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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. 196
Wednesday, October 10, 2001

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–21–AD; Amendment 39–12453; AD 2001–20–05]

RIN 2120–AA64

Airworthiness Directives; Fokker Model F.28 Mark 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to all Fokker Model F.28 Mark 0100 series airplanes, that currently requires replacement of the anti-skid control boxes with improved units. This amendment requires modification or replacement of the anti-skid control boxes with new, improved units, which render the skid control boxes even less susceptible to electromagnetic interference during power-up and power-down transients. This action is prompted by continuing mandatory airworthiness information from a foreign airworthiness authority. The actions specified by this AD are necessary to prevent electromagnetic interference with the anti-skid control system, which could result in reduced brake pressure during low-speed taxiing, and consequent reduced controllability and performance of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective November 14, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 14, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. 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: Tom Rodriquez, Aerospace Engineer, ANM–116, FAA, Transport Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–21–12, amendment 39–11944 (65 FR 63795, October 25, 2000), which is applicable to all Fokker Model F.28 Mark 0100 series airplanes, was published in the **Federal Register** on August 3, 2001 (66 FR 40646). The action proposed to require modification or replacement of the anti-skid control boxes with new, improved units, which render the skid control boxes even less susceptible to electromagnetic interference during power-up and power-down transients.

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 129 Model F.28 Mark 0100 series airplanes of U.S. registry that will be affected by this AD.

The modification of an existing anti-skid control box which is one means of compliance with this AD will take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $5,628 per airplane. Based on these figures, the cost impact of this action, if accomplished, would be $5,688 per airplane.

In lieu of the modification of the existing anti-skid control box, this AD provides for replacement of an existing anti-skid control box with a new, improved anti-skid control box. No information is available on the cost of such replacement.

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 39–11944 (65 FR 63795, October 25, 2000), and by adding a new airworthiness directive (AD), amendment 39–12453, to read as follows:

2001–20–05 Fokker Services B.V.: Amendment 39–12453. Docket 2001–NM–21–AD. Supersedes AD 2000–21–12, Amendment 39–11944.

Applicability: All Model F.28 Mark 0100 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c)(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 electromagnetic interference with the anti-skid control system, which could result in reduced brake pressure during low-speed taxiing, and consequent reduced controllability and performance of the airplane, accomplish the following:

Modification or Replacement

(a) Within 24 months after the effective date of this AD: Accomplish the action specified in either paragraph (a)(1) or (a)(2) of this AD.

(1) Modify any anti-skid control box having part number (P/N) 6004272–3, –4, –5, or –6, in accordance with Fokker Service Bulletin SBF100–32–123, dated November 15, 2000; or

(2) Replace any anti-skid control box having part number (P/N) 6004272–3, –4, –5, or –6 with an improved unit having P/N 6004272–7, in accordance with Fokker Service Bulletin SBF100–32–123, dated November 15, 2000.

Note 2: Fokker Service Bulletin SBF100–32–123 refers to Aircraft Braking Systems Service Bulletin Fo100–32–83, dated October 30, 2000, as an additional source of service information.

Spares

(b) As of the effective date of this AD, no person shall install on any airplane an anti-skid control box having P/N 6004272–3, –4, –5, or –6, unless the anti-skid control box has been modified, in accordance with Fokker Service Bulletin SBF100–32–123, dated November 15, 2000.

Alternative Methods of Compliance

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

(2) Alternative methods of compliance, approved previously in accordance with AD 2000–21–12, amendment 39–11944, 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 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 Fokker Service Bulletin SBF100–32–123, dated November 15, 2000. 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 Fokker Services B.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. 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 Dutch airworthiness directive 1999–149, dated November 30, 2000.

Effective Date

(f) This amendment becomes effective on November 14, 2001.

Issued in Renton, Washington, on September 26, 2001.

Charles Huber,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–24778 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Part 382

49 CFR Part 27

[OST Docket No. OST–99–6159]

RIN 2105–AC81

Nondiscrimination on the Basis of Disability in Air Travel; Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Office of the Secretary, Department of Transportation (DOT).

ACTION: Final rule; correction.

SUMMARY: On May 3, 2001, the Department of Transportation (DOT or Department) published a final rule amending its rules implementing the Air Carrier Access Act of 1986 (ACAA) and section 504 of the Rehabilitation Act of 1973 to require airports and air carriers to provide boarding assistance to individuals with disabilities by using ramps, mechanical lifts, or other suitable devices where level-entry boarding by loading bridge or mobile lounge is not available on any aircraft with a seating capacity of 31 or more passengers. This document corrects the effective date of the final rule published on May 3, 2001, to be consistent with the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act of 1966, 5 U.S.C. 801, 808. It does not change the implementation dates in the rule. Carriers and airports must still sign a written agreement no later than March 4, 2002 allocating responsibility for meeting the boarding assistance requirements, and the agreement must still provide that all actions necessary to ensure accessible boarding for passengers with disabilities are completed no later than December 2, 2002.

DATES: The effective date for the final rule that published on Thursday, May 3, 2001 at 66 FR 22107 is corrected from June 4, 2001 to November 9, 2001.

FOR FURTHER INFORMATION CONTACT: Blane A. Workie, Office of the General Counsel, Department of Transportation, 400 7th Street, SW., Room 4116, Washington, DC 20590, 202–366–9342 (voice), (202) 366–0511 (TTY), 202–366–7152 (fax), or *blane.workie@ost.dot.gov* (email). Arrangements to receive the rule in an alternative format may be made by contacting the above named individual.

SUPPLEMENTARY INFORMATION:

Background Information

The CRA, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report that includes a copy of the rule to each House of the Congress and to the Comptroller General of the United States. The effective date of the final rule on Nondiscrimination on the Basis of Disability in Air Travel published at 66 FR 22107, is corrected from June 4, 2001 to November 9, 2001 in order to comply with the CRA.

The implementation dates in the rule remain the same. While the Department acknowledges that it should have sent a copy of the final rule to Congress and the Comptroller General prior to the effective date of the final rule, the Department does not believe that it is necessary or advisable to revise the implementaiton dates in the rule. The public has not been unduly affected by this error, and revising the implementation dates on a rule that was published in May would cause confusion. Individuals who can demonstrate that the Department not submitting the rule to Congress and the Comptroller General unduly burdened them should provide comments to the Department.

Administrative Procedure Act

The Administrative Procedure Act provides that an agency may dispense with prior notice and opportunity for comment when the agency for good cause finds that such procedures are impracticable, unnecessary or contrary to the public interest, 5 U.S.C. 553(b)(3)(B). The Office of the Secretary (OST) has determined that prior notice and comment are unnecessary, because OST is merely correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the CRA as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The agency finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

Issued this 2nd day of October, 2001, at Washington, DC.

Kirk K. Van Tine,

General Counsel, Department of Transportation.

[FR Doc. 01–25371 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13–01–006]

RIN 2115–AE47

Drawbridge Operations Regulations; Youngs Bay and Lewis and Clark River, OR

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operating regulations for these bridges: New Youngs Bay, mile 0.7, across Youngs Bay; Old Youngs Bay, mile 2.4, across Youngs Bay and the Lewis and Clark River Bridge, mile 1.0, across the Lewis and Clark River at Astoria, Oregon. This final rule requires that at least one half-hour notice must be provided for draw openings from 6 a.m. to 6 p.m. Monday through Friday and from 8 a.m. to 4 p.m. on Saturday and Sunday. At all other times four hours notice is required.

EFFECTIVE DATE: This rule is effective November 9, 2001.

ADDRESSES: Unless otherwise noted, documents referred to in this notice are available for inspection and copying at Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, Washington 98174–1067, room 3510 between 7:45 a.m. and 4:15 p.m., Monday through Friday, except federal holidays. The Bridge Section of the Aids to Navigation and Waterways Management Branch maintains the docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Austin Pratt, Chief, Bridge Section, Aids to Navigation and Waterways Management Branch, Telephone (206) 220–7282.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On July 12, 2001, we published a notice of proposed rulemaking (NPRM) entitled Drawbridge Operation Regulations; Youngs Bay and Lewis and Clark River, Oregon, in the **Federal Register** (66 FR 36529). We received no comments in response to the notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The current operating regulations for these drawbridges at 33 CFR 117.899 requires that a half-hour notice for openings must be provided from 5 a.m. to 9 p.m. daily. This rule reduces the number of daily hours during which half-hour notice must be given and increases the period in which four-hour notice must be given. The number of requests for openings has decreased in recent years and specifically for those hours affected by this rule. This rule enables the bridge owner to reduce staffing for the half-hour notice periods and to apply these savings to maintenance.

Discussion of Comments and Changes

The Coast Guard received no comments. No changes are made to this final rule.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs an benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). This conclusion is based on the fact that the bridges will open at all times for vessel traffic if appropriate notice is given.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612) we considered whether this rule would have a significant economic impact on a substantial number of small entities. ''Small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and government jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b)that this rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that the bridges will open at any time if appropriate notice is given.

Collection of Information

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

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the issuance of federal regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a state, local, or tribal government or the private sector to incur direct costs without the federal government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (32)(e) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found to not have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this final rule.

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 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 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1–(g); section 117.25 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.899 is revised to read as follows:

§ 117.899 Youngs Bay and Lewis and Clark River.

(a) The draw of the US101 (New Youngs Bay) highway bridge, mile 0.7. across Youngs Bay at Smith Point shall open on signal for the passage of vessels if at least one half-hour notice is given to the drawtender at the Lewis and Clark River Bridge by marine radio, telephone, or other suitable means from 6 a.m. to 6 p.m. Monday through Friday and from 8 a.m. to 4 p.m. on Saturday and Sunday. At all other times at least a four-hour notice by telephone is required. The opening signal shall be two prolonged blasts followed by one short blast.

(b) The draw of the Oregon State (Old Youngs Bay) highway bridge, mile 2.4, across Youngs Bay foot of Fifth Street, shall open on signal for the passage of vessels if at least one half-hour notice is given to the drawtender at the Lewis and Clark River Bridge by marine radio, telephone, or other suitable means from 6 a.m. to 6 p.m. Monday through Friday and from 8 a.m. to 4 p.m. Saturday and Sunday. At all other times at least a four-hour notice is telephone is required. The opening signal is two prolonged blasts followed by one short blast.

(c) The draw of the Oregon State (Lewis and Clark River) highway bridge, mile 1.0, across the Lewis and Clark River, shall open on signal for the passage of vessels if at least one half-hour notice is given by marine radio, telephone, or other suitable means from 6 a.m. to 6 p.m. Monday through Friday and from 8 a.m. to 4 p.m. on Saturday and Sunday. At all other times at least a four-hour notice is required. The opening signal is one prolonged blast followed by four short blasts.

Dated: October 1, 2001.

Erroll Brown,

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

[FR Doc. 01–25426 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–01–181]

RIN 2115–AE84 and 2115–AA97

Regulated Navigation Area and Safety and Security Zones; New York Marine Inspection Zone and Captain of the Port Zone

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing regulated navigation areas and safety and security zones for vessels operating within the New York Marine Inspection Zone and Captain of the Port Zone. This action is necessary to ensure public safety, prevent sabotage or terrorist acts, and facilitate the efforts of emergency services and law enforcement officers responding to recent terrorist attacks on sites in Manhattan, NY. The rule will prohibit vessels from entering certain areas of the port and impose restrictions on vessel operations in other areas.

DATES: This rule is effective September 28, 2001 through April 8, 2002. Comments and related material must reach the Coast Guard on or before December 10, 2001.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD01–01–181 and are available for inspection or copying at Coast Guard Activities New York, 212 Coast Guard Drive, room 204, Staten Island, New York 10305, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant K. Garza, Waterways Oversight Branch, Coast Guard Activities New York (718) 556–4407.

SUPPLEMENTARY INFORMATION:

Regulatory Information

As authorized by 5 U.S.C. 553, we did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. This rulemaking is urgently required to facilitate emergency services responding to terrorist attacks recently perpetrated upon the World Trade Center in Manhattan, NY, and to prevent future terrorist strikes within and adjacent to the Port of New York/New Jersey. The delay inherent in the NPRM process is contrary to the public interest insofar as it may impair urgent life-saving efforts by emergency personnel or render individuals, vessels and facilities within the Port vulnerable to subversive activity, sabotage or terrorist attack.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The measures contemplated by the rule are intended to facilitate ongoing, emergency response efforts and prevent future terrorist attack. Immediate action is needed to accomplish these objectives. Any delay in the effective date of this rule is impracticable and contrary to the public interest.

Request for Comments

Although the Coast Guard has good cause to implement this regulation without engaging in the Notice of Proposed Rulemaking process, we want to afford the maritime community the opportunity to participate in this rulemaking by submitting comments and related material regarding the size, scope and duration of the Regulated Navigation Areas, safety zones and security zones in order to minimize unnecessary burdens on waterway users. If you do so, please include your name and address, identify the docket number for this rulemaking [CGD01–01–181], indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this temporary final rule in view of them.

Background and Purpose

Terrorist attacks against the World Trade Center in Manhattan, New York on September 11, 2001 inflicted catastrophic human casualties and property damage. Federal, state and local personnel are engaged in ongoing efforts to rescue survivors and secure other potential terrorist targets from attack. The Coast Guard has established regulated navigation areas and safety and security zones within defined areas of water in order to facilitate emergency response and rescue activities, protect human life, and safeguard vessels and waterfront facilities from sabotage or terrorist acts. If a change in conditions during the effective period of this rule warrants lifting or mitigating any restriction imposed in the rule, the decision to modify or waive enforcement of that restriction will be communicated by broadcast notice to mariners. These regulations are issued under authority contained in 50 U.S.C. 191, 33 U.S.C. 1221, 1223, 1225 and 1226.

Regulated Navigation Area

The rule establishes a regulated navigation area (RNA) that includes portions of the Hudson River, as well as New York Harbor Upper and Lower Bays, Sandy Hook Bay, Raritan Bay, Newark Bay, Arthur Kill and Kill Van Kull. Deep draft vessels are required to meet certain conditions before entering the RNA. The conditions are imposed in order to protect the subject vessels from subversive or terrorists acts and to prevent their use as platforms for terrorist acts against individuals, other vessels, waterfront facilities or adjoining population centers.

In addition, the rule restricts passenger ferry services to specific points on Manhattan Island at which they may land to embark or disembark passengers. This restriction is intended to prevent undue congestion in areas where emergency response and rescue vessels are operating and to limit the introduction of pedestrian traffic in restricted, hazardous portions of lower Manhattan.

Any vessel authorized by its Certificate of Inspection to carry more than 49 passengers will be required to submit a Vessel Security Plan before being allowed to operate within the RNA. While operating within the RNA, passenger vessels authorized to carry more than 49 passengers must employ methods to secure the vessel from hijacking. These security requirements will help to ensure that passenger vessels operating in close proximity to population centers and waterfront facilities cannot be commandeered for use by terrorists or saboteurs.

Recreational vessels are prohibited from operating within the RNA. This restriction is necessary in order to provide security for waterfront facilities susceptible to sabotage or terrorist acts, alleviate undue vessel traffic congestion and prevent interference with law enforcement and emergency response vessels. If circumstances permit the resumption of some recreational vessel traffic, the Captain of the Port will broadcast the terms and conditions under which recreational vessels may resume operation within the RNA.

Included within the regulated navigation area is a special sector, designated ‘‘Area A’’, which includes all waters within the RNA consisting of the Hudson River south of the Holland Tunnel ventilators; thence west of line drawn from the Governor’s Island ventilators to the western end of the Brooklyn Bridge; thence from the southwest corner of Pier Lima on Governor’s Island to Liberty Island Gong Buoy 29 (LLNR 34995) thence to the southeast corner of Pier 7 at Liberty State Park. Only emergency response vessels directly assisting with the disaster in lower Manhattan may operate in Area A. Commercial vessels assisting with the disaster recovery efforts in Area A must contact Vessel Traffic Services New York (VTSNY) prior to entering this emergency response zone. All vessels operating within Area A must do so at no wake speeds, or 10 knots, whichever is less. This restriction is imposed in order to prevent interference with emergency response personnel and equipment operating on and adjacent to the affected shoreline.

Violations of the regulated navigation areas are punishable by civil penalties (not to exceed $25,000 per violation), criminal penalties (imprisonment for not more than 6 years and a fine of not more than $250,000) and in rem liability against the offending vessel.

Safety and Security Zones

The rule also establishes six distinct safety and security zones. Four of the zones are established by reference to fixed boundaries and are intended to protect individuals, other vessels and waterfront facilities from subversive or terrorist acts. Two of the zones are defined by reference to a fixed radius around vessels capable of movement throughout the Port of New York/New Jersey. These zones are intended principally to protect the vessels themselves from subversive or terrorist acts.

No person or vessel may enter or remain in the prescribed safety and security zones at any time without the permission of the Captain of the Port. Each person or vessel in a safety and security zone shall obey any direction or order of the Captain of the Port. The Captain of the Port may take possession and control of any vessel in a safety and security zone and/or remove any person, vessel, article or thing from a security zone. No person may board, take or place any article or thing on board any vessel or waterfront facility in a security zone without permission of the Captain of the Port.

Any violation of any safety or security zone described herein, is punishable by, among others, civil penalties (not to exceed $25,000 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment for not more than 6 years and a fine of not more than $250,000), in rem liability against the offending vessel, and license sanctions.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The sizes of the zones are the minimum necessary to provide adequate protection for the public, vessels, and vessel crews. Any vessels seeking entry into or movement within the safety and security zones must request permission from the Captain of the Port or his authorized patrol representative. Any hardships experienced by persons or vessels are considered minimal compared to the national interest in protecting the public, vessels, and vessel crews from the further devastating consequences of the aforementioned acts of terrorism, and from potential future sabotage or other subversive acts, accidents, or other causes of a similar nature.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

For the reasons addressed under the Regulatory Evaluation above, the Coast Guard expects the impact of this regulation to be minimal and certifies under section 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. Maritime advisories will be initiated by normal methods and means and will be widely available to users of the area.

Assistance for Small Entities

Under subsection 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 final rule so that they can better evaluate its effects on them and participate in the rulemaking. If your small business or organization would be affected by this final rule and you have questions concerning its provisions or options for compliance, please call LT Kathleen Garza, telephone (718) 556–4407. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

This rule will not affect 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 create 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 have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g) of Commandant Instruction M16475.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T01–165 to read as follows:

§ 165.T01–165 Regulated Navigation Area: New York Marine Inspection Zone and Captain of the Port Zone.

(a) *Regulated navigation area.* The following waters within the boundaries of the New York Marine Inspection Zone and Captain of the Port Zone are established as Regulated Navigation Areas:

(1) All waters of the Hudson River, New York Harbor Upper and Lower Bays, Sandy Hook Bay, Raritan Bay, Newark Bay, Arthur Kill and Kill Van Kull, within the following boundaries: south of the George Washington Bridge on the Hudson River; west of a line drawn from the Governor's Island ventilators to the western end of the Brooklyn Bridge; north of a line drawn between Rockaway Point, NY and the northern tip of Sandy Hook, NJ; south of Leigh-Valley Bridge; and east of the Raritan River Cut-off.

