall promptly notify the designated office within the requesting agency. The INS and the requesting agency will take all available steps to reach an acceptable resolution. In the event such resolution is not possible, the INS shall promptly forward the matter to the Deputy Attorney General, or his designee, for resolution.

(d) In addition to meeting any conditions placed upon the granting of continued presence in accordance with paragraph (c) of this section, the responsible official at the law enforcement agency requesting the victim's continued presence in the United States as described in paragraph (a) of this section shall arrange for reasonable protection to any alien allowed to remain in the United States by the INS. This protection shall be in accordance with 42 U.S.C. 10606 and shall include taking measures to protect trafficked persons and their family members from intimidation, threats of reprisals, and reprisals from traffickers and their associates in accordance with section 107(c)(3). Such protection shall take into account their status as victims of severe forms of trafficking in persons.

§ 1100.37 Requirements to train appropriate personnel in identifying and protecting victims of severe forms of trafficking in persons.

(a) The TVPA requires that appropriate DOJ and DOS personnel be trained in identifying victims of severe forms of trafficking in persons and providing for the protection of such victims. These federal personnel will be trained to recognize victims and provide services and protections, as appropriate, in accordance with the TVPA, 42 U.S.C. 10606 and 10607, and other applicable victim-assistance laws. Specifically, the training will include, as applicable:

(1) Procedures and techniques for identifying victims of severe forms of trafficking in persons;

(2) Rights of crime victims, including confidentiality requirements;

(3) Description of the services available to victims of severe forms of trafficking in persons at the investigation, prosecution, and, where

applicable, correction stages of the law enforcement process;

(4) Referral services to be provided to victims of severe forms of trafficking in persons;

(5) Benefits and services available to alien victims of severe forms of trafficking in persons regardless of their immigration status;

(6) Particular needs of victims of severe forms of trafficking in persons;

(7) Procedures and techniques for dealing with specialized needs of victims who may face cultural, language, and/or other obstacles that impede their ability to request and obtain available services for themselves; and

(8) Protection obligations of responsible officials under federal law and policies, as these apply to victims of severe forms of trafficking in persons.

(b) Each component of the DOJ and the DOS with program responsibility for victim witness services must provide initial training in the particular needs of victims of severe forms of trafficking in persons, and appropriate federal agencies' responses to such victims; initial training of appropriate agency personnel should be conducted as soon as possible. Thereafter, training must be held on a recurring basis to ensure that victims of severe forms of trafficking in persons receive the rights, protections, and services accorded them under the TVPA and federal victims' rights laws, and the federal policies, procedures, and guidelines implementing the TVPA and other federal victims' rights laws.

Dated: July 18, 2001.

John Ashcroft,

Attorney General.

Dated: July 16, 2001.

Richard L. Armitage,

Deputy Secretary of State.

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CFR PARTS AFFECTED DURING JULY

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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 24, 2001

CONSUMER PRODUCT SAFETY COMMISSION

Organization, functions, and authority delegations:

Directorate of Epidemiology; published 7-24-01

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Alaska; published 5-25-01

Radiation protection programs:

Yucca Mountain, NV; public health and environmental radiation protection standards

Correction; published 7-24-01

LABOR DEPARTMENT

Workers' Compensation Programs Office

Energy Employees Occupational Illness Compensation Program Act; implementation:

Lump-sum payments and medical benefits payments to covered DOE employees, their survivors, and certain vendors, contractors, and subcontractors; published 5-25-01

TRANSPORTATION DEPARTMENT

Coast Guard

Drawbridge operations:

Louisiana; published 7-11-01

Ports and waterways safety:

San Francisco Bay, CA; regulated area; published 7-24-01

TRANSPORTATION DEPARTMENT

Organization, functions, and authority delegations:

Coast Guard, Commandant; published 7-24-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Bombardier; published 6-19-01

Dassault; published 6-19-01

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Papayas grown in—

Hawaii; comments due by 7-30-01; published 5-30-01

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Bovine spongiform encephalopathy; disease status change—

San Marino, Andorra, and Monaco; comments due by 8-3-01; published 6-4-01

Foot-and-mouth disease; disease status change—

Argentina; comments due by 8-3-01; published 6-4-01

Rinderpest and foot-and-mouth disease; disease status change—

France, Ireland, and Netherlands; comments due by 7-31-01; published 6-1-01

Plant-related quarantine, foreign:

Corpus Christi, TX; fresh fruits; cold treatment; comments due by 7-31-01; published 6-1-01

AGRICULTURE DEPARTMENT

Rural Housing Service

Program regulations:

Farm labor housing loan and grant program; technical assistance; comments due by 7-31-01; published 6-1-01

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Magnuson-Stevens Act provisions—