(2) Within the RNA is a smaller sector designated Area A—Lower Manhattan: All waters within the RNA consisting of the Hudson River south of the Holland Tunnel ventilators; all waters west of a line drawn from the Governor's Island ventilators to the western end of the Brooklyn Bridge, thence from the southwest corner of Pier Lima on Governor's Island to Liberty Island Gong Buoy 29 (LLNR 34995) thence to the southeast corner of Pier 7 at Liberty State Park.

(b) *Applicability.* This section applies to all vessels operating within the Regulated Navigation Area, including naval and public vessels, except vessels that are engaged in the following operations:

(1) Law enforcement;

(2) Emergency response;

(3) Servicing aids to navigation; or

(4) Surveying, maintenance, or improvement of waters in the Regulated Navigation Area.

(c) *Effective dates.* This section is effective from September 28, 2001 through April 8, 2002.

(d) *Regulations.* (1) Only emergency response vessels directly assisting with the disaster in lower Manhattan may operate in the sector designated Area A. Commercial vessels assisting with the disaster recovery efforts in Area A must contact Vessel Traffic Services New York (VTSNY) prior to entering the area. Vessels transiting Area A must do so at no wake speed, or speeds not to exceed 10 knots, whichever is less.

(2) Passenger ferry services operating within the RNA are not authorized to use ferry slips south of 14th Street in Manhattan, without receiving express authorization from VTSNY.

(3) Any passenger ferry operating within the RNA is required to contact VTSNY before getting underway to ensure compliance with the foregoing requirements in this section and to inform VTSNY of the vessel's destination.

(4) No vessel whose Certificate of Inspection authorizes it to carry more than 49 passengers may enter, transit or operate within the RNA until Coast Guard Activities New York, Inspection Division, has reviewed and approved that vessel's Security Plan. An approved Vessel Security Plan submitted in accordance with 33 CFR 120 will satisfy the requirements of this section. A Vessel Security Plan shall, at a minimum:

(i) Describe all measures taken to ensure the physical security of the vessel and the security, safety and identity of persons on board the vessel;

(ii) Identify those areas and spaces on the vessel that passengers are restricted or prohibited from entering or accessing; and

(iii) Establish a procedure to address and report terrorist or hijacking threats.

(5) Each passenger vessel whose Certificate of Inspection authorizes it to carry more than 49 passengers shall keep its pilot house door closed and locked while operating within the RNA to ensure maximum protection of the passengers and crew.

(6) All deep draft vessels operating within the RNA must enter the Port via Ambrose or Sandy Hook Channels. Before entering the RNA, the following conditions must be met:

(i) The vessel must undergo a port security inspection by the U. S. Coast Guard;

(ii) The vessel's agent must confirm that the vessel's berth is ready to receive the ship;

(iii) The vessel must embark a pilot; and

(iv) The vessel must be escorted by two tugs when transiting the harbor inside of one nautical mile (1 NM) south of the Verrazano Narrows Bridge or the Outerbridge Crossing.

(7) Recreational vessels are prohibited from operating within the RNA. If circumstances permit the resumption of some recreational vessel traffic during the effective period of this rule, the Captain of the Port will broadcast the terms and conditions under which recreational vessels may operate within the RNA.

3. Add temporary § 165.T01–166 to read as follows:

§ 165.T01–166 Safety and Security Zones: New York Marine Inspection Zone and Captain of the Port Zone.

(a) *Safety and security zones.* The following are established as safety and security zones:

(1) *Safety and Security Zone A.* Indian Point Nuclear Power Plant: All waters of the Hudson River within 1000 yards of the Indian Point Nuclear Power Station, located south of Peekskill Bay, from Charles Point on the north to the overhead power cables to the south.

(2) *Safety and Security Zone B.* OEM Emergency Command Post: All waters of the Hudson River bound by the following points: from the northeast corner of Pier 96, Manhattan, where it intersects the seawall; thence to approximate position 40°46′23″ N, 073°59′59″ W; thence to 40°45′56.4″ N, 074°00′19.1″ W; thence to the southeast corner of Pier 84, Manhattan, where it intersects the seawall; thence along the shoreline to the point of origin (NAD 83).

(3) *Safety and Security Zone C.* Liberty Island. All waters of Upper New York Bay bound by the following points: the northeast corner of Liberty State Park in approximate position 40°42′20.4″ N, 074°02′06.2″ W; thence to Ellis Island Lighted Gong Buoy 31 (LLNR 35005); thence to Liberty Island Lighted Gong Buoy 29 (LLNR 34995); thence to the southeast corner of Pier 7, Liberty State Park, in approximate position 40°41′26.2″ N, 074°03′17.9″ W.

(4) *Safety and Security Zone D.* USNS COMFORT: A moving security zone including all waters within a 200-yard radius of the USNS COMFORT while it is transiting, moored or berthed in any

portion of the Port of New York/New Jersey.

(5) *Safety and Security Zone E.* U.S. Coast Guard vessels: All waters within a 100-yard radius of any anchored U.S. Coast Guard vessel.

(6) *Safety and Security Zone F.* Bridge stanchions: All waters within 25 yards of any bridge stanchion in the Port of New York/New Jersey including, but not limited to, the following bridges at the specified mile markers:

(i) In the East River: Brooklyn Bridge (Mile 0.8), Manhattan Bridge (Mile 1.1), Williamsburg Bridge (Mile 2.3), Queensboro Bridge (Mile 5.5), Triboro Bridge (Mile 7.8), Whitestone Bridge (Mile 13.8) and Throgs Neck Bridge (Mile 15.8);

(ii) In the Hudson River: George Washington Bridge (Mile 11.8)

(iii) In the Kill Van Kull: Bayonne Bridge (Mile 1.5);

(iv) In the Arthur Kill: Outerbridge Crossing (Mile 2.0), Goethals Bridge (Mile 11.5) and AK Lift Bridge (Mile 11.6); and

(v) In New York Harbor: Verrazano Narrows Bridge.

(b) *Effective dates.* This section is effective from September 28, 2001 through April 8, 2002.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 and 165.33 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: September 28, 2001.

G.N. Nacarra,

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

[FR Doc. 01–25290 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD07–01–037]

RIN 2115–AE84

Regulated Navigation Area: Savannah River, Georgia

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary Regulated Navigation Area (RNA) on a portion of the Savannah River to regulate waterway traffic when vessels carrying Liquefied Natural Gas (LNG) are transiting or moored on the Savannah River. This action is necessary because of the size, draft, and volatile cargo of LNG tankships. This rule enhances public and maritime safety by minimizing the risk of collision, allision or grounding and the possible release of LNG.

DATES: This rule is effective from 12:01 a.m. on September 30, 2001 until 11:59 p.m. on March 31, 2002.

ADDRESSES: You may mail comments and related material to Coast Guard Marine Safety Office Savannah, Juliette Gordon Low Federal Building, Suite 1017, 100 W. Oglethorpe, Savannah, Georgia 31401. Coast Guard Marine Safety Office Savannah maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket [CGD07–01–037], will become part of this docket and will be available for inspection or copying at Marine Safety Office Savannah, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James Hanzalik at the Marine Safety Office Savannah; phone (912) 652–4353 extension 205.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 19, 2001 we published a notice of proposed rulemaking (NPRM) in the **Federal Register** entitled Regulated Navigation Area; Savannah River, Georgia (66 FR 32915). The Coast Guard received twenty-two letters commenting on the proposed rule. No public hearing was requested, and none was held. Due to the substantial amendments to the proposed rule as a result of these comments, additional research, and simulations conducted by the U.S. Coast Guard, this temporary final rule is established while a supplemental notice of proposed rulemaking is issued and comments received.

This temporary rule is needed while we allow the public to comment on our modified proposed rule because of the imminent start up of the Southern LNG Elba Island facility and arrival of LNG tankships.

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. On June 19, 2001 we published a notice of proposed rulemaking (NPRM) in the **Federal Register** entitled Regulated Navigation Area; Savannah River, Georgia (66 FR 32915). This NPRM proposed the general regulatory scheme contained in this temporary rule. Due in part to the comments we received, we will publish a supplemental notice of proposed rulemaking (SNRPM) and propose another final rule, offering the public the opportunity to comment on our revised proposal. However, immediate action is necessary to protect the public from the dangers associated with transporting LNG.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

The port of Savannah will begin receiving LNG tankships at the Southern LNG Elba Island facility in early October 2001. This temporary rule is necessary to protect the safety of life and property on the navigable waters from hazards associated with LNG activities.

The Savannah River has a narrow and restricted channel with many bends. The LNG facility is located at one of these bends on Elba Island. The LNG tankship berth is located adjacent to and parallel with the toe of the shipping channel. Because of these factors, the hazardous nature of LNG and the substantial volume of deep draft vessel traffic in Savannah (approximately 5000 annual transits), the risk of collision or allision involving an LNG tankship must be addressed.

The Elba Island LNG facility has been struck by passing vessels twice in the past 20 years. In both instances the facility was inactive, however, damage to both the facility and vessels was extensive. The potential consequences from this type of allision would be significantly more severe with an LNG tankship moored at the Elba Island dock. This temporary rule is needed to prevent incidents involving a LNG tankship in transit or while moored at the facility.

Discussion of Comments and Changes

The Coast Guard received twenty-two comment letters addressing the notice of proposed rulemaking. The Coast Guard has incorporated some of the comments and made content changes and other administrative and numbering corrections in this temporary final rule. The specific section of the proposed rule that each comment or group of comments addresses is below in bold text. The Coast Guard's response to the comments immediately follows the bolded text.

Two comments concerned the proposed construction of the Jasper County waterfront facility in the vicinity of the LNG terminal. While we acknowledge the possibility of this facility's construction, no regulatory approvals have been granted for the proposed Jasper County facility and immediate action is needed to address the current situation. We have not modified the rule in light of these two comments.

33 CFR 165.756(d)(1)(i). ''Except for a vessel that is moored at a marina, wharf, or pier, and that remains moored, no vessel greater than 1600 gross tons is permitted within the Regulated Navigation Area without the consent of the Captain of the Port (COTP).''

The Coast Guard received four comments expressing concern over potential delays during a LNG tankship arrival and departure. The Coast Guard believes that any potential delays associated with LNG tankship movements will be minimized through coordination during pre-transit conferences conducted by the Captain of the Port (COTP) prior to a LNG tankship's arrival and departure and by the pre-positioning of additional towing vessels by the LNG facility in support of this RNA.

33 CFR 165.756(d)(2)(iv) Requirements for vessels carrying LNG: ''Not enter or get underway within the regulated navigation area if visibility during the transit is, or is expected to be, less than three (3) miles. * * *''

Two respondents provided specific comments concerning the three-mile visibility restriction. The comments noted the proposed rule would impose visibility-based restrictions on LNG tankships that may be considered different from those applicable to similar size vessels. The Coast Guard has carefully considered these comments and has eliminated the specific language requiring at least three miles of visibility. Instead, visibility issues will be addressed on a case-by-case basis with input from the Coast Guard, the pilot and the master of the LNG tankship during the pre-transit conference required in the Savannah Area Liquefied Natural Gas (LNG) Vessel Management and Emergency Plan. This will allow greater flexibility for vessel entry based on the professional judgment of the mariners making the transit and the Coast Guard. Section 165.756(d)(2)(iv) of the proposed rule has been modified and renumbered to read 165(d)(1)(iii)(4), ''Not enter or get underway within the RNA if visibility during the transit is not sufficient to safely navigate the channel. * * *''

33 CFR 165.756(d)(3). ''Restrictions on vessel operations while a LNG vessel is moored:''

The Coast Guard amended the proposed rule concerning the protection of passing vessels under 1600 gross tons as they pass a LNG tankship while it is moored at the LNG terminal. This temporary final rule prohibits vessels less than 1600 gross tons from approaching within 70 yards of a moored LNG tankship. This change was made to protect vessels less than 1600 gross tons from the hazards associated with the transfer of LNG at the Elba Island terminal. This change will not restrict vessel movement within the deep draft channel and will have minimal or no impact on commercial or recreational vessel traffic.

33 CFR 165.756(d)(3)(i) and (ii) Towing vessel requirements for the LNG facility. The LNG facility ''* * * shall station and provide a minimum of two (2) towing vessels each with a minimum of 100,000 pounds of bollard pull to safely maneuver transiting vessels greater than 1600 gross tons * * *'' and for transiting vessels over 1600 gross tons while a LNG vessel is moored at the facility, ''when passing a moored LNG vessel shall have a minimum of two (2) towing vessels in escort each with a minimum of 100,000 pounds of bollard pull. * * *''

The Coast Guard has amended this 2-tug requirement based on simulations conducted at Marine Safety International. The objective of this section is to prevent, or mitigate the potential consequences of a vessel alliding with a moored LNG tankship. Based on simulations conducted and a review of existing industry escort operations, the Coast Guard has determined that an adequate level of safety can be achieved with two towing vessels having adequate bollard pull, horsepower and the capability to operate in the ''indirect mode.'' These simulations also revealed that other combinations of operation by towing vessels not made-up to the escorted vessel prior to the onset of the same emergent situation, or by towing vessels not capable of safely operating in the indirect mode, whether made-up or not, consistently failed to prevent a high impact allision. Similar escort requirements typically applied to tankships on the West Coast of the United States have successfully controlled and/or arrested escorted vessels' movements under emergent circumstances.

Therefore, the Coast Guard amended section (d)(3)(ii) of the proposed rule to read: ''Transiting vessels 1600 gross tons or greater, when passing a moored LNG tankship, shall have a minimum of two (2) towing vessels, each with a minimum capacity of 100,000 pounds of bollard pull, 4,000 horsepower, and the ability to safely operate in the indirect mode, made-up in such a way as to be immediately available to arrest and/or control the motion of an escorted vessel in the event of steering, propulsion or other casualty.''

The Coast Guard received two comments concerning the potential for liability claims due to the facility having to provide escort towing vessel services. These comments generally asserted that because escort tugs were being required by a federal regulation, the facility should not be liable for any damages incurred during escort operations.

This temporary rule addresses safety issues associated with the navigable waters of the United States and attempting to address liability issues in this rule is inappropriate. Ultimately, issues related to liability will be resolved in the legal process.

33 CFR 165.756(d)(3)(ii) ''Transiting vessels over 1600 gross tons when passing a moored LNG vessel shall have a minimum of two (2) towing vessels in escort each with a minimum of 100,000 pounds of bollard pull made up in a way to safely maneuver past the transferring LNG vessel. Outbound vessels shall be escorted from the terminus of the Fort Jackson range until the vessel is safely past the LNG dock. Inbound vessels shall be escorted from Field's Cut until the vessel is safely past the LNG dock.''

The Coast Guard received sixteen comments objecting to the requirement that tugs make-up to vessels over 1600 gross tons as they pass a moored LNG tankship. These comments agreed with the requirement for having vessels escorted but asserted that either the pilot, the master and/or the towing vessel operators should make the decision on whether to make-up, or that towing vessels should not be made-up because this type of arrangement provided no additional level of safety.

We disagree with comments asserting that the towing vessel should not be made-up. As previously discussed in the NPRM under the heading of 33 CFR 165.756(d)(3)(i) and (ii), Coast Guard research clearly indicates that the most effective way to maneuver and control a vessel is if it is made-up to towing vessels. These conclusions have been tested and were verified by simulations based on similar historical casualty scenarios.

Considering the proximity of the moored LNG tankship to the shipping channel, as well as the restricted nature of the waterway, the safe option of requiring towing vessels to be made-up to the escorted vessel is prudent. During a casualty (steering or propulsion), reaction time is critical. By ensuring the escorting towing vessels are made-up prior to a casualty, control will be immediate and any delays associated with attempting to make-up at the point of extremis will be eliminated.

We received nine comments expressing concern related to potential cost for the delays associated with the making-up of towing vessels to vessels passing the moored LNG tanker. Many of the comments stated that delays due to towing vessel availability and the time required to make-up would have an adverse economic impact.

Based on simulations conducted, the additional time needed to make-up was minimal as compared with normal transits and passing at minimum speed. The time required to make-up results in minimal delays because the passing vessel continues its forward movement during this evolution. The minimal make-up time is significant, however, when a vessel is in extremis and reaction time must be nearly instantaneous. For these reasons and as previously discussed, the Coast Guard continues to require that the escort towing vessels be made-up to the escorted vessel.

The Coast Guard received eight comments concerning the length of the escort zone for vessels passing a LNG tankship while it is moored. The original proposed zone was from Fort Jackson to Elba Island Cut. Since publishing the notice of proposed rulemaking, additional research has been conducted which suggests that a reduction in the size of the escort zone will not adversely affect the level of safety. We agree with the comments and have amended the temporary final rule.

We recognize circumstances will dictate the distance and time required to make-up the towing vessels. It is left to the professional judgment of the mariners involved in the evolution to ensure the vessels are properly made-up prior to passing Bight Channel Light 46 for outbound vessels and Elba Island Light 37 for inbound vessels and that vessels remain made-up until clear of the LNG tankship. (NOTE: The distance between Lights 46 & 37 is approximately 2.1 nautical miles or approximately 1 nautical mile either side of the facility. The originally proposed zone size was 3.3 nautical miles or roughly 1.6 nautical miles on either side.)

33 CFR 165.756(d)(3)(iii) ''* * * the operator of the facility where the LNG vessel is moored shall provide at least one towing vessel with sufficient capacity to safely hold the LNG vessel to the dock while transiting vessels pass.''

Two respondents provided specific comments concerning the requirement to provide at least one towing vessel with sufficient capacity to safely hold the LNG tankship to the dock while transiting vessels pass. The Coast Guard has carefully considered these comments and has determined that the original wording of this requirement may restrict the flexibility of the ''standby'' towing vessel to assist in a wider range of casualty scenarios. The Coast Guard has amended and renumbered section (d)(3)(iii) of the proposed rule to now read (d)(2)(ii): ''In addition to the two towing vessels required by section (d)(2)(i) of this part, the operator of the facility where the LNG tankship is moored shall provide at least one (1) standby towing vessel of sufficient capacity to take any appropriate actions in an emergency as directed by the LNG vessel bridge watch.''

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal so that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Only an estimated one percent of the annual transits on the Savannah River will be LNG tankships. Further, all LNG transits will be coordinated and scheduled with the pilots and the Coast Guard Captain of the Port to minimize port disruption and delays for other commercial traffic, and LNG tankships. Finally, requests to enter the RNA may be granted on a case-by-case basis by the Coast Guard Captain of the Port.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because LNG vessels will comprise an estimated one percent of the large commercial vessel transits on the Savannah River. Further, the tug escort requirements of this rule for vessels transiting past a moored LNG vessel will only affect an estimated 12% of all large commercial vessel transits on the River. Delays, if any, will be minimal because vessel speeds would be reduced regardless of the tug requirements. Delays for inbound and outbound traffic due to LNG transits will be minimized through pre-transit conferences with the pilots and the Coast Guard Captain of the Port. Finally, the RNA requirements are less burdensome for smaller vessels, which are more likely to be small entities, because of the lower risk associated with these vessels.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pubic Law 104–121), we offered to assist small entities in understanding this rule so that they could better evaluate its effects on them and participate in the rulemaking process. If the rule would affect your small business and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.** Small businesses may also send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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 create an environmental risk to health or risk to safety that might 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.lD, this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

For the reasons discussed in the preamble, the Coast Guard is amending 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 reads 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. Section 165.T07–037 is added to read as follows:

§ 165.T07–037 Regulated Navigation Area; Savannah River, Georgia.

(a) *Regulated Navigation Area (RNA).* The Savannah River between Fort Jackson (32°04.93′ N, 081°02.19′ W) and the Savannah River Channel Entrance Sea Buoy is a regulated navigation area.

(b) *Definitions.* The following definitions are used in this section:

Bollard pull is an industry standard used for rating tug capabilities and is the pulling force imparted by the tug to the towline. It means the power that an escort tug can apply to its working line(s) when operating in a direct mode.

Direct Mode is a towing technique which, for the purpose of this regulation, is defined as a method of operation by which a towing vessel generates by thrust alone; towline forces at an angle equal to or nearly equal to the towline, or thrust forces applied directly to the escorted vessel's hull.

Indirect Mode is a towing technique which, for the purpose of this regulation, is defined as a method of operation by which an escorting towing vessel generates towline forces by a combination of thrust and hydrodynamic forces resulting from a presentation of the underwater body of the towing vessel at an oblique angle to the towline. This method increases the resultant bollard pull, thereby arresting and/or controlling the motion of an escorted vessel.

LNG tankship means a vessel as described in Title 46, Code of Federal Regulations, Part 154.

Made-up means physically attached by cable, towline, or other secure means in such a way as to be immediately ready to exert force on a vessel being escorted.

Make-up means the act of, or preparations for becoming made-up.

Operator means the person who owns, operates, or is responsible for the operation of a facility or vessel.

Savannah River Channel Entrance Sea Buoy means the aid to navigation labeled R W ''T'' Mo (A) WHIS on the National Oceanic and Atmospheric Administration's (NOAA) Nautical Chart 11512.

Standby means immediately available, ready, and equipped to conduct operations.

Underway means that a vessel is not at anchor, made fast to the shore, or aground.

(c) *Applicability.* This section applies to all vessels operating within the RNA, including naval and public vessels, except vessels that are engaged in one of the following operations:

(1) Law enforcement or search and rescue operations;

(2) Servicing aids to navigation;

(3) Surveying, maintenance, or improvement of waters in the RNA; or

(4) Actively engaged in escort, maneuvering or support duties for the LNG tankship.

(d) *Regulations.* (1) Restrictions on vessel operations while a Liquefied Natural Gas (LNG) tankship is underway within the RNA.

(i) Except for a vessel that is moored at a marina, wharf, or pier, and remains moored, no vessel 1600 gross tons or greater is permitted within the RNA without the consent of the Captain of the Port (COTP).

(ii) All vessels under 1600 gross tons shall keep clear of transiting LNG tankships.

(iii) The owner, master, or operator of a vessel carrying LNG shall:

(A) Comply with the notice requirements of 33 CFR Part 160. Updates are encouraged at least 12 hours before arrival at the RNA boundaries. The COTP may delay the vessel's entry into the RNA to accommodate other commercial traffic. LNG tankships are further encouraged to include in their notice a report of the vessel's propulsion and machinery status and any outstanding recommendations or deficiencies identified by the vessel's classification society and, for foreign flag vessels, any outstanding deficiencies identified by the vessel's flag state.

(B) Obtain permission from the COTP before commencing the transit into the RNA.

(C) While transiting, make security broadcasts every 15 minutes as recommended by the U.S. Coast Pilot 5 Atlantic Coast. The person directing the vessel must also notify the COTP telephonically or by radio on channel 13 or 16 when the vessel is at the following locations: Sea Buoy, Savannah Jetties, and Fields Cut.

(D) Not enter or get underway within the RNA if visibility during the transit is not sufficient to safely navigate the channel, and/or wind speed is, or is expected to be, greater than 25 knots.

(E) While transiting the RNA, the LNG tankship shall have sufficient towing vessel escorts.

(2) Requirements for LNG facilities:

(i) The operator of a facility where a LNG tankship is moored shall station and provide a minimum of two (2) escort towing vessels each with a minimum of 100,000 pounds of bollard pull, 4,000 horsepower and capable of safely operating in the indirect mode, to escort transiting vessels 1600 gross tons or greater past the moored LNG tankship.

(ii) In addition to the two towing vessels required by paragraph (d)(2)(i) of this section, the operator of the facility where the LNG tankship is moored shall provide at least one (1) standby towing vessel of sufficient capacity to take appropriate actions in an emergency as directed by the LNG vessel bridge watch.

(3) Requirements for vessel operations while a LNG tankship is moored:

(i) While moored within the RNA, LNG tankships shall maintain a bridge watch of appropriate personnel to monitor vessels passing under escort and to coordinate the actions of the standby towing vessel required in paragraph (d)(2)(ii) of this section in the event of emergency.

(ii) Transiting vessels 1600 gross tons or greater, when passing a moored LNG tankship, shall have a minimum of two (2) towing vessels, each with a minimum capacity of 100,000 pounds of bollard pull, 4,000 horsepower, and the ability to operate safely in the indirect mode, made-up in such a way as to be immediately available to arrest and/or control the motion of an escorted vessel in the event of steering, propulsion or other casualty. While it is anticipated that vessels will utilize the facility provided towing vessel services required in paragraph (d)(2)(i) of this section, this regulation does not preclude escorted vessel operators from providing their own towing vessel escorts, provided they meet the requirements of this part.

(A) Outbound vessels shall be made-up and escorted from Bight Channel Light 46 until the vessel is safely past the LNG dock.

(B) Inbound vessels shall be made-up and escorted from Elba Island Light 37 until the vessel is safely past the LNG dock.

(iii) All vessels of less than 1600 gross tons shall not approach within 70 yards of a LNG tankship.

(e) *LNG Schedule.* The Captain of the Port will issue a Broadcast Notice to Mariners to inform the marine community of scheduled LNG tankship activities during which the restrictions imposed by this part are in effect.

(f) *Waivers.* (1) The COTP may waive any requirement in this section, if the COTP finds that it is in the best interest of safety or in the interest of national security.

(2) An application for a waiver of these requirements must state the compelling need for the waiver and describe the proposed operation and methods by which adequate levels of safety are to be obtained.

(g) *Enforcement.* Violations of this RNA should be reported to the Captain of the Port, Savannah, at (912) 652–4353. In accordance with the general regulations in § 165.13 of this part, no person may cause or authorize the operation of a vessel in the Regulated Navigation Area contrary to the regulations.

Dated: September 29, 2001.

James S. Carmichael,

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

[FR Doc. 01–25287 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 235–0296; FRL–7066–9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval of a revision to the Tehama County Air Pollution Control District (TCAPCD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on November 19, 1999 and concerns volatile organic compound (VOC) emissions from organic solvents. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action incorporates a local rule that regulates these emission sources into the federally approved SIP.

EFFECTIVE DATE: This rule is effective on November 9, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revision at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

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

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

Tehama County Air Pollution Control District, 1750 Walnut Street, P.O. Box 38, Red Bluff, CA 96080.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1199.

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

I. Proposed Action

On November 19, 1999 (64 FR 63268), EPA proposed a limited approval of the following rule that was submitted for incorporation into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
TCAPCD	4.22	Industrial Use of Organic Solvents	08/04/87	11/19/87

We proposed a limited approval because we determined that this rule improves the SIP and is largely consistent with the relevant CAA requirements. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of this rule. This limited disapproval, although not specifically stated in the proposed rule, is implied by the limited approval. Some rule provisions conflict with section 110 and part D of the Act. These provisions include the following:

1. A director's discretion to choose and approve test methods to determine conformance.
2. The absence of specified test methods or monitoring protocols.
3. A lack of record keeping provisions.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we did not receive any comments.

III. EPA Action

Our assessment of the rule as described in our proposed action is unchanged. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of the submitted rule. This action incorporates the submitted rule into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of this rule. This limited disapproval, although not specifically stated in the proposed rule, is implied by the limited approval. No sanctions under section 179 are associated with this final action, because control of these sources is not required for attainment of the NAAQS. Note that the submitted rule has been adopted by the TCAPCD, and EPA's final limited disapproval does not prevent the local agency from enforcing it.

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: September 7, 2001.

Mike Schulz,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 4701 *et seq.*

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c) (175)(i)(B)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(175) * * *

(i) * * *

(B) * * *

(*2*) Rule 4.22, adopted on August 4, 1987.

* * * * *

[FR Doc. 01–25263 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 241–0300; FRL–7075–7]

Revisions to the California State Implementation Plan, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of revisions to the Bay Area Air Quality Management District's (BAAQMD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on August 2, 2001 and concerns volatile organic compound (VOC) emissions from storage of organic liquids and leaking equipment at petroleum refineries, chemical plants, bulk and bulk terminals. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves local rules that regulate these emission sources and directs the BAAQMD to correct rule deficiencies.

EFFECTIVE DATE: This rule is effective on November 9, 2001.

ADDRESSES: You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours. You can inspect copies of the submitted SIP revisions at the following locations:

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

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

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

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

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1197.

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

I. Proposed Action

On August 2, 2001 (66 FR 40168), EPA proposed a limited approval and limited disapproval of the following rules that were submitted for incorporation into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
BAAQMD	8–5	Storage of Organic Liquids	12/15/99	03/28/00
BAAQMD	8–18	Equipment Leaks	01/07/98	03/28/00

We proposed a limited approval because we determined that these rules improve the SIP and are largely consistent with the relevant CAA requirements. We simultaneously proposed a limited disapproval because some rule provisions conflict with section 110 and part D of the Act. These provisions include the following:

1. Rule 8–5 exempts sources from control requirements during certain startup, shutdown, and maintenance conditions in violation of EPA's 1999 guidance on excess emission during malfunctions, startup, and shutdown.

2. Rule 8–18 contains director's discretion in the allowance of compliance options and the use of new leak detection and repair technology without EPA approval.

Our proposed action contains more information on the basis for this rulemaking and on our evaluation of the submittal.

II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received no comments.

III. EPA Action

No comments were submitted. Therefore, as authorized in sections 110(k)(3) and 301(a) of the Act, EPA is finalizing a limited approval of the submitted rules. This action incorporates the submitted rules into the California SIP, including those provisions identified as deficient. As authorized under section 110(k)(3), EPA is simultaneously finalizing a limited disapproval of the rules. As a result, sanctions will be imposed unless EPA approves subsequent SIP revisions that correct the rule deficiencies within 18 months of the effective date of this action. These sanctions will be imposed under section 179 of the Act according to 40 CFR 52.31. In addition, EPA must promulgate a federal implementation plan (FIP) under section 110(c) unless we approve subsequent SIP revisions that correct the rule deficiencies within 24 months. Note that the submitted rules have been adopted by the BAAQMD, and EPA's final limited disapproval does not prevent the local agency from enforcing them.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13211

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 Fed. Reg. 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

C. Executive Order 13045

Executive Order 13045, entitled 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 does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Executive Order 13175

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

This final rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

F. Regulatory Flexibility Act

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

This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

EPA's disapproval of the state request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing federal requirements remain in place after this disapproval. Federal disapproval of the state submittal does not affect state enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

G. Unfunded Mandates

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

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

H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to today's action because it does not require the public to perform activities conducive to the use of VCS.

I. Submission to Congress and the Comptroller General

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

J. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: September 21, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(277)(i)(C) (*7*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(277) * * *

(i) * * *

(C) * * *

(*7*) Rule 8–5 adopted on December 15, 1999 and Rule 8–18 adopted on January 7, 1998.

* * * * *

[FR Doc. 01–25261 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH118–2; FRL–7062–5]

Conditional Approval Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is conditionally approving the Ohio Environmental Protection Agency's (OEPA) State Implementation Plan (SIP) for Prevention of Significant Deterioration (PSD) provisions for attainment areas based on the State's December 5, 2000, letter of commitment to submit the needed changes to its program within one year of the final conditional approval.

Ohio submitted a request for a SIP-approved PSD program on March 1, 1996. The request was supplemented on April 16, 1997, September 5, 1997, December 4, 1997, and April 21, 1998. Ohio Administrative Code (OAC) sections 3745–31–11 to 3745–31–20 contain the permitting provisions for areas attaining the national ambient air quality standards (NAAQS). The general provisions applying to both attainment and nonattainment areas are found in OAC sections 3745–31–01 to 3745–31–10.

EFFECTIVE DATE: This final rule is effective October 10, 2001.

ADDRESSES: Materials relevant to this rulemaking are available for inspection at the following address: Permits and Grants Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Please contact Genevieve Damico at (312) 353–4761 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Genevieve Damico, Environmental Engineer, Permits and Grants Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4761.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

A. What is the purpose of this document?
B. Who will be affected by this action?
C. What is the history of Ohio's PSD program?
D. How are OEPA's PSD rules structured?
E. Why are we granting a conditional approval?
F. How can this conditional approval become fully approved?
G. What are the ramifications for not submitting the necessary changes?

A. What Is the Purpose of This Document?

We are conditionally approving Ohio's PSD program into the SIP. The public comment period for the June 29, 2001, notice of proposed rulemaking closed on July 30, 2001. One comment was received in favor of the conditional approval action. If Ohio fails to timely submit the materials discussed above within one year of EPA's final conditional approval, the final conditional approval will automatically convert to a disapproval.

B. Who Is Affected by This Action?

Because the fully approved PSD program will be similar to the PSD program that OEPA already operates under delegated authority, air pollution sources will generally not be affected by this action. However, persons wishing to appeal PSD permits will have to file their appeals with OEPA under the SIP-approved program, rather than with EPA's Environmental Appeals Board as they have been doing under the delegated PSD program.

C. What Is the History of Ohio's PSD Program?

OEPA submitted its first permitting SIP to EPA on January 31, 1972, and submitted replacement regulations on June 6, 1973. These regulations provided requirements, such as best available technology, that were meant to be uniformly applied throughout the state.

The Clean Air Act (CAA) Amendments of 1977 required states to go further than uniformly applied regulations. The Amendments provided for the designation of areas within a state as ''attainment'' or ''nonattainment.'' An ''attainment'' area meets the NAAQS. A ''nonattainment'' area does not meet the NAAQS.

OEPA requested delegation of the PSD attainment permitting program on February 8, 1980, and received delegation on January 29, 1981.

OEPA submitted a request for approval of Ohio Administrative code (OAC) sections 3745–31–01 to 3745–31–20 into the SIP on March 1, 1996. Ohio subsequently submitted revisions dated March 1, 1996, April 16, 1997, September 5, 1997, December 4, 1997, and April 21, 1998. OEPA's PSD program has since remained in delegated status. The subsequent requests for SIP-approval of Ohio's regulations allow us to grant conditional approval to the program for reasons described below.

D. How Are OEPA's PSD Rules Structured?

Part C of Title I of the CAA requires a SIP for PSD rules for attainment areas. 40 CFR 51.165 and 51.166 contain the requirements for a PSD permitting program. OEPA submitted this SIP in the form of OAC sections 3745–31–11 to 3745–31–20. OEPA also submitted general provisions applying to both attainment and nonattainment areas in the form of OAC sections 3745–31–01 to 3745–31–10.

E. Why Are we Granting a Conditional Approval?

We are granting conditional approval to Ohio's PSD rules, OAC sections 3745–31–01 to 3745–31–20. These rules, for the most part, fulfill Part C of Title I of the CAA by incorporating the critical provisions at 40 CFR 51.165 and 51.166 for ambient air increment consumption, area designation and redesignation restrictions, best available control technology, impact analysis, and air quality modeling. OAC sections 3745–31–01(OOO) does not, however, include a 25 tons per year significance level for particulate matter, or a 50 ton per year significance level for municipal solid waste landfill emissions, as required by 40 CFR 51.166(b)(23)(i). Furthermore, total reduced sulfur and reduce sulfur compounds are incorrectly defined to exclude hydrogen sulfide. Therefore, the definition of significant as required by 40 CFR 51.166(b)(23)(i) is not complete. In a December 5, 2000, letter, OEPA has committed to correct the definition of significance in OAC 3745–31. Because OAC sections 3745–31–01 through 3745–31–20 meet all requirements of 40 CFR 51.165 and 51.166 with this exception, and OEPA has committed to correct these deficiencies, we believe it is appropriate to grant conditional approval. When Ohio demonstrates that the deficiencies identified above are cured, EPA can grant final approval to these rules.

EPA is currently reviewing OEPA's implementation of the delegated PSD program in response to a petition submitted by D. David Altman on behalf of Ohio Citizen Action, the Ohio Environmental Council, Rivers Unlimited, and the Ohio Sierra Club. Any concerns that EPA finds as a result of this review will be addressed through the process of responding to the petition. Today's proposed conditional approval only addresses whether or not specific provisions of Ohio's administrative code meet the federal criteria for a PSD program, as set forth in 40 CFR Part 51, and does not address any issues regarding how the code is being applied or enforced by Ohio. We believe the OAC revisions meet the criteria for approval with the exceptions listed above, and are therefore granting conditional approval. No particular findings or conclusions in or from the EPA petition review should be inferred from today's conditional

F. How Can This Conditional Approval Become Fully Approved?

OEPA will have one year from the time that the conditional approval is final to submit the necessary changes to its rules to correct the deficiencies identified in this notice. If OEPA does not submit approvable changes within the one year timeframe, EPA will disapprove Ohio's PSD program. Until Ohio's program is finally approved, OEPA will continue to be delegated the authority under § 51.166(b)(23)(i) of the federal PSD regulations to permit sources of significant particulate matter, municipal solid waste landfill emissions, and total reduced sulfur and reduce sulfur compounds. The delegation will continue until such time as the identified deficiencies are corrected and full approval is granted (or unless EPA otherwise addresses the delegation after the review of Ohio's implementation of the PSD program pursuant to the petition discussed above).

G. What Are the Ramifications for Not Submitting the Necessary Changes?

If OEPA fails to submit the necessary rule changes to us, final conditional approval will automatically convert to a disapproval. We will notify the State by letter to this effect. Once the SIP has been disapproved, these commitments will no longer be a part of the approved SIP. We will subsequently publish a notice to this effect in the notice section of the **Federal Register** indicating that the commitment or commitments have been disapproved and removed from the SIP. If OEPA adopts and submits the final rule amendments to EPA within the applicable time frame, the conditionally approved commitments will remain part of the SIP until the EPA takes final action approving or disapproving the new submittal, those newly approved rules will become part of the SIP.