Domestic fisheries; exempted fishing permits; comments due by 8-3-01; published 7-19-01

West Coast States and Western Pacific fisheries—

Shark; comments due by 7-30-01; published 6-28-01

ENVIRONMENTAL PROTECTION AGENCY

Air programs:

Federal Nitrogen Oxides Budget Trading Program, emissions monitoring provisions, permits regulation provisions, and appeal procedures; revisions; comments due by 7-30-01; published 6-13-01

Air programs; State authority delegations:

New Jersey; comments due by 8-2-01; published 7-3-01

Tennessee; comments due by 8-2-01; published 7-3-01

Air quality implementation plans; approval and promulgation; various States:

Arizona; comments due by 7-30-01; published 6-29-01

Illinois; comments due by 7-30-01; published 6-28-01

Indiana; comments due by 7-30-01; published 6-28-01

Ohio; comments due by 7-30-01; published 6-29-01

Wisconsin; comments due by 8-1-01; published 7-2-01

Antarctica; nongovernmental activities; environmental impact assessment; assessment and coordination requirements; comments due by 7-30-01; published 6-29-01

Superfund program:

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 8-1-01; published 7-2-01

National priorities list update; comments due by 8-1-01; published 7-2-01

Water pollution control:

National pollutant discharge elimination system (NPDES)—

Concentrated animal feeding operations; guidelines and standards; comments due by 7-30-01; published 4-17-01

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Federal-State Joint Board on Universal Service—

Non-price cap incumbent local exchange carriers and interexchange carriers; interstate services regulation; Multi-Association Group plan; comments due by 7-30-01; published 6-29-01

Individuals with hearing and speech disabilities; telecommunications relay services; comments due by 7-30-01; published 7-19-01

Interstate Telecommunications Relay Service Fund Advisory Council and Administrator; cost recovery guidelines; recommendations; comments due by 7-30-01; published 7-9-01

Digital television stations; table of assignments:

Minnesota; comments due by 7-30-01; published 6-14-01

Radio stations; table of assignments:

Georgia and Texas; comments due by 7-30-01; published 6-26-01

South Carolina; comments due by 7-30-01; published 7-5-01

GENERAL SERVICES ADMINISTRATION

Federal Management Regulation:

Federal mail management; comments due by 7-30-01; published 5-29-01

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Critical habitat designations—

Quino checkerspot butterfly; comments due by 7-30-01; published 6-20-01

Migratory bird hunting:

Early season hunting; alternatives for 2001-02 duck hunting season; meeting; comments due by 8-3-01; published 7-24-01

Seasons, limits, and shooting hours; establishment, etc.; comments due by 7-30-01; published 4-30-01

National Wildlife Refuge System:

Hunting and fishing—

Refuge-specific regulations; comments due by 8-2-01; published 7-3-01

Wild Bird Conservation Act:
Captive-bred species; approved list; review; comments due by 7-30-01; published 5-29-01

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Immigration:
Aliens—
Legal Immigration Family Equity Act and LIFE Act Amendments; legalization and family unity provisions; status adjustment; comments due by 7-31-01; published 6-1-01

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list; comments due by 7-30-01; published 6-29-01

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:
Approved spent fuel storage casks; list; comments due by 7-30-01; published 6-29-01

TRANSPORTATION DEPARTMENT

Coast Guard

Pollution:
Shore Protection Act of l988; implementation—
Municipal and commercial waste; permitting and numbering requirements; comment request; comments due by 8-1-01; published 5-3-01

Ports and waterways safety:
South shores of Oahu, HI; safety zone; comments due by 7-30-01; published 6-28-01

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
Airbus; comments due by 8-1-01; published 7-2-01
Britax Sell GmbH & Co.; comments due by 7-30-01; published 5-31-01
CFM International; comments due by 7-31-01; published 6-1-01
Raytheon; comments due by 8-3-01; published 6-5-01
Saab; comments due by 7-30-01; published 6-29-01

Class D and Class E airspace; comments due by 8-2-01; published 6-18-01

Class E airspace; comments due by 7-30-01; published 6-15-01

TRANSPORTATION DEPARTMENT

Federal Motor Carrier Safety Administration

Motor carrier safety standards:
Commercial driver's license standards; requirements and penalties; noncommercial motor vehicle violations; comments due by 8-2-01; published 5-4-01

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:
Radiator and coolant reservoir caps; comments due by 7-31-01; published 6-1-01

TREASURY DEPARTMENT

Fiscal Service

Fiscal Management Service:
Automated Clearing House; Federal agency participation; extension of public comment period; comments due by 7-31-01; published 6-1-01

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.

S. 657/P.L. 107–19

To authorize funding for the National 4-H Program Centennial Initiative. (July 10, 2001; 115 Stat. 153)

Last List July 9, 2001

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