If after considering the comments on the subsequent submittal, we issue a final disapproval, the sanctions clock under 179(a) will begin. If OEPA does not submit and we do not approve the rule on which any disapproval is based within 18 months of the disapproval, we must impose one of the sanctions under section 179(b)-highway funding restrictions or the offset sanction. In addition, any final disapproval would start the 24 month clock for the imposition of section 110(c) Federal Implementation Plan. Finally, under section 110(m) the EPA has discretionary authority to impose sanctions at any time after final disapproval.

We find that this is good cause for this final conditional approval to become effective immediately upon publication because a delayed effective date is unnecessary due to the nature of a conditional approval, which requires that the State make certain submittals within one year of the final conditional approval. Any delay in the effective date of this conditional approval further delays the compliance date by which the State has to submit the rule changes committed to in this document.

EPA Action

In this rulemaking action, we grant conditional approval of OEPA's March 1, 1996, request, as amended by OEPA's April 16, 1997, request, for additions and revisions to OAC sections 3745–31–01 to 3745–31–10, and OAC sections 3745–31–11 to 3745–31–20 because the request meets all of the requirements of 40 CFR 51.165 and 51.166 with the exception of a 25 ton per year significance level for particulate matter; a 50 ton per year significance level for municipal solid waste landfill emissions as required by 40 CFR 51.166(b)(23)(i); and because total reduced sulfur and reduce sulfur compounds are incorrectly defined to exclude hydrogen sulfide. OEPA has also committed to correct the definition of significance in OAC 3745–31.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in The CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides, Volatile organic compounds.

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

Dated: September 5, 2001.

Thomas V. Skinner,

Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, chapter I of title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

2. Section 52.1919 is amended by adding paragraph(a)(4) to read as follows:

§ 52.1919 Identification of plan-conditional approval.

* * * * *

(a) * * *

(4) On March 1, 1996, Ohio submitted revisions to its Permit to Install rules as a revision to the State implementation plan. The request was supplemented on April 16, 1997, September 5, 1997, December 4, 1997, and April 21, 1998.

(i) Incorporation by reference.

(A) Rule 3745–31–01 through 3745–31–20, effective September 25, 1998.

[FR Doc. 01–25260 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI85–02–7316; FRL–7076–6]

Approval and Promulgation of Air Quality Plans; Wisconsin; Post-1996 Rate of Progress Plan for the Milwaukee-Racine Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving the post-1996 Rate-Of-Progress (ROP) plan submitted by the State of Wisconsin for the Milwaukee-Racine ozone nonattainment area, as a requested revision of the State Implementation Plan (SIP) for ozone. A post-1996 ROP plan is required for the Milwaukee-Racine ozone nonattainment area under the Clean Air Act (Act). The purpose of the post-1996 ROP plan is to incrementally provide for progress toward attainment of the 1-hour ozone standard in the Milwaukee-Racine ozone nonattainment area by reducing ground-level ozone precursor emissions. The submitted plan, which covers the period of 1996 through 1999 and

emission reductions occurring by November 15, 1999, shows that Wisconsin reduced emissions of volatile organic (VOC), ozone-forming pollutants, by the amounts required by the Act. We proposed approval of this SIP revision submittal on June 22, 2001.

DATES: This final rule is effective November 9, 2001.

ADDRESSES: You can access copies of the SIP revision request and the Technical Support Document (TSD) for the proposed rulemaking on the SIP revision request at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Jacqueline Nwia at (312) 886–6081 before visiting the Region 5 Office).

FOR FURTHER INFORMATION CONTACT: Jacqueline Nwia, Environmental Scientist, U.S. Environmental Protection Agency, Air and Radiation Division (AR–18J), 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6081, nwia.jacqueline@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' are used, we mean EPA.

The supplemental information is organized in the following order:

I. What is EPA Approving In This Action?
II. Are All Of The Control Strategies In The Post-1996 ROP Plan Federally Approved or Promulgated?
III. Were Public Comments Submitted During the Public Comment Period For The Proposed Approval of Wisconsin's Post-1996 ROP Plan For The Milwaukee-Racine Ozone Nonattainment Area?
IV. Final Rulemaking Action.
V. Administrative Requirements.

I. What is EPA Approving in This Action?

We are approving the post-1996 ROP plan for the Milwaukee-Racine ozone nonattainment area because the plan identifies control measures to achieve a projected 9 percent VOC emission reduction by November 15, 1999. Section 182(c)(2) of the Act required serious and above ozone nonattainment areas to submit plans that would achieve reductions in VOC emissions by at least 3 percent per year, net of growth, averaged over each consecutive 3 year period beginning in 1996 until the area's attainment date. These plans are referred to as rate-of-progress (ROP) plans. Section 182(c)(2) also required such areas to submit a plan that demonstrates attainment of the ozone standard based on photochemical grid modeling or an equally effective method. The attainment demonstration and ROP plans were due to EPA by November 15, 1994.

Many states, however, found it difficult to meet the date for submittal of an attainment demonstration and post-1996 ROP plan due primarily to an inability to address or control transport of ozone. We consequently recognized the efforts made by the states and the challenges in developing technical information and control measures with respect to these submittals in a memorandum entitled ''Ozone Attainment Demonstrations,'' dated March 2, 1995, from Mary D. Nichols, Assistant Administrator for Air and Radiation. The memorandum then allowed new time frames for these SIP submittals and divided the required SIP submittals into two phases. Generally, Phase I consists of: SIP measures providing for ROP reductions due by the end of 1999, an enforceable SIP commitment to submit any remaining required ROP reductions on a specified schedule after 1999, and an enforceable SIP commitment to submit the additional SIP measures needed for attainment. Phase II consists of the remaining ROP SIP measures, the attainment demonstration and additional local rules needed to attain, and any regional controls needed for attainment by all areas in the region.

This action finalizes approval of Wisconsin's post-1996 ROP plan.

II. Are all of the Control Strategies in the Post-1996 ROP Plan Federally Approved or Promulgated?

Our June 22, 2001, proposal identifies all of the control strategies, the emission reduction credits claimed for each control strategy and the status of each control strategy with respect to federal approval or promulgation. Wisconsin's post-1996 ROP plan claims emission reduction credits for 21 control strategies. Our June 22, 2001, proposal stated that 20 of the control strategies had been either federally approved into the SIP or promulgated. Wisconsin's motor vehicle inspection and maintenance (I/M) program SIP was conditionally approved into the SIP on January 12, 1995 (60 FR 2881) with a subsequent revision submitted on December 30, 1998. The proposed rule noted that Wisconsin's motor vehicle I/M program must be fully and finally approved into the SIP before we could finally approve Wisconsin's post-1996 ROP plan. We published a direct final approval of Wisconsin's I/M SIP on August 16, 2001 (66 FR 42949 and 42974), which will become effective on October 15, 2001. Thus, all of the control strategies identified in Wisconsin's post-1996 ROP plan are federally approved into the SIP or promulgated.

III. Were Public Comments Submitted During the Public Comment Period for the Proposed Approval of Wisconsin's Post-1996 ROP Plan for the Milwaukee-Racine Ozone Nonattainment Area?

We published a proposed approval of Wisconsin's post-1996 ROP plan on June 22, 2001 (66 FR 33495), the date the public comment period began. The public comment period concluded on July 23, 2001. We did not receive any public comments on the proposed approval.

IV. Final Rulemaking Action

In this rulemaking action, we are approving Wisconsin's SIP revisions, submitted on December 11, 1997, and supplements submitted on August 5, 1999, January 31, 2000, March 3, 2000, and February 21, 2001, establishing the post-1996 ROP plan for the Milwaukee-Racine ozone nonattainment area.

V. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995, 15 U.S.C. 272 note, requires federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical. The VCS are inapplicable to this action, because this action does not require the public to perform activities conducive to the use of VCS.

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective November 9, 2001.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen Oxides, Ozone, Volatile Organic Compounds.

Dated: September 26, 2001.

Jerri Anne Garl,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart YY—Wisconsin

2. Section 52.2585 is amended by adding paragraph (o) to read as follows:

§ 52.2585 Control Strategy: Ozone.

* * * * *

(o) Approval—On December 11, 1997, Wisconsin submitted a post-1996 Rate Of Progress plan for the Milwaukee-Racine ozone nonattainment area as a requested revision to the Wisconsin State Implementation Plan. Supplements to the December 11, 1997 plan were submitted on August 5, 1999, January 31, 2000, March 3, 2000, and February 21, 2001 establishing the post-1996 ROP plan for the Milwaukee-Racine ozone nonattainment area. This plan reduces ozone precursor emissions by 9 percent from 1990 baseline emissions by November 15, 1999.

[FR Doc. 01–25259 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 242–0292c; FRL–7067–2]

Interim Final Determination That the State of California Has Corrected Deficiencies and Stay of Sanctions, Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: Elsewhere in today's **Federal Register**, EPA has published a direct final rulemaking fully approving the State of California's submittal of a revision to the Ventura County Air Pollution Control District (VCAPCD) portion of the State Implementation Plan (SIP). We have also published a proposed rulemaking. If a person submits adverse comments on our direct final action, we will withdraw our direct final rule and will consider any comments received before taking final action on the State's submittal. Based on the full approval, we are making an interim final determination by this action that the State has corrected the deficiencies for which a sanctions clock began on February 14, 2000. This action will stay the imposition of the offset sanction and defer the imposition of the highway sanction. Although this action is effective upon publication, we will take comment. If no comments are received on our approval of the State's submittal and on our interim final determination, the direct final action published in today's **Federal Register** will also finalize our determination that the State has corrected the deficiencies that started the sanctions clock. If comments are received on our approval or on this interim final determination, we will publish a final rule taking into consideration any comments received.

DATES: This interim final determination is effective October 10, 2001. Although this action is effective upon publication, we will take comments which must be received by November 9, 2001. If comments are received on our approval or on this interim final determination, we will publish a final rule taking into consideration any comments received.

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

You can inspect copies of the submitted rule revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted rule revision and TSD at the following locations:

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

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

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

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 744–1135.

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

I. Background

On October 13, 1995, the State of California submitted a revision to the VCAPCD portion of the SIP, which we disapproved in part on January 13, 2000. See 65 FR 2052. Our disapproval action started an 18-month clock beginning on February 14, 2000 for the imposition of one sanction (followed by a second sanction 6 months later) and a 24-month clock for promulgation of a Federal Implementation Plan (FIP). The State subsequently submitted revised SIP rules on December 11, 2000. We have taken direct final action on this submittal pursuant to our modified direct final policy set forth at 59 FR 24054 (May 10, 1994). In the Rules and Regulations section of today's **Federal Register**, we have issued a direct final full approval of the State of California's submittal of its SIP revision. In addition, in the Proposed Rules section of today's **Federal Register**, we have proposed full approval of the State's submittal. Based on the direct final full approval set forth in today's **Federal Register**, we believe that it is more likely than not that the State has corrected the original disapproval deficiencies. Therefore, we are taking this final rulemaking action, effective on publication, finding that the State has corrected the deficiencies. However, we are also providing the public with an opportunity to comment on this final action. If, based on any comments on this action and any comments on our direct final full approval of the State's submittal, we determine that the State's submittal is not fully approvable and this final action was inappropriate, we will either propose or take final action finding that the State has not corrected the original disapproval deficiencies. As appropriate, we will also issue an interim final determination or a final determination that the deficiency has been corrected.

This action does not stop the sanctions clock that started for this area on February 14, 2000. However, this action will stay the imposition of the offsets sanction and will defer the imposition of the highway sanction. If our direct final action fully approving the State's submittal becomes effective, such action will permanently stop the sanction clock and will permanently lift any imposed, stayed or deferred sanction. If we must withdraw the direct final action based on adverse comments and we subsequently determine that the State, in fact, did not correct the disapproval deficiencies, we will also determine that the State did not correct the deficiencies and the sanctions consequences described in the sanctions rule will apply. See 59 FR 39832 (August 4, 1994), codified at 40 CFR 52.31.

II. EPA Action

We are taking interim final action finding that the State has corrected the disapproval deficiencies that started the sanctions clock. Based on this action, imposition of the offset sanction will be stayed and imposition of the highway sanction will be deferred until our direct final action fully approving the State's submittal becomes effective or until we take action proposing or finally disapproving in whole or part the State submittal. If our direct final action fully approving the State submittal becomes effective, at that time any sanctions clocks will be permanently stopped and any imposed, stayed, or deferred sanctions will be permanently lifted.

Because we have preliminarily determined that the State has an approvable submittal, relief from sanctions should be provided as quickly as possible. Therefore, we are invoking the good cause exception to the 30-day notice requirement of the Administrative Procedure Act because the purpose of this notice is to relieve a restriction. See 5 U.S.C. 553(d)(1).

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely stays and defers federal sanctions. Accordingly, the administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule only stays an imposed sanction and defers the imposition of another, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely stays a sanction and defers another one, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This rule does not contain technical standards, thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. However, section 808 provides that any rule for which the issuing agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rule) that notice and public procedure thereon are impractible, unnecessary, or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of October 10, 2001. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental regulations, Nitrogen oxides, Ozone, Reporting and recordkeeping.

Dated: September 17, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. 01–25254 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 242–0292a; FRL–7067–3]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns nitrogen oxide (NO_X) emissions from boilers, steam generators, and process heaters. We are approving a local rule under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on December 10, 2001 without further notice, unless EPA receives adverse comments by November 9, 2001. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

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

You can inspect a copy of the submitted rule revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see a copy of the submitted rule revision and TSD at the following locations:

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

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

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

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 744–1135.

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

Table of Contents

I. The State's Submittal

A. What Rule Did the State Submit?

Table 1 lists the rule we are approving with the date that it was adopted by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULE

Local agency	Rule No.	Rule title	Adopted	Submitted
VCAPCD	74.15.1	Boilers, Steam Generators, and Process Heaters	6/16/00	12/11/00

On February 8, 2001, this submittal was found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of This Rule?

We gave a limited approval and limited disapproval to a version of Rule 74.15.1 on January 13, 2000 (65 FR 2052).

C. What Are the Purposes of the Submitted Rule Revisions?

The purposes of the revisions contained in Rule 74.15.1 are to:

- Remedy the deficiency cited in the limited approval and limited disapproval of January 13, 2000 (65 FR 2052).
- Delete obsolete dates for increments of progress and compliance.

II. EPA's Evaluation and Actions

A. How Is EPA Evaluating the Rule?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA), must require Reasonably Available Control Technology (RACT) for major sources of NO_X in ozone nonattainment areas (see section 182(f) and must not relax existing requirements (see sections 110(l) and 193). The VCAPCD regulates a severe ozone nonattainment area (see 40 CFR part 81), so Rule 74.15.1 must fulfill the requirements of RACT. Guidance and policy documents that we used to define specific enforceability and RACT requirements include the following:

- *Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987* ***Federal Register*** *Document,* (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.
- *Guidance Document for Correcting VOC Rule Deficiencies, U.S. EPA Region IX and California Air Resources Board* (April 1991).
- *State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990* (the ''NO_X Supplement to the General Preamble''),

U.S. EPA, 57 FR 55620 (November 25, 1992).

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans,* U.S. EPA, 40 CFR part 51.
- *Cost-Effective Nitrogen Oxides* (NO_X) Reasonably Available Control Technology (RACT), U.S. EPA Office of Air Quality Planning and Standards (March 16, 1994).
- *State Implementation Plans: Policy Regarding Excess Emissions During Malfunctions, Startup, and Shutdown*, U.S. EPA, Office of Air Quality Planning and Standards (September 20, 1999).

B. Does the Rule Meet the Evaluation Criteria?

We believe this rule is consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. The deficiency identified in our previous limited approval and limited disapproval action has been adequately addressed as follows:

- The allowance for an automatic exemption from the emission standards during startup and shutdown is deleted.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rule because we believe it fulfills all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by November 9, 2001, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on December 10, 2001. This will incorporate these rules into the federally-enforceable SIP.

III. Background Information

Why Was This Rule Submitted?

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

TABLE 2.—OZONE NONATTAINMENT MILESTONES

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

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: September 17, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraph (c)(285) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(285) New and amended regulations for the following APCDs were submitted on December 11, 2000 by Governor's designee.

(i) Incorporation by reference.

(A) Ventura County Air Pollution Control District.

(*1*) Rule 74.15.1, adopted on June 13, 2000.

[FR Doc. 01–25255 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 242–0297a; FRL–7075–8]

Revisions to the California State Implementation Plan, El Dorado County Air Pollution Control District and Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the El Dorado County Air Pollution Control District (EDCAPCD) and Imperial County Air Pollution Control District (ICAPCD) portions of the California State Implementation Plan (SIP). These revisions concern Oxides of Nitrogen (NO_X) emissions from industrial, institutional, and commercial boilers, steam generators, and process heaters as well as administrative matters. We are approving and rescinding local rules that regulate emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on December 10, 2001 without further notice, unless EPA receives adverse comments by November 9, 2001. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

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

You can inspect copies of the submitted rule revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted rule revisions at the following locations: Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460. California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814. El Dorado County Air Pollution Control District, 2850 Fairlane Court, Building C, Placerville, CA 95667. Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 744–1135.

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

Table of Contents

I. The State's Submittal

A. What Rules Did the State Submit?

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

TABLE 1.—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted or (rescinded)	Submitted
EDCAPCD	101	General Provisions and Definitions	02/15/00	07/26/00
EDCAPCD	229	Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters.	01/23/01	05/23/01
EDCAPCD	101	Title	02/15/00 (Rescinded)	07/26/00

TABLE 1.—SUBMITTED RULES—Continued

Local agency	Rule No.	Rule title	Adopted or (rescinded)	Submitted
EDCAPCD	102	Definitions	02/15/00 (Rescinded)	07/26/00
ICAPCD	100	Rule Citation	09/14/99	05/26/00
ICAPCD	113	Circumvention	09/14/99	05/26/00

On October 4, 2000, submittals of EDCAPCD Rules 101, 101 (recision), and 102 (recision) were found to meet the completeness criteria in 40 CFR Part 51, appendix V, which must be met before formal EPA review. On July 3, 2001, the submittal of EDCAPCD Rule 229 was found to meet the completeness criteria.

On October 6, 2000, the submittal of ICAPCD Rules 100 and 113 were found to meet the completeness criteria.

B. Are There Other Versions of These Rules?

We approved a version of EDCAPCD Rule 101 into the SIP as Rule 101 on June 14, 1978 (43 FR 25674) and as Rule 102 on November 6, 1978 (43 FR 51632), both of which are now submitted for recision. Rules 101 and 102 were originally submitted on April 10, 1975 and November 4, 1977, respectively. We finalized a limited approval and limited disapproval of a version of EDCAPCD Rule 229 into the SIP on July 21, 2000 (65 FR 45297).

We approved a version of ICAPCD Rules 100 and 113 into the SIP on August 11, 1978 (43 FR 35694) and on February 3, 1989 (54 FR 5448), respectively.

C. What Are the Purposes of the Submitted Rule Revisions?

The purposes are as follows:

- EDCAPCD Rule 101 combines SIP rules 101 and 102 for simplification and adds, deletes, or revises certain definitions.
- EDCAPCD Rule 229 regulates NO_X and CO emissions from industrial, institutional, and commercial boilers, steam generators, and process heaters. Revisions were made to correct the deficiencies cited in the proposed limited approval and limited disapproval action on May 5, 1999 (64 FR 24121).
- ICAPCD Rule 100 changed the title for clarity.
- ICAPCD Rule 113 was reformatted.

The TSD has more information about these rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in ozone nonattainment areas (see sections 182(a)(2)(A) and 182(f)), and must not relax existing requirements (see sections 110(l) and 193). The EDCAPCD regulates a severe ozone nonattainment area (see 40 CFR part 81), so EDCAPCD Rule 229 must fulfill the requirements of RACT. The other rules are administrative and must meet only enforceability and relaxation requirements.

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

- ''*Requirements for Preparation, Adoption, and Submittal of Implementation Plans,*'' U.S. EPA, 40 CFR 61.
- ''*State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,*'' (the NO_X Supplement), 57 FR 55620 (November 25, 1992).
- ''*Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987* ***Federal Register*** *Notice,*'' (Blue Book), notice of availability published in the May 25, 1988 *Federal Register*.
- ''*Determination of Reasonably Available Control Technology and Best Available Retrofit Control Technology for Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters,*'' California Air Resources Board (July 18, 1991).
- ''*Cost-Effective Nitrogen Oxides* (NO_X) Reasonably Available Control Technology,'' U.S. EPA Office of Air Quality Planning and Standards (March 16, 1994).

B. Do the Rules Meet the Evaluation Criteria?

We believe these rules are consistent with the relevant policy and guidance regarding enforceability, RACT, and SIP relaxations. All of the deficiencies identified in our previous limited approval and limited disapproval action have been adequately addressed as follows:

- Section 229.3.D: [Multiple deficiencies are listed for this section, which allows for an alternate emission control plan.] This section is not required by the CAA and is deleted completely.
- Section 229.5.B.2: [The Executive Officer's discretion language should be expanded to include sampling methods approved by the CARB and EPA.] This is corrected.
- Section 229.3.A: [This section should be revised to ''greater than or equal to 90,000 therms per year limit for each of the three previous years.''] This is corrected.
- Section 229.3.C: [The specification for flow meters should be revised to require non-resettable mass and volume flow meters.] This is corrected.
- Section 229.4.A: [A date for full compliance of facilities should be added.] This is corrected.

The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules and rule recisions because we believe they fulfill all relevant requirements. We do not think anyone will object to this, so we are finalizing the approval without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by November 9, 2001, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on December 10, 2001. This will incorporate these rules into or rescind from the federally-enforceable SIP. This will also terminate any sanction or FIP clocks initiated by our January 21, 2000 action under sections 179 and 110(c) of the CAA.

III. Background Information

A. Why Were These Rules Submitted?

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

TABLE 2.—OZONE NONATTAINMENT MILESTONES

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

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 32111, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 12, 2001.

Mike Shulz,

Acting Regional Administrator, Region IX.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(27)(viii)(C), (c)(42)(x)(B), (c)(279)(i)(A)(*6*), (c)(280)(i)(B)(*2*), and (c)(281)(i)(A)(*2*) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(27) * * *

(viii) * * *

(C) Previously approved on June 14, 1978 in paragraph (c)(27)(viii)(A) of this section and now deleted Rule 101.

* * * * *

(42) * * *

(x) * * *

(B) Previously approved on November 6, 1978 in paragraph (c)(42)(x)(A) of this section and now deleted Rule 102.

* * * * *

(279) * * *

(i) * * *

(A) * * *

(*6*) Rules 100 and 113, adopted on September 14, 1999.

* * * * *

(280) * * *

(i) * * *

(B) * * *

(*2*) Rule 101, adopted on February 15, 2000.

* * * * *

(281) * * *

(i) * * *

(A) * * *

(*2*) Rule 229, adopted on January 23, 2001.

* * * * *

[FR Doc. 01–25252 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[VA–T5–2001–01a; FRL–7073–6]

Clean Air Act Full Approval of Operating Permit Program; Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to fully approve the operating permit program of the Commonwealth of Virginia. Virginia's operating permit program was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that required States to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the States' jurisdiction. The EPA granted final interim approval of Virginia's operating permit program on June 10, 1997, as corrected on March 19, 1998. Virginia amended its operating permit program to address deficiencies identified in the interim approval action and this action approves those amendments. Any parties interested in commenting on this action granting full approval of Virginia's title V operating permit program should do so at this time. A more detailed description of Virginia's submittal and EPA's evaluation are included in a Technical Support Document (TSD) in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document.

DATES: This rule is effective on November 26, 2001 without further notice, unless EPA receives adverse written comment by November 9, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to Makeba Morris, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: David Campbell, Permits and Technical Assessment Branch at (215) 814–2196 or by e-mail at *campbell.dave@.epa.gov.*

SUPPLEMENTARY INFORMATION: On November 20, 2000, the Commonwealth of Virginia submitted amendments to its State operating permit program. These amendments are the subject of this document and this section provides additional information on the amendments by addressing the following questions:

What is the State operating permit program?
What are the State operating permit program requirements?
What is being addressed in this document?
What is not being addressed in this document?
What changes to Virginia's operating permit program is EPA approving?
How does Virginia's Voluntary Environmental Assessment Privilege Law affect its operating permit program?
What action is being taken by EPA?

What Is the State Operating Permit Program?

The Clean Air Act Amendments of 1990 required all States to develop operating permit programs that meet certain federal criteria. When implementing the operating permit programs, the States require certain sources of air pollution to obtain permits that contain all of their applicable requirements under the Clean Air Act (CAA). The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of its applicable CAA requirements into a federally-enforceable document. By consolidating all of the applicable requirements for a given air pollution source into an operating permit, the source, the public, and the State environmental agency can more easily understand what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in the EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of ''major'' sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides, or particulate matter (PM10); those that emit 10 tons per year of any single hazardous air pollutant (HAP) specifically listed under the CAA; or those that emit 25 tons per year or more of a combination of HAPs. In areas that are not meeting the national ambient air quality standards (NAAQS) for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in the counties and cities in northern Virginia that are part of the metropolitan Washington, DC serious ozone nonattainment area, major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

What Are the State Operating Permit Program Requirements?

The minimum program elements for an approvable operating permit program are those mandated by title V of the Clean Air Act Amendments of 1990 and established by EPA's implementing regulations at title 40, part 70—''State Operating Permit Programs'' in the Code of Federal Regulations (40 CFR part 70). Title V required state and local air pollution control agencies to develop operating permit programs and submit them to EPA for approval by November 15, 1993. Under title V, State and local air pollution control agencies that implement operating permit programs are called ''permitting authorities''.

Where an operating permit program substantially, but not fully, met the program approval criteria outlined at 40 CFR part 70, EPA granted interim approval contingent on the permit authority revising its program to correct those programmatic deficiencies that prevented full approval. Virginia's original operating permit program substantially, but not fully, met the requirements of 40 CFR part 70. Therefore, EPA granted final interim approval of the program in a rulemaking published on June 10, 1997, as corrected on March 19, 1998. [See 62 FR 31516 and 63 FR 13346.] The interim approval notice identified six outstanding deficiencies that had to be corrected in order for Virginia's program to receive full approval. On November 20, 2000, the Commonwealth of Virginia submitted amendments to its operating permit program to EPA to address its outstanding program deficiencies.

Virginia's November 20, 2000 submittal satisfies the Commonwealth's requirement to submit program amendments to EPA by June 1, 2001. This deadline was established by EPA in order to allow for time for EPA review and action on program amendments such that operating permit programs with interim approval status could be considered for full approval by December 1, 2001. After December 1, 2001, those jurisdictions lacking fully-approved operating permit programs will, by operation of law, be subject to a federal operating permit program implemented by EPA under 40 CFR part 71. [See 65 FR 32035.]

What Is Being Addressed in This Document?

On November 20, 2000, Virginia submitted amendments to its currently EPA-approved title V operating permit program. In general, Virginia amended its operating permit program regulations to address deficiencies identified by EPA when it granted final interim approval of Virginia's program in 1997. In the November 20, 2000 submittal, Virginia also provided revisions to its existing program to improve certain aspects and to make minor regulatory corrections. These additional revisions are the subject of a separate rulemaking action as more fully discussed below.

What Is Not Being Addressed in This Document?

As part of its November 20, 2000 submittal, Virginia also submitted additional revisions to its currently EPA-approved title V operating permit program which are unrelated to the interim approval deficiencies. These program revisions are comprised of technical and administrative corrections which do not bear on the program's ability to fully meet the substantive requirements of 40 CFR part 70. These revisions were submitted pursuant to 40 CFR 70.4(i) which authorizes States with approved programs to initiate program revisions. Since these revisions do not directly affect the approval status of Virginia's program according to 40 CFR 70.4(d) and 40 CFR 70.4(e), they will be considered in a separate rulemaking action.

On December 11, 2000, EPA announced a 90-day comment period for members of the public to identify deficiencies they perceive exist in State and local agency operating permits programs. [See 65 FR 77376.] The public was able to comment on all currently-approved operating permit programs, regardless of whether they have been granted full or interim approval. The December 11, 2000 notice instructed the public to not include in their comments any program deficiencies that were previously identified by EPA when the subject program was granted interim approval. Since those program deficiencies have already been identified and permitting authorities have been working to correct them, EPA will solicit comments when taking action on those corrective measures.

The EPA stated that it will consider information received from the public pursuant to the December 11, 2000 notice and determine whether it agrees or disagrees with the purported deficiencies. Where EPA agrees there is a deficiency, it will publish a notice of deficiency consistent with 40 CFR 70.4(i) and 40 CFR 70.10(b). The Agency will at the same time publish a notice identifying any alleged problems that we do not agree are deficiencies. For programs that have not yet received full approval, such as Virginia's program, EPA will publish these notices by December 1, 2001.

The EPA received numerous comments in response to the December 11, 2000 notice announcing the start of the 90-day public comment period. As part of those comments, EPA Region III received comments germane to Virginia's currently-approved operating permit program. The Agency will respond to those comments in a separate notice(s) by December 1, 2001 as required by the December 11, 2000 notice.

The EPA is not addressing any comments received pursuant to the December 11, 2000 notice in this document. As mentioned above, comments provided in accordance with the December 11, 2000 notice were to address shortcomings that had not previously been identified by EPA as deficiencies necessitating interim, rather than full, approval of a state's operating permit program. This action granting full approval of Virginia's operating permit program only addresses program deficiencies identified when EPA granted interim approval to Virginia's program in 1997. Therefore, any persons wishing to comment on this action should do so at this time.

What Changes to Virginia's Program Is EPA Approving?

The EPA has reviewed Virginia's November 20, 2000 program amendments in conjunction with the portion of Virginia's program that was earlier approved on an interim basis. Based on this review, EPA is granting full approval of Virginia's amended operating permit program. The EPA has determined that the amendments to Virginia's operating permit program adequately address the six deficiencies identified by EPA in its June 10, 1997 rulemaking action granting interim approval. Virginia's operating permit program, including the amendments submitted on November 20, 2000 to address the six program deficiencies, fully meets the minimum requirements of 40 CFR part 70. The following describes the changes made to Virginia's operating permit program to address the six deficiencies.

Changes to Virginia's Program That Correct Interim Approval Deficiencies

1. Units Emitting Up to 100 Tons Per Year (TPY) of Carbon Monoxide (CO) Inappropriately Considered To Be Insignificant

Virginia's regulations originally defined any emission unit emitting less than 100 tons per year (TPY) of carbon monoxide (CO) as an insignificant activity. Virginia amended 9 VAC 5–80–720 B 3 to state that any emission unit emitting less than five TPY of CO may be considered an insignificant activity. This amendment is consistent with 40 CFR part 70 and with what EPA has required of other similar insignificant activities regulations.

2. Applications Not Required To Include Sufficient Information To Identify All Applicable Requirements for Emission Units Deemed Insignificant

Virginia's original program inappropriately included a provision in the applicability section of the operating permit regulations, at 9 VAC 5–80–50 F, which states that ''[t]he provisions of 9 VAC 5–80–90 concerning application requirements shall not apply to insignificant activities designated in 9 VAC 5–80–720 with the exception of the requirements of 9 VAC 5–80–90 D 1 and 9 VAC 5–80–710.'' A similar provision is provided in the applicability section of the acid rain operating permit regulations at 9 VAC 5–80–360 E. As originally worded, permittees were required to provide only emissions information for insignificant activities, but not any additional information which might be required to identify applicable requirements when emissions information alone is not sufficient.

Virginia amended 9 VAC 5–80–50 F and 9 VAC 5–80–360 E by removing the language cited above in its entirety. By removing this language, permittees are obligated to provide any additional information necessary to identify applicable requirements. These amendments are consistent with 40 CFR part 70 and with what EPA has required of other similar regulations.

3. Permits Not Required To Include Applicable Requirements for Emission Units Deemed Insignificant

Virginia's original program contained an inappropriate provision at 9 VAC 5–80–110 A 1 which stated that ''For major sources subject to this rule, the board shall include in the permit all applicable requirements for all emission units in the major source except those deemed insignificant in Article 4 (9 VAC 5–80–710 *et. seq.*) of this part.'' Virginia's acid rain operating permit regulations essentially repeated this deficiency at 9 VAC 5–80–490 A 1.

Virginia amended 9 VAC 5–80–110 A 1 and 9 VAC 5–80–490 A 1 by removing the exception provided to insignificant emission units of the requirement to include all applicable requirements in the permit. The amended regulations simply require all applicable requirements for all emission units to be included in the permit. These amendments are consistent with 40 CFR part 70 and with what EPA has required of other similar regulations.

4. Emergency or Standby Compressors, Pumps, and/or Generators Inappropriately Defined as Insignificant

In its original insignificant activities regulations at 9 VAC 5–80–720 C 4, Virginia designated ''Internal combustion powered compressors and pumps used for emergency replacement or standby service, operating at 500 hours per year or less'' as insignificant emission units. The regulations also cited emergency generators of various horsepower ratings, depending on whether or not the generators are gasoline, diesel, or natural gas powered. As originally worded, 9 VAC 5–80–720 C 4 was confusing because it defined emergency or standby compressors or pumps as insignificant, and then further qualified the units considered insignificant by discussing various sizes of emergency generators. Furthermore, the engines and generators of the sizes provided by the original version of the regulations would likely be large enough to trigger applicable requirements or emit pollutants in significant amounts.

Virginia amended 9 VAC 5–80–720 C 4 to clarify its insignificant activity provisions for emergency pumps, compressors, or generators and also reduced the horsepower size designations sufficiently to exclude any units which would likely trigger an applicable requirement or emit pollutants in significant amounts. These amendments are consistent with 40 CFR part 70 and with what EPA has required of other similar insignificant activities regulations.

5. ''Off-Permit Changes'' Defined as Including Changes Subject to Requirements Under Title IV

The EPA was concerned with two provisions in the Commonwealth's original acid rain operating permit regulations. According to 40 CFR 70.4(b)(14), permittee's are allowed to make certain so-called ''off-permit'' changes that are not addressed or prohibited by the permit without obtaining a permit revision. However, 40 CFR 70.4(b)(15) does not extend this flexibility to changes that are modifications under title I of the CAA or those that are subject to any of the acid rain requirements under title IV of the CAA. Virginia's regulations allowed ''off-permit'' changes at 9 VAC 5–80–280 C 1 and 5–80–680 C 1, however, they failed to exclude from eligibility changes that are subject to requirements under title IV.

Virginia amended 9 VAC 5–80–280 C 1 and 5–80–680 C 1 to exclude changes that are subject to requirements under title IV from being eligible for ''off-permit'' changes. These amendments are consistent with 40 CFR part 70 and with what EPA has required of other similar regulations.

6. Affirmative Defense of Emergency Provisions Deficient

In its operating permit program, Virginia uses the term ''malfunction'' instead of ''emergency.'' Virginia's definition of this term is consistent with how EPA defines ''emergency.'' However, Virginia's original operating permit regulations at 9 VAC 5–80–250 B 4 and 5–80–650 B 4 allowed sources to claim the affirmative defense for malfunctions which last less than one hour, but did not require the permittee to notify the Commonwealth of these malfunctions. Malfunctions lasting longer than one hour were required to be reported. Virginia's affirmative defense provisions were less stringent than 40 CFR 70.6(g) which requires the demonstration of the affirmative defense of an malfunction, including the prompt notification of the permitting authority of the malfunction. A demonstration is required for all malfunctions seeking an affirmative defense, including those malfunctions lasting less than one hour.

Virginia amended 9 VAC 5–80–250 B 4 and 5–80–650 B 4 to expand the requirement to report malfunctions of any duration, not only those that occurred for one hour or more. The amended regulations also require the prompt notification of malfunctions within two working days of their occurrence. These amendments are consistent with 40 CFR part 70 and with what EPA has required of other similar regulations.

How Does Virginia's Voluntary Environmental Assessment Privilege Law Affect Its State Operating Permit Program?

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1997, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce federally authorized environmental programs in a manner that is no less stringent than their federal counterparts. * * *'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1997 opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its operating permit program consistent with the federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

What Action Is Being Taken by EPA?

The Commonwealth of Virginia has satisfactorily addressed the six program deficiencies identified when EPA granted final interim approval of its operating permit program on June 10, 1997, as corrected on March 19, 1998. The operating permit program amendments submitted by Virginia on November 20, 2000 considered together with that portion of Virginia's operating permit program that was earlier approved on an interim basis fully satisfy the minimum requirements of 40 CFR part 70 and the Clean Air Act. Therefore, EPA is granting full approval of the Commonwealth of Virginia's title V operating permit program.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the operating permit program if adverse comments are filed relevant to the issues discussed in this action. This rule will be effective on November 26, 2001 without further notice unless EPA receives adverse comment by November 9, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 10, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action fully approving Virginia's title V operating permit program may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: September 25, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

Appendix A of part 70 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended by adding paragraph (b) in the entry for Virginia to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs

* * * * *

Virginia

* * * * *

(b) The Virginia Department of Environmental Quality submitted operating permit program amendments on November 20, 2000. The rule revisions contained in the November 20, 2000 submittal adequately addressed the conditions of the interim approval effective on March 12, 1998. The Commonwealth is hereby granted final full approval effective on November 26, 2001.

* * * * *

[FR Doc. 01–25012 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301152A; FRL–6803–8]

RIN 2070–AB78

Revocation of Unlimited Tolerance Exemptions; Correction and Reopening of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; correction and reopening of comment period.

SUMMARY: EPA issued a direct final rule in the **Federal Register** of August 15, 2001, amending 40 CFR part 180, subpart D, to revoke various exemptions from the requirement of a tolerance. In that document, the Agency inadvertently removed the entire second entry for diethylene glycol, when it should have removed the entire first entry for diethylene glycol, and misspelled ''Sodium mono-, di-, and triisopropyl naphthalenesulfonate.'' This document corrects these errors. Additionally, this document reopens the comment period to provide the public with an opportunity to comment on these corrections and extends the effective date of this final rule.

DATES: If no relevant adverse comments are submitted on or before November 9, 2001, this action will become effective on January 8, 2002.

The effective date for FRL–6793–5 published in the **Federal Register** of August 15, 2001 (66 FR 42776) is changed to January 8, 2002, if no adverse comments are received on or before November 9, 2001.

ADDRESSES: Adverse comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of the **SUPPLEMENTARY INFORMATION** of the August 15, 2001 direct final rule. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–301152A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Treva C. Alston, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8373; fax number: (703) 305–0599; e-mail address: alston.treva@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

The Agency included in the direct final rule a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select

''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html, a beta site currently under development.

2. *In person*. The Agency has established an official record for this action under docket control number OPP–301152A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

III. What Does this Document Do?

In the **Federal Register** of August 15, 2001 (66 FR 42776) (FRL–6793–5), EPA issued a direct final rule amending 40 CFR part 180, subpart D, to revoke various exemptions from the requirement of a tolerance. This document corrects the amendatory language to reflect the intent of the Agency. Additionally, this document reopens the comment period to provide the public with an opportunity to comment on these corrections and extends the effective date of this final rule.

IV. Regulatory Assessment Requirements

This final rule implements a technical correction to the CFR, and it does not otherwise impose or amend any requirements. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any prior consultation as specified by Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998); special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to 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). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, 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 rule 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. Thus, Executive Order 13175 does not apply to this rule.

V. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 21, 2001.

Richard P. Keigwin, Jr.,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is corrected as follows:

PART 180—[CORRECTED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. In FR Doc. 01–20391 published in the **Federal Register** of August 15, 2001, on page 42779, in column 3, under amendatory instruction number 2. for 40 CFR 180.1001, correct item ii. to read as follows:

''ii. The table in paragraph (d) is amended by removing the entire entry for Calcium hypochlorite; the entire first entry for Diethylene glycol; and the entire entries for Isopropyl alcohol; *n*-Propanol; and Sodium mono-, di-, and triisopropyl naphthalenesulfonate.''

[FR Doc. 01–25019 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301179; FRL–6802–3]

RIN 2070–AB78

Sethoxydim; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes time-limited tolerances for combined residues of sethoxydim and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on safflower, milk; and meat byproducts of cattle, goats, hogs, horses, and sheep. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on safflower. This regulation establishes maximum permissible levels for residues of sethoxydim in these food commodities. The tolerances will expire and are revoked on December 31, 2003.

DATES: This regulation is effective October 10, 2001. Objections and requests for hearings, identified by docket control number OPP–301179, must be received by EPA on or before December 10, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301179 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–9364; and e-mail address: *pemberton.libby@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS codes	Examples of Potentially Affected Entities
Industry	111	Crop production
	112	Animal production
	311	Food manufacturing
	32532	Pesticide manufacturing

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in the table could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this action might apply to certain entities. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of This Document and Other Related Documents?

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet homepage at *http://www.epa.gov/.* To access this document, on the homepage select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the**Federal Register** listings at *http://www.epa.gov/fedrgstr/.* A frequently updated electronic version of 40 CFR part 180 is available at *http://www.access.gpo.gov/nara/cfr/cfrhtml_180/Title_40/40cfr180_00.html,* a beta site currently under development.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301179. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Mall # 2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing tolerances for combined residues of the herbicide sethoxydim (2-[1-(ethoxyimino]butyl)-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one) and its metabolites containing the 2-cyclohexen-1-one moiety, in or on safflower at 15.0 parts per million (ppm), in milk at 0.5 ppm; and in meat byproducts of cattle, goats, hogs, horses, and sheep at 1.0 ppm. These tolerances will expire and are revoked on December 31, 2003. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations.

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by

EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Section 18 of FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Sethoxydim on Safflower and FFDCA Tolerances

The shift to no-till or direct seed systems has dramatically reduced the efficacy of herbicides labeled for use in safflower. As a result, wild oat has emerged as a larger management problem in safflower production. Cool, moist conditions, as in recent years, promotes maximum emergence. EPA has authorized under FIFRA section 18 the use of sethoxydim on safflower for control of wild oats in Montana and North Dakota. After having reviewed the submissions, EPA concurs that emergency conditions exist for these States.

As part of its assessment of these emergency exemptions, EPA assessed the potential risks presented by residues of sethoxydim in or on safflower. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and EPA decided that the necessary tolerances under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing these tolerances without notice and opportunity for public comment as provided in section 408(l)(6). Although these tolerances will expire and are revoked on December 31, 2003, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on safflower or milk or meat after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by these tolerances at the time of that application. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because these tolerances are being approved under emergency conditions, EPA has not made any decisions about whether sethoxydim meets EPA's registration requirements for use on safflower or whether permanent tolerances for this use would be appropriate. Under these circumstances, EPA does not believe that these tolerances serve as a basis for registration of sethoxydim by a State for special local needs under FIFRA section 24(c). Nor do these tolerances serve as the basis for any State other than Montana and North Dakota to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for sethoxydim, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of sethoxydim and to make a determination on aggregate exposure, consistent with section 408(b)(2), for time-limited tolerances for combined residues of sethoxydim (2-[1-(ethoxyimino]butyl)-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one) and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on safflower at 15.0 ppm, in milk at 0.5 ppm; and in meat byproducts of cattle, goats, hogs, horses and sheep at 1.0 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA Safety Factor.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100.

To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1 x 10^{-6}or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for sethoxydim used for human risk assessment is shown in the following Table 1:

TABLE 1.—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR SETHOXYDIM FOR USE IN HUMAN RISK ASSESSMENT

Exposure Scenario	Dose Used in Risk Assessment, UF	FQPA SF* and LOC for Risk Assessment	Study and Toxicological Effects
Acute Dietary (females 13–50 years of age)	NOAEL = 180 mg/kg/day UF = 100 Acute RfD = 1.8 mg/kg/day	FQPA SF = 3x aPAD = acute RfD ÷ FQPA SF = 0.6 mg/kg/day	Developmental - Rat (MRID 43092902) LOAEL = 650 mg/kg based on decreased fetal weights, filamentous tail, lack of tail, and delayed ossification.
Acute dietary (general population including infants and children)	NOAEL = 180 mg/kg/day UF = 100 Acute RfD = 1.8 mg/kg/day	FQPA SF = 1x aPAD = acute RfD ÷ FQPA SF = 1.8 mg/kg/day	Developmental - Rat (MRID 43092902) LOAEL = 650 mg/kg based on irregular gait, decreased activity, excessive salivation and ano-genital staining.
Chronic dietary (all populations)	NOAEL= 8.86 mg//kg/day UF = 100 Chronic RfD = 0.09 mg/kg/day	FQPA SF = 1x cPAD = chronic RfD ÷ FQPA SF = 0.09 mg/kg/day	1–Year feeding study - Dog (MRID 00152669) LOAEL = 17.5 mg/kg/day based on equivocal anemia in males.
Short-, intermediate-, and long-term dermal (Occupational/Residential)	none	No dermal or systemic toxicity was seen at the limit dose (1,000 mg/kg/day). This risk assessment is not required.	21–Day dermal toxicity study - Rabbit (MRID 41987203)
Short-, intermediate-, and long-term inhalation (Occupational/Residential)	none	Sethoxydim is placed in Toxicity Category IV.	Acute inhalation study (MRID 00045849) LC50 = 6.03 mg/L in males and 6.28 mg/L in females. There are no subacute, subchronic, or chronic inhalation studies.

*The reference to the FQPA Safety Factor refers to any additional safety factor retained due to concerns unique to the FQPA.

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* Tolerances have been established (40 CFR 180.412) for the combined residues of sethoxydim, in or on a variety of raw agricultural commodities. Tolerances are already established in or on meat and milk but at levels lower than those discussed in this rule. Risk assessments were conducted by EPA to assess dietary exposures from sethoxydim in food as follows:

i. *Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single exposure. The Dietary Exposure Evaluation Model (DEEM®) analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: tolerance level residues and 100 percent crop treated (PCT).

ii. *Chronic exposure.* In conducting this chronic dietary risk assessment the DEEM analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. The following assumptions were made for the chronic exposure assessments: tolerance level residues and 100 PCT for all crops except peanuts, potatoes, and tomatoes (for which an average crop treated value of 5% was used) and soybeans (for which the average crop treated value of 2% was used).

iii. *Cancer.* Sethoxydim is not classified. Available studies show no evidence of carcinogenicity in rats or mice.

iv. *Anticipated residue and PCT information.* Section 408(b)(2)(F) states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows. Assumptions were: 100 PCT for all crops except peanuts, potatoes, and tomatoes (for which an average crop treated value of 5% was used) and soybeans (for which the average crop treated value of 2% was used).

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which sethoxydim may be applied in a particular area.

2. *Dietary exposure from drinking water.* The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for sethoxydim in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of sethoxydim.

The Agency uses the Generic Estimated Environmental Concentration (GENEEC) or the Pesticide Root Zone/Exposure Analysis Modeling System (PRZM/EXAMS) to estimate pesticide concentrations in surface water and SCI-GROW, which predicts pesticide concentrations in ground water. In general, EPA will use GENEEC (a tier 1 model) before using PRZM/EXAMS (a tier 2 model) for a screening-level assessment for surface water. The GENEEC model is a subset of the PRZM/EXAMS model that uses a specific high-end runoff scenario for pesticides. GENEEC incorporates a farm pond scenario, while PRZM/EXAMS incorporate an index reservoir environment in place of the previous pond scenario. The PRZM/EXAMS model includes a percent crop area factor as an adjustment to account for the maximum percent crop coverage within a watershed or drainage basin.

None of these models include consideration of the impact processing (mixing, dilution, or treatment) of raw water for distribution as drinking water would likely have on the removal of pesticides from the source water. The primary use of these models by the Agency at this stage is to provide a coarse screen for sorting out pesticides for which it is highly unlikely that drinking water concentrations would ever exceed human health levels of concern.

Since the models used are considered to be screening tools in the risk assessment process, the Agency does not use estimated environmental concentrations (EECs) from these models to quantify drinking water exposure and risk as a %RfD or %PAD. Instead drinking water levels of comparison (DWLOCs) are calculated and used as a point of comparison against the model estimates of a pesticide's concentration in water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food, and from residential uses. Since DWLOCs address total aggregate exposure to sethoxydim they are further discussed in the aggregate risk sections below.

Based on the GENEEC and SCI-GROW models the EECs of sethoxydim for acute exposures are estimated to be 42 parts per billion (ppb) for surface water and 33 ppb for ground water. The EECs for chronic exposures are estimated to be 27 ppb for surface water and 3 ppb for ground water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Sethoxydim is currently registered for use on the following residential non-dietary sites: ornamentals and flowering plants, recreational areas, and buildings/structures. These uses are not expected to result in chronic exposures but may result in short- and/or intermediate-term exposures. However, dermal and/or inhalation endpoints for short- and intermediate-term exposures were not identified. Therefore, these routes of exposure were not evaluated for risk.

However, children's potential for oral exposure resulting from residential treatments will be considered as a contributor to short-term aggregate risk. A short-term oral endpoint was not identified for sethoxydim. For short-term risk assessment (for incorporation of food, water, or oral hand-to-mouth type exposures into an aggregate risk assessment), the acute oral endpoint (acute RfD = 1.8 mg/kg/day, NOAEL = 180 mg/kg/day) will be used to incorporate the oral component into aggregate risk.

4. *Cumulative exposure to substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether sethoxydim has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, sethoxydim does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that sethoxydim has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

C. Safety Factor for Infants and Children

1. *In general.* FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

2. *Prenatal and postnatal sensitivity.* There was no indication of increased susceptibility in the prenatal developmental toxicity study in rabbits following *in utero* exposure. In the 2–generation reproduction study in rats, effects in the offspring were observed only at or above treatment levels which resulted in evidence of appreciable parental toxicity. No increased susceptibility was demonstrated in the developmental toxicity studies; however developmental toxic effects, were observed at the highest dose tested (LOAEL).

Acceptable developmental toxicity studies have been performed in rats and rabbits; an acceptable 2–generation reproduction study has also been performed in rats. A chronic feeding/ carcinogenicity guideline study in rats has been submitted and is currently undergoing review. An initial examination of the study supports the current findings of no evidence of carcinogenicity. There is a complete toxicity data base for sethoxydim and exposure data is complete or is estimated based on data that reasonably accounts for potential exposures.

The FQPA Safety Factor is to be retained in case of developmental toxicity in the absence of maternal toxicity. Since malformations were seen in the rat study at levels that produced minimal maternal toxicity. The Agency concluded that an FQPA factor is needed. However, it was determined that the 10X factor need not be retained, instead should be reduced to 3X based on the following weight of evidence considerations: (1) Developmental toxicity was seen in only one species, in the presence of maternal toxicity, and at a very high dose (650 mg/kg/day) that approached the Limit-Dose of 1,000 mg/ kg/day; (2) no developmental toxicity was observed in the rabbit study at the highest dose tested (400 mg/kg/day); (3) there was no increased susceptibility seen in the two-generation reproduction study in rats at doses up to 150 mg/kg/ day(highest dose tested); and 4) lack of concern for structure activity relationship (i.e. no significant developmental or reproductive toxicity was seen with the structural analog, clethodim.)

Exposure assessments do not indicate a concern for potential risk to infants and children based on: (1) The dietary exposure assessments use field study data and assume 100% crop treated which results in an overestimate of dietary exposure; (2) limited monitoring data is used for ground and surface source drinking water exposure assessments, resulting in estimates considered to be reasonable upper-bound concentrations; (3) there is a potential for post-application hand-to-mouth exposure to toddlers associated with lawn use, however, the use of conservative models and/or assumptions in the residential exposure assessment provide adequate protection of infants and children.

The FQPA safety factor is applicable for acute dietary risk assessment for females 13+ because the endpoint occurs only during in urtero exposure and is not a postnatal effect. Since the effects occur during *in utero* exposure, it is not an appropriate endpoint for acute dietary risk assessment of infants and children. The FQPA safety factor is not applied for chronic risk assessment because the endpoint is an in urtero effect and can not result from postnatal exposure. The FQPA safety factor is not applicable to the post-application hand-to-mouth exposure associated with the lawn use since this exposure scenario would only be expected for toddlers and not for females 13+.

3. *Conclusion.* There is a complete toxicity data base for sethoxydim and exposure data are complete or are estimated based on data that reasonably accounts for potential exposures.

D. Aggregate Risks and Determination of Safety

To estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses, the Agency calculates DWLOCs which are used as a point of comparison against the model estimates of a pesticide's concentration in water (EECs). DWLOC values are not regulatory standards for drinking water. DWLOCs are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. In calculating a DWLOC, the Agency determines how much of the acceptable exposure (i.e., the PAD) is available for exposure through drinking water e.g., allowable chronic water exposure (mg/kg/day) = cPAD - (average food + chronic non-dietary, non-occupational exposure). This allowable exposure through drinking water is used to calculate a DWLOC.

A DWLOC will vary depending on the toxic endpoint, drinking water consumption, and body weights. Default body weights and consumption values as used by the USEPA Office of Water are used to calculate DWLOCs: 2L/70 kg (adult male), 2L/60 kg (adult female), and 1L/10 kg (child). Default body weights and drinking water consumption values vary on an individual basis. This variation will be taken into account in more refined screening-level and quantitative drinking water exposure assessments. Different populations will have different DWLOCs. Generally, a DWLOC is calculated for each type of risk assessment used: acute, short-term, intermediate-term, chronic, and cancer.

When EECs for surface water and ground water are less than the calculated DWLOCs, EPA concludes with reasonable certainty that exposures to sethoxydim in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of aggregate human health risk at this time. Because EPA considers the aggregate risk resulting from multiple exposure pathways associated with a pesticide's uses, levels of comparison in drinking water may vary as those uses change. If new uses are added in the future, EPA will reassess the potential impacts of sethoxydim on drinking water as a part of the aggregate risk assessment process.

1. *Acute risk.* Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food to sethoxydim will occupy 7% of the aPAD for the U.S. population, 14% of the aPAD for

females 13–50 years (not pregnant, not nursing), 10% of the aPAD for all infants (<1 year) and 14% of the aPAD for children 1–6 years old. In addition, despite the potential for acute dietary exposure to sethoxydim in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of sethoxydim in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD, as shown in the following Table 2:

TABLE 2.—AGGREGATE RISK ASSESSMENT FOR ACUTE EXPOSURE TO SETHOXYDIM

Population Subgroup	aPAD (mg/kg)	% aPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Acute DWLOC (ppb)
U.S. population (all seasons)	1.8	7	42	33	59,000
Females (13+)	0.6	14	42	33	15,000
Children (1–6 years old)	1.8	14	42	33	16,000
Infants (< 1 year)	1.8	10	42	33	16,000

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to sethoxydim from food will utilize 22% of the cPAD for the U.S. population, 32% of the cPAD for all infants <1 year and 52% of the cPAD for children 1–6. Based on the use pattern, chronic residential exposure to residues of sethoxydim is not expected. In addition, despite the potential for chronic dietary exposure to sethoxydim in drinking water, after calculating DWLOCs and comparing them to conservative model estimated environmental concentrations of sethoxydim in surface and ground water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD, as shown in the following Table 3:

TABLE 3.—AGGREGATE RISK ASSESSMENT FOR CHRONIC (NON-CANCER) EXPOSURE TO SETHOXYDIM

Population Subgroup	cPAD mg/kg/day	%cPAD (Food)	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Chronic DWLOC (ppb)
U.S. population	0.09	22	27	3	2,500
Children 1–6 years old	0.09	52	27	3	430
All Infants <1 year old	0.09	32	27	3	610

3. *Short-term risk*. Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Sethoxydim is currently registered for use(s) that could result in short-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term exposures for sethoxydim.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded that food and residential exposures aggregated result in aggregate MOEs of 1,800 for children 1–6 years old (the subgroup of infants/children with the highest exposure). These aggregate MOEs do not exceed the Agency's LOC for aggregate exposure to food and residential uses. In addition, short-term DWLOCs were calculated and compared to the EECs for chronic exposure of sethoxydim in ground water and surface water. After calculating DWLOCs and comparing them to the EECs for surface and ground water, EPA does not expect short-term aggregate exposure to exceed the Agency's LOC, as shown in the following Table 4:

TABLE 4.—AGGREGATE RISK ASSESSMENT FOR SHORT-TERM EXPOSURE TO SETHOXYDIM

Population Subgroup	Aggregate MOE (Food + Residen-tial)	Aggregate LOC	Surface Water EEC (ppb)	Ground Water EEC (ppb)	Short-Term DWLOC (ppb)
Children 1–6 years old	1800	100	27	3	17,000

4. *Intermediate-term risk*. Intermediate-term aggregate exposure takes into account non-dietary, non-occupational exposure plus chronic exposure to food and water (considered to be a background exposure level). Though residential exposure could occur with the use of sethoxydim, no toxicological effects have been identified for intermediate-term toxicity. Therefore, the aggregate risk is the sum of the risk from food and water, which were previously addressed.

5. *Aggregate cancer risk for U.S. population*. Sethoxydim has not ben classified. Available studies do not show evidence of carcinogenicity in rats or mice. Therefore, an aggregate cancer risk analysis was not conducted.

6. *Determination of safety*. Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general

population, and to infants and children from aggregate exposure to sethoxydim residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (gas-liquid chromatography (GLC) with flame photometric detection) is available (Method I, PAM II) to enforce the tolerance expression.

B. International Residue Limits

There are no CODEX, Canadian, or Mexican maximum residue limits (MRLs) or tolerances for sethoxydim on safflower. Thus, harmonization is not an issue for these section 18 requests.

VI. Conclusion

Therefore, tolerances are established for combined residues of sethoxydim and its metabolites containing the 2-cyclohexen-1-one moiety, in or on safflower at 15.0 ppm, in milk at 0.5 ppm; and in meat byproducts of cattle, goats, hogs, horses, and sheep at 1.0 ppm.

VII. Objections and Hearing Requests

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. Although the procedures in those regulations require some modification to reflect the amendments made to the FFDCA by the FQPA of 1996, EPA will continue to use those procedures, with appropriate adjustments, until the necessary modifications can be made. The new section 408(g) provides essentially the same process for persons to ''object'' to a regulation for an exemption from the requirement of a tolerance issued by EPA under new section 408(d), as was provided in the old FFDCA sections 408 and 409. However, the period for filing objections is now 60 days, rather than 30 days.

A. What Do I Need to Do to File an Objection or Request a Hearing?

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301179 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before December 10, 2001.

1. *Filing the request.* Your objection must specify the specific provisions in the regulation that you object to, and the grounds for the objections (40 CFR 178.25). If a hearing is requested, the objections must include a statement of the factual issues(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

Mail your written request to: Office of the Hearing Clerk (1900), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. You may also deliver your request to the Office of the Hearing Clerk in Rm. C400, Waterside Mall, 401 M St., SW., Washington, DC 20460. The Office of the Hearing Clerk is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Office of the Hearing Clerk is (202) 260–4865.

2. *Tolerance fee payment.* If you file an objection or request a hearing, you must also pay the fee prescribed by 40 CFR 180.33(i) or request a waiver of that fee pursuant to 40 CFR 180.33(m). You must mail the fee to: EPA Headquarters Accounting Operations Branch, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Please identify the fee submission by labeling it ''Tolerance Petition Fees.''

EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding the waiver of these fees, you may contact James Tompkins by phone at (703) 305–5697, by e-mail at tompkins.jim@epa.gov, or by mailing a request for information to Mr. Tompkins at Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

If you would like to request a waiver of the tolerance objection fees, you must mail your request for such a waiver to: James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by the docket control number OPP–301179, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

B. When Will the Agency Grant a Request for a Hearing?

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

VIII. Regulatory Assessment Requirements

This final rule establishes time limited tolerances under FFDCA section 408. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or require OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to 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). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under FFDCA section 408, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4).

IX. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 21, 2001.

Richard P. Keigwin, Jr.,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

2. Section 180.412 is amended by alphabetically adding commodities to the table in paragraph (b) to read as follows:

§ 180.412 Sethoxydim; tolerances for residues.

* * * * *

(b) * * *

Commodity	Parts per million	Expiration/revocation date
* * * * *		
Cattle, mbyp	1.0	12/31/03
Goats, mbyp	1.0	12/31/03
Hogs, mbyp	1.0	12/31/03
* * * * *		
Horses, mbyp	1.0	12/31/03
Milk	0.5	12/31/03
Safflower	15.0	12/31/03
Sheep, mbyp	0.5	12/31/03

* * * * *

[FR Doc. 01–25021 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 27

[WT Docket No. 99–168; CS Docket No. 98–120; MM Docket No. 00–39; FCC 01–258]

Clearing of the 740–806 MHz Band; Conversion to Digital Television

AGENCY: Federal Communications Commission.

ACTION: Final rule; petitions for reconsideration.

SUMMARY: In this document, the Commission resolves petitions for reconsideration and clarification of the Third Report and Order of this proceeding. The Commission generally affirms the decisions it reached in that proceeding, although it makes certain adjustment to the rules and policies adopted in this proceeding and the related digital television proceeding to broadcasters and new licensees in the 746–806 MHz band. The Commission also rejects arguments by a petitioner seeking to reverse its decisions on interference issues, and clarifies certain

aspects of the applicable interference standards.

DATES: Effective October 10, 2001.

FOR FURTHER INFORMATION CONTACT: William Huber of the Auctions and Industry Analysis Division at (202) 418–0660 (voice), (202) 418–7233 (TTY), e-mail: whuber@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of an Order on Reconsideration of the Third Report and Order (''*Order on Reconsideration*'') in WT Docket No. 99–168, adopted on September 7, 2001 and released on September 17, 2001. The full text of this document is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail qualexint@aol.com.

Synopsis of the Order on Reconsideration of the Third Report and Order

1. By the *Order on Reconsideration,* the Commission resolves petitions for reconsideration and clarification of the Third Report and Order in this proceeding (''*Upper 700 MHz Third Report and Order*''), 66 FR 10204 (February 14, 2001). The Commission generally affirms the decisions it reached in the *Upper 700 MHz Third Report and Order,* although it makes certain adjustments to the rules and policies adopted in this proceeding and the related digital television (''DTV'') proceeding to accommodate the implementation of voluntary band-clearing agreements among incumbent broadcasters and new licensees in the 746–806 MHz (''Upper 700 MHz'') band, which is currently occupied by TV Channels 60–69. The Commission also rejects arguments by a petitioner seeking to reverse our decisions on interference issues, and clarifies certain aspects of the applicable interference standards.

2. The Commission has received three petitions for reconsideration of the *Upper 700 MHz Third Report and Order.* One petition was filed by Spectrum Clearing Alliance (''SCA''), which is led by Paxson Communications Corporation and joined by a number of other broadcasters having existing analog TV operations on Channels 60–69 as well as by other parties interested in band clearing. SCA stated in its petition that it is developing a comprehensive, private band-clearing plan that would be a ''definitive framework for clearing the 700 MHz band.'' SCA asserted that the adoption by the Commission of certain procedural and DTV policy changes would facilitate early clearing and provide certainty to prospective bidders that the Channel 59–69 spectrum will be cleared by a certain date. One signatory of the SCA Petition, Spectrum Exchange Group, LLC (''Spectrum Exchange''), which has expressed an interest in serving as an intermediary to facilitate SCA's clearing scheme, also filed a separate petition in support of the SCA plan.

3. The Association for Maximum Service Television, Inc. (''MSTV'') also filed a petition, primarily seeking reconsideration of our decision in the *Upper 700 MHz Third Report and Order* not to adopt a new ''no interference'' standard that would prohibit any new involuntary interference to existing licensees. MSTV also sought clarification of the appropriate interference standard to be used for protection of DTV allotments and facilities from modified analog operations. Finally, MSTV requested that the Commission rule out the possibility that other types of band-clearing policies might be adopted in the future and express ''an unqualified commitment to voluntary band clearing.''

4. *DTV Construction Deadlines For Single-Channel Broadcasters.* The Commission initially adopted a DTV construction schedule that requires rapid build-out of digital broadcast facilities, among other reasons, to ''ensure that recovery of broadcast spectrum occurs as quickly as possible.'' The DTV construction deadlines are set forth in § 73.624(d) of the Commission's rules. According to the remaining deadlines, those commercial television broadcasters that have not yet constructed their authorized digital facilities must do so by May 1, 2002, and noncommercial broadcasters must complete their DTV facilities by May 1, 2003. Consistent with this plan, the *Upper 700 MHz Third Report and Order* stated that, if a broadcaster is left with only a single analog allotment as a result of a voluntary band-clearing agreement, it must convert to DTV by the deadline set forth in § 73.624(d).

5. SCA sought reconsideration of the Commission's decision in the *Upper 700 MHz Third Report and Order* to require broadcasters that are left with a single channel as a result of a band-clearing arrangement to comply with the current DTV construction deadlines. In its petition, SCA requested that the Commission permit an incumbent broadcaster participating in an arrangement that clears an allotment in the Channels 59–69 band and leaves that broadcaster with only a single channel to remain in analog operation beyond the DTV construction deadline and to convert to digital at any time during the DTV transition. In a subsequent *ex parte* submission, SCA proposed that such single-channel broadcasters be permitted to continue to operate in analog ''until December 31, 2005 or when 70% of the television households in their markets are capable of receiving digital broadcast signals over-the-air.''

6. Upon review of the arguments presented, the Commission agrees that a broadcaster that gives up one of its channels to accommodate band clearing should have the flexibility to convert to DTV at a later stage in the transition period.

7. The Commission finds that the DTV conversion process as a whole will not be significantly retarded by affording this limited group of broadcasters the flexibility to complete their digital conversion at a later date. Under the policy the Commission adopts today, if a broadcaster gives up one of its channels to accommodate band clearing (pursuant to Commission authorization), that single-channel broadcaster may continue to operate in analog until December 31, 2005. Moreover, if such single-channel broadcaster seeks an extension of this deadline and is able to demonstrate that less than 70% of the television households in its market are capable of receiving digital broadcast signals, the Commission will presume that such request is in the public interest. Because the number of Channel 59–69 stations is small and because stations with low viewership may be more likely to give up their second allotment, extending the DTV construction deadline for these single-channel broadcasters should not have a significant effect on the broadcast industry's ability to meet the 85% consumer penetration target set forth in section 309(j)(14)(B) of the Act. Thus, the Commission finds that the benefits of relief from the upcoming DTV construction deadline for this group of broadcasters outweigh the potential risk that such limited relief may delay the DTV transition.

8. *Interference Protection Standards.* The *Upper 700 MHz Third Report and Order* confirms our intention to review license modification applications associated with band-clearing arrangements under established DTV protection criteria. Among those criteria are provisions that specifically allow

certain levels of *de minimis* interference from proposed DTV stations to nearby full-service TV and DTV facilities. Under our *de minimis* interference allowance, non-conforming DTV applications may be permitted where interference will affect less than two percent of the population served by another analog or DTV station (provided that no new interference may be caused to a station already predicted to receive interference from all other broadcasters to ten percent or more of its population). The *Upper 700 MHz Third Report and Order* rejected a proposal by MSTV and other broadcast interests seeking the adoption of a new ''no interference'' standard that would prohibit any new involuntary interference to existing licensees.

9. MSTV sought reconsideration of this decision. The Commission disagrees with the premise of MSTV's argument, and affirms the policies announced in the *Upper 700 MHz Third Report and Order.* MSTV's argument is premised on its belief that issues associated with clearing of the Upper 700 MHz band are ''completely different'' from those of the DTV transition. MSTV fails to recognize that the process of clearing the Upper 700 MHz band has long been an integral part of the DTV transition process. For example, in the *DTV Sixth Further Notice of Proposed Rule Making,* 61 FR 43209 (August 21, 1996), the Commission stated that ''the recovery of spectrum continue[s] to be a key component of our implementation of DTV service.'' Contrary to MSTV's assertion, the policies outlined in the *Upper 700 MHz Third Report and Order* do not extend the *de minimis* interference protection criteria to a new or different problem. Rather, the *Upper 700 MHz Third Report and Order* simply clarified that DTV broadcasters participating in band-clearing arrangements could continue to benefit from the flexibility allowed under the DTV technical rules.

10. In urging the Commission to clarify that the DTV two percent *de minimis* interference allowance does not extend to analog license modification applications, MSTV contended that the *Upper 700 MHz Third Report and Order* has created an ambiguity about the circumstances in which the DTV two percent *de minimis* interference limit applies. The *Upper 700 MHz Third Report and Order* did not change the interference standards for analog proposals to protect DTV service. Applicants seeking modifications of full-service analog TV stations may not cause any additional interference to DTV service, other than a 0.5% reduction in service population to account for rounding and calculation tolerances.

11. *DTV Replication Policy.* One of the Commission's goals in designing the initial DTV Table of Allotments was to design DTV service areas that would, to the greatest extent possible, allow each broadcaster to provide DTV service to a geographic area that is comparable to its existing NTSC service area. This replication goal meant that each DTV channel allotment was chosen to best allow its DTV service to match the Grade B service contour of the NTSC station with which it was paired. Implicit in the replication goal is the Commission's expectation that DTV stations will eventually be constructed with ''full-replication'' facilities. In the initial stages of the DTV transition, each DTV facility will be entitled to interference protection to its existing and authorized DTV contour, as well as to its April 1997 NTSC Grade B service area. Although the Commission considered whether broadcasters should be required to replicate fully their analog service areas with DTV coverage, the Commission decided in its recent *DTV Biennial Review Order,* 66 FR 9973 (February 13, 2001), not to require full replication of analog facilities with DTV. Instead, the Commission decided that it would ''cease to give interference protection to [broadcasters'] unreplicated service area as of December 31, 2004.'' Thus, by December 31, 2004, commercial DTV licensees must either be on-the-air replicating their April 1997 NTSC Grade B service area or lose interference protection to the unreplicated portion of this service area outside the noise-limited signal contour.

12. In its petition, SCA asserted that, where a broadcaster does not fully replicate for purposes of implementing a band-clearing arrangement, the Commission should not eliminate interference protection from unreplicated service areas at the end of 2004.

13. The Commission decides to create a limited exception to the DTV replication use-or-lose policy for single-channel broadcasters that do not fully replicate (operate with their full allotted facilities) after implementing a band-clearing arrangement. As with its decision on DTV construction deadlines for single-channel broadcasters, the Commission believes that this approach is supported by the congressional plan for the transition of this spectrum to new public safety and commercial uses.

14. In the *DTV Biennial Review Order*, the Commission chose not to require such replication so as ''to give broadcasters a measure of flexibility as they build their DTV facilities to collocate their antennas at common sites, thus minimizing potential local difficulties locating towers and eliminating the cost of building new towers.'' The Commission finds that it is consistent with the underlying intent of that policy to afford certain broadcasters relief from the DTV replication protection deadline. For instance, in connection with a band-clearing arrangement as discussed, it would be inconsistent with the intent of the replication policy to remove DTV replication protection at the end of 2004 from a single-channel broadcaster that has been permitted to continue its analog operations on a digital allotment until the end of 2005 (or perhaps later). Instead, in such a case, the Commission believes that a broadcaster that is left with a DTV single-channel allotment as a result of a band-clearing arrangement should retain the interference protection associated with that DTV allotment for a period of 31 months after beginning to transmit in digital. This period is equal to the period of interference protection for unreplicated areas that the Commission provided to all broadcasters in the *DTV Biennial Review Order*.

15. *Spectrum Clearing Alliance's Comprehensive Band-Clearing Plan.* In the *Upper 700 MHz Third Report and Order*, the Commission found that ''secondary auctions'' or other such comprehensive market-oriented band-clearing mechanisms could be used to facilitate efficient band clearing.

16. SCA asserted that, with Spectrum Exchange and other broadcasters, it is currently in the process of developing a ''comprehensive'' band-clearing plan that is intended to serve as a framework for clearing the Channel 59–69 band. In its petition, SCA asked for a certain level of Commission involvement in executing its plan, and outlined certain actions to be taken by the Commission to assist in publicizing SCA's band-clearing plan.

17. The Commission acknowledges that there are strong public interest benefits favoring comprehensive band clearing. However, the Commission finds that additional involvement beyond its existing processes is not necessary to facilitate SCA's proposed private clearing arrangement (or any other comprehensive clearing plans). Under a voluntary, comprehensive band-clearing scheme established prior to the auction, bidders in the Commission's auction will be able to bid with some certainty that the spectrum will be cleared and avoid the

delay and expense of complex post-auction bargaining.

18. The Commission finds that the *Order on Reconsideration*, in addition to the existing public processes for considering modification applications and associated regulatory requests to implement band-clearing agreements, should be sufficient to maximize the likelihood that all potential participants would have actual notice of an opportunity to participate in voluntary, comprehensive band-clearing arrangements, such as that being developed by SCA.

19. *Expedited Processing of Regulatory Requests*. In the *Upper 700 MHz Third Report and Order*, the Commission found it unnecessary to adopt a 60-day application processing deadline. SCA requested reconsideration of the decision not to adopt an explicit timeline. In light of the substantial public interest benefits associated with voluntary band-clearing agreements, the Commission delegates to the Mass Media Bureau authority to establish a 90-day processing period for band-clearing requests. The Commission concludes that an explicit time period would promote certainty in the clearing process.

20. License modification applications necessary to implement band-clearing arrangements would be granted at the end of the 90-day time period, unless the application is found to be defective, is opposed, or an integral request for waiver or other regulatory request cannot be granted. Upon notice to the applicant, the Mass Media Bureau could toll the 90-day deadline during the period in which an applicant is responding to a staff request for additional information. The Mass Media Bureau could also, upon notice to the applicant, extend the processing period if the caseload of regulatory requests associated with band-clearing arrangements makes it administratively impractical to complete processing within a 90-day period. The 90-day processing period would not apply to those applications that do not make a *prima facie* case of meeting the presumptions previously established in this proceeding for voluntary requests associated with band-clearing arrangements or that are not otherwise entitled to streamlined processing. Staff will regularly issue notice of modifications granted pursuant to this process.

21. *Proposal to Relax Waiver Policies*. Our previous decisions in this proceeding have provided guidance on a number of aspects of the Commission's treatment of regulatory requests associated with band-clearing arrangements. In regard to such regulatory requests, SCA proposed that the Commission adopt a ''relaxed waiver standard'' with respect to interference to Class A stations or where other requirements (e.g., city grade coverage) are not met.

22. In light of the balance that the Commission has achieved among the various objectives in this proceeding, it declines to adopt a general ''relaxed waiver'' policy.

23. *Treatment of Pending Channel 59–69 Applicants*. The Commission confirms that broadcasters with pending DTV applications will be permitted to benefit from band-clearing policies announced in this proceeding. The Commission finds no principled reason to distinguish between those broadcasters that have already been granted authority to operate in this band and those that have not yet received an authorization. Clearing of both pending applications and authorized facilities would serve the objectives of this proceeding.

24. The Commission continues to believe that voluntary agreements between broadcasters and new wireless licensees should result in the effective clearing of the 700 MHz band, and find no basis for disturbing our announced policy.

Procedural Matters

A. Regulatory Flexibility Act and Paperwork Reduction Act

25. Section 213 of the Consolidated Appropriations Act, 2000 states that the Regulatory Flexibility Act (as well as certain provisions of the Contract With America Advancement Act of 1996 and the Paperwork Reduction Act) shall not apply to the rules and competitive bidding procedures governing the frequencies in the 746–806 MHz band (currently used for television broadcasts on Channels 60–69). Because the policies and rules adopted in the Order on Reconsideration of the Third Report and Order relate only to assignments of those frequencies, no Final Regulatory Flexibility Analysis or Paperwork Reduction Analysis is necessary.

B. Alternative Formats

26. Alternative formats (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 (voice), TTY (202) 418–7365, or at bmillin@fcc.gov. The Order on Reconsideration of the Third Report and Order can also be downloaded at *http://www.fcc.gov/Bureaus/Wireless/Orders/2001/index.html*.

27. For further information concerning the Order on Reconsideration of the Third Report and Order, contact William Huber of the Auctions and Industry Analysis Division at (202) 418–0660 (voice), (202) 418–7233 (TTY), e-mail: whuber@fcc.gov, Wireless Telecommunications Bureau, Washington, DC 20554.

Ordering Clauses

28. Pursuant to sections 1, 2, 4(i), 5(c), 7(a), 301, 302, 303, 307, 308, 309(j), 309(k), 311, 316, 319, 324, 331, 332, 333, 336, 337, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 155(c), 157(a), 301, 302, 303, 307, 308, 309(j), 309(k), 311, 316, 319, 324, 331, 332, 333, 336, 337, 614, and 615, the Consolidated Appropriations Act, 2000, Public Law Number 106–113, 113 Stat. 2502, and § 1.425 of the Commission's rules, 47 CFR 1.425, it is ordered that the Order on Reconsideration of the Third Report and Order is hereby adopted.

29. It is further ordered that, pursuant to sections 1, 2, 4(i), and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i) and 303, and § 1.429 of the Commission's rules, 47 CFR 1.429, the Petition for Reconsideration filed by MSTV on March 16, 2001 is denied, and the Petitions for Reconsideration filed by Spectrum Clearing Alliance and Spectrum Exchange Group, LLC on March 16, 2001 are granted to the extent discussed herein.

30. It is further ordered that authority is hereby delegated to the Mass Media Bureau to implement the policies for the introduction of new wireless services and to promote the early transition of incumbent analog television licensees to DTV service to the extent discussed herein.

List of Subjects in 47 CFR Part 27

Communications common carriers, Radio.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–25305 Filed 10–9–01; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF79

Endangered and Threatened Wildlife and Plants; Final Rule To List *Silene spaldingii* (Spalding's Catchfly) as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened status pursuant to the Endangered Species Act of 1973, as amended (Act), for *Silene spaldingii* (Spalding's catchfly). *Silene spaldingii* is currently known from a total of 52 populations. Seven populations occur in west-central Idaho, 7 in northeastern Oregon, 9 in western Montana, 28 in eastern Washington, and 1 in adjacent British Columbia, Canada. This plant is threatened by a variety of factors including habitat destruction and fragmentation resulting from agricultural and urban development, grazing and trampling by domestic livestock and native herbivores, herbicide treatment, and competition from nonnative plant species. This rule implements the Federal protection and recovery provisions afforded by the Act.

DATES: Effective November 9, 2001.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Snake River Basin Office, 1387 S. Vinnell Way, Room 368, Boise, Idaho 83709.

FOR FURTHER INFORMATION CONTACT: Robert Ruesink, Supervisor, at the above address (telephone 208/378–5243; facsimile 208/378–5262).

SUPPLEMENTARY INFORMATION:

Background

A member of the pink or carnation family (Caryophyllaceae), *Silene spaldingii* (Watson) is a long-lived perennial herb with four to seven pairs of lance-shaped leaves and a spirally arranged inflorescence (group of flowers) consisting of small greenish-white flowers. The foliage is lightly to densely covered with sticky hairs. Reproduction is by seed only; *Silene spaldingii* does not possess rhizomes or other means of vegetative reproduction (Lesica 1992). Plants range from approximately 20 to 60 centimeters (8 to 24 inches (in.)) in height (Lichthardt 1997).

First collected in the vicinity of the Clearwater River, Idaho, between 1836 and 1847, *Silene spaldingii* was originally described by Watson (Watson 1875). Hitchcock and Cronquist (1973) retained this taxon as a full species in a comprehensive regional flora. *Silene spaldingii,* by having petal blades 2 millimeters (mm) (0.08 in.) in length, differs from the related, common species *Silene scouleri,* which has deeply lobed petal blades that are 6 to 7 mm (0.24 to 0.28 in.) long. *Silene douglasii* also occurs with *S. spaldingii* in some areas, but *S. douglasii* typically has multiple, slender stems, narrower leaves, and is rarely covered by sticky hairs (Lichthardt 1997).

The distribution and habitat of *Silene spaldingii* are limited. The total number of sites discussed in the 90-day finding for *S. spaldingii* (63 FR 63661) was 94, which is larger than the number of populations identified in this final rule. We based the number of sites stated in the petition finding primarily on location records (*i.e.*, element occurrence records) available in State natural heritage data bases. In the proposed rule, and during the preparation of this final rule, we felt it was more appropriate to group certain element occurrence records for *S. spaldingii* together when approximately 1.6 kilometers (km) (1 mile (mi)) or less separate the sites. Thus, the difference in the number of *S. spaldingii* locations described in this final rule and the 90-day finding does not reflect the actual loss or extirpation of sites.

This species is currently known from a total of 52 populations in the United States and British Columbia, Canada. Of the 51 *Silene spaldingii* populations in the United States, 7 occur in Idaho (Idaho, Lewis, and Nez Perce counties), 7 in Oregon (Wallowa County), 9 in Montana (Flathead, Lake, Lincoln, and Sanders counties), and 28 in Washington (Asotin, Lincoln, Spokane, and Whitman counties). A population consists of one to several sites that are generally located less than 1.6 km (1 mi) apart. The number of *S. spaldingii* individuals within each population ranges from one to several thousand. Eighteen populations contain more than 50 individuals; only 6 of these populations are moderately large (*i.e.*, contain more than 500 plants). Of the 6 largest populations, 2 are found in Oregon (Wallowa County), 1 in Idaho (Nez Perce County), 1 in Montana (Lincoln County), and 2 in Washington (Asotin and Lincoln Counties). The 6 moderately large populations contain approximately 84 percent (*i.e.*, about 13,800 individuals) of the total number of *Silene spaldingii*. In addition, approximately 100 plants were located in British Columbia (Geraldine Allen, University of Victoria, *in litt.* 1996). The total number of *S. spaldingii* individuals for all 52 populations is about 16,500 (Edna Rey-Vizgirdas, Service, *in litt.* 1999).

Much of the remaining habitat occupied by *Silene spaldingii* is fragmented. For example, *S. spaldingii* populations in Oregon are located at least 64 km (40 mi) from the nearest known populations in eastern Washington. *Silene spaldingii* sites in Montana are approximately 190 km (120 mi) from occupied habitats in Idaho and Washington. Approximately 52 percent of extant *S. spaldingii* populations occur on private land, 10 percent on State land, 33 percent on Federal land, and 5 percent on Tribal land (E. Rey-Vizgirdas, *in litt.* 1999).

This species is primarily restricted to mesic (not extremely wet nor extremely dry) grasslands (prairie or steppe vegetation) that make up the Palouse region in southeastern Washington, northwestern Montana, adjacent portions of Idaho and Oregon, and in British Columbia. Palouse prairie is considered a subset of the Pacific Northwest bunchgrass habitat type (Tisdale 1986). In Idaho, Palouse prairie is confined to a narrow band along the western edge of central and north-central Idaho, centering on Latah County (Tisdale 1986; Ertter and Moseley 1992). Large-scale ecological changes in the Palouse region over the past century including agricultural conversion, changes in fire frequency, and alterations of hydrology, have resulted in the decline of many sensitive plant species including *Silene spaldingii* (Tisdale 1961). More than 98 percent of the original Palouse prairie habitat has been lost or modified by agricultural conversion, grazing, invasions of nonnative plant species, altered fire regimes, and urbanization (Noss *et al.* 1995). Some suitable habitat for *S. spaldingii* remains on the fringes of the Palouse region and in the forested portion of the channeled scablands in central Washington (John Gamon, Washington Natural Heritage Program (WNHP), *in litt.* 2000). Low-density subdivisions and developments, and increased use of lands in and around the forested portion of the channeled scablands in central Washington, likely pose significant threats to *S. spaldingii* populations remaining in this area (J. Gamon, *in litt.* 2000).

Silene spaldingii is also found in canyon grassland habitat, another division of the Pacific Northwest bunchgrass habitat type (Tisdale 1986). Canyon grasslands are dominated by the same bunchgrass species as Palouse prairie, but the two habitat types differ slightly in their overall plant species composition (Janice Hill, The Nature Conservancy (TNC), *in litt.* 2000; Greg Yuncevich, Bureau of Land Management (BLM), *in litt.* 2000). In addition, canyon grasslands occur in steep, highly dissected canyon systems whereas Palouse grasslands generally occur on gently rolling plateaus. The steep slopes in canyon grasslands result in pronounced habitat diversity (G. Yuncevich, *in litt.* 2000). This steepness has also prevented conversion of canyon grasslands to other uses, such as agriculture. Nevertheless, other disturbances (*e.g.*, livestock grazing and the invasion of nonnative plant species) have caused significant alterations of the native vegetation of canyon grasslands, although portions of this habitat type have not received heavy use by domestic livestock (G. Yuncevich, *in litt.* 2000). The largest population of *S. spaldingii* in Idaho occurs in canyon grassland habitat where invasive nonnative species are a serious threat (J. Hill, *in litt.* 2000).

Silene spaldingii is typically associated with grasslands dominated by native perennial grasses such as *Festuca idahoensis* (Idaho fescue) or *Festuca scabrella* (rough fescue). Other associated species include bluebunch wheatgrass (*Agropyron spicatum*), prairie junegrass (*Koeleria cristata*), snowberry (*Symphoricarpos albus*), Nootka rose (*Rosa nutkana*), yarrow (*Achillea millefolium*), prairie smoke avens (*Geum triflorum*), sticky purple geranium (*Geranium viscosissimum*), and arrowleaf balsamroot (*Balsamorhiza sagittata*) (Lichthardt 1997; Montana Natural Heritage Program (MNHP) 1998). Scattered individuals of ponderosa pine (*Pinus ponderosa*) may also be found in or adjacent to *S. spaldingii* habitat. *Silene spaldingii* sites range from approximately 460 meters (m) (1,500 feet (ft)) to 1,600 m (5,100 ft) elevation (Oregon Natural Heritage Program (ONHP) 1998; WNHP 1998).

Previous Federal Action

Federal Government actions for the plant began as a result of section 12 of the Act, (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975, and included *Silene spaldingii* as an endangered species. We published a notice on July 1, 1975, in the **Federal Register** (40 FR 27823) accepting the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4(b)(3) of the Act), and our intention to review the status of the plant taxa named in the report. The July 1, 1975, notice included the above taxon. On June 16, 1976, we published a proposal (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and us in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. We included *Silene spaldingii* in the June 16, 1976, proposal.

In 1978, amendments to the Act required that all proposals more than 2 years old be withdrawn. On December 10, 1979, we published a notice withdrawing that portion of the June 16, 1976, proposal that had not been made final, including the proposal to list *Silene spaldingii* (44 FR 70796). We published an updated Notice of Review for plants on December 15, 1980 (45 FR 82480). This notice included *S. spaldingii* as a category 1 candidate. Category 1 candidates were those for which we had sufficient information on biological vulnerability and threats to support proposals to list them as endangered or threatened species.

The 1982 amendments to the Act required that we treat all petitions pending on October 13, 1982, as having been newly submitted on that date. This provision applied to *Silene spaldingii* because we had accepted the 1975 Smithsonian report as a petition. On October 13, 1983, we found that the listing of the species was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. We published notification of this finding on January 20, 1984 (49 FR 2485). Our warranted but precluded finding required us to consider the petition as having been resubmitted annually, pursuant to section 4(b)(3)(C)(i) of the Act.

We included *Silene spaldingii* as a category 2 candidate in the November 28, 1983, supplement to the Notice of Review (48 FR 53640), as well as subsequent revisions on September 27, 1985 (50 FR 39526), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51143). Category 2 candidates were those species for which information in our possession indicated that proposing to list as endangered or threatened was possibly appropriate, but sufficient data to support proposed rules was not currently available. Upon publication of the February 28, 1996, Notice of Review (61 FR 7596), we ceased using category designations. *Silene spaldingii* was not included as a candidate species in this notice.

On February 27, 1995, we received a petition dated February 23, 1995, from the Biodiversity Legal Foundation of Boulder, Colorado; the Montana and Washington Native Plant Societies; and Mr. Peter Lesica of Missoula, Montana, to list *Silene spaldingii* within the conterminous United States as threatened or endangered under the Act. The petition submitted information stating that this species is threatened by competition with nonnative and woody vegetation, improper livestock grazing practices, improper herbicide application, inbreeding depression, and fire suppression.

In April 1995, the enactment of Public Law 104–6 placed a moratorium on final listing determinations and critical habitat designations. It also rescinded $1.5 million from our budget for carrying out listing activities for the remainder of Fiscal Year 1995. From October 1, 1995, until April 26, 1996, the Department of the Interior operated without a regularly enacted full-year appropriations bill. On April 26, 1996, President Clinton approved the Omnibus Budget Reconciliation Act of 1996 and lifted the moratorium. At that time, we had accrued a backlog of proposed listings for 243 species, of which Region 1 had the lead on 199, or 82 percent. Due to this backlog, reduced budgets for the listing program, and litigation demands, completion of the processing of this petition was not practicable until November 16, 1998. On that date, we published a finding that the petition presented substantial information indicating that the petitioned action may be warranted (63 FR 63661) and commenced a status review for *Silene spaldingii.*

On December 3, 1999 (64 FR 67814), we published a proposal to list *Silene spaldingii* as a threatened species. In the proposed rule, we did not propose a critical habitat determination for *S. spaldingii,* but stated that we would publish such a determination for this species in the **Federal Register** subsequent to the proposed rule. On April 24, 2000 (65 FR 21711), we published a notice proposing that designation of critical habitat is prudent for *S. spaldingii* and reopened the public comment period. We reopened the comment period again on September 8, 2000 (65 FR 54472).

Summary of Comments and Recommendations

In the December 3, 1999, proposed rule (64 FR 67814) and associated notifications, we requested all interested parties to submit factual reports or information that might contribute to the development of a final listing decision. The comment period closed on February 1, 2000. We contacted appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties and requested them to comment. We reopened the public comment period for another 60 days on April 24, 2000 (65 FR 21711) when we issued the proposed *Silene spaldingii* critical habitat prudency determination, and the public was able to comment both on the proposed critical habitat determination and on the proposed rule to list the species as threatened. We did not receive any requests for a public hearing. We reopened the comment period again on September 8, 2000 (65 FR 54472) for another 15 days to provide notification of the proposal in a newspaper as required by the Act. We published announcements of the proposed rule in the Spokane Spokesman Review and the Moscow-Pullman Daily News on September 8, 2000, the Missoulian on September 9, 2000, and the LaGrande Observer on September 11, 2000.

We received 16 written comments during the comment periods. Six commenters expressed support for the listing proposal, seven were neutral to the listing and critical habitat proposals, and one was opposed. Four commenters supported the proposed determination that it is prudent to designate critical habitat for *Silene spaldingii*. We considered all comments and incorporated them, as appropriate, into the final rule.

We have grouped comments of a similar nature or point regarding the proposed rule into general issues, and our response to the issues are discussed below.

Issue 1: Threats to *Silene spaldingii* and its rarity are not sufficiently documented in the proposed rule.

Our Response: Data presented in the proposed rule demonstrate the decline and degradation of ecological communities in which *Silene spaldingii* occurs and the disappearance of *S. spaldingii* within these habitats. For example, the proposed rule describes the extensive loss of Palouse grassland that historically was the primary habitat for *S. spaldingii* and refers to the subsequent rarity of other species found principally in this declining habitat type. The proposed rule cites numerous ongoing threats to *S. spaldingii,* including trampling and consumption by livestock, expansion of invasive nonnative species in sites occupied by *S. spaldingii,* and housing developments. Moreover, *S. spaldingii* is evidently extirpated from at least 16 sites where knowledgeable observers had previously seen the species.

Issue 2: One commenter stated that *Silene spaldingii* should not be listed because economic impacts have not been considered.

Our Response: In accordance with section 4(b)(1)(A) of the Act and the Act's implementing regulations, 50 CFR 424.11(b), listing decisions are made solely on the basis of the best available scientific and commercial data. Congress was very clear on this point, a House of Representatives' committee report stated: ''The only alternatives involved in the listing of species are whether the species should be listed as endangered or threatened or not listed at all. Applying economic criteria to the analysis of the alternatives and to any phase of the species listing process is applying economics to the determinations made under Section 4 of the Act and is specifically rejected by the inclusion of the word ''solely'' in this legislation'' (H.R. Rep. No. 97–567 at 20 (1982)). Therefore, economic impacts cannot be considered when determining whether to list a species under the Act.

Issue 3: The Service should wait to list *Silene spaldingii* until it collects further information to substantiate its decline and rarity.

Our Response: Ongoing surveys for this species have documented the extirpation or near extirpation of numerous populations. We received information from all known experts on this species before and after publishing the proposed rule. No new populations of this species were reported to us during the public comment period. While it is possible that new populations of *Silene spaldingii* will be found in the future, we believe it is unlikely that such discoveries alone would alter the species' status. Additionally, the almost complete destruction of Palouse grasslands (as discussed in the ''Background'' section), which evidently was the center of this species' historical range, and the significant threats (*e.g.,* invasive nonnative species) to *S. spaldingii* documented in its other important habitat type, canyon grasslands, are sufficient to list *S. spaldingii* as threatened at this time.

Issue 4: One commenter stated that the proposed rule did not adequately substantiate our claim that mowing is a threat to *Silene spaldingii*.

Our Response: The proposed rule did not list mowing as a threat to this species.

Issue 5: This species is simply obscure and not threatened. Observations of the species do not prove absence at other sites, and it is likely present at sites that have not been surveyed. The Service should not list *Silene spaldingii* until its absence from apparently suitable habitats in the Blue Mountains of Oregon can be demonstrated. The Service should not list *S. spaldingii* until threats described in the proposed rule are shown experimentally to cause extirpation of the species from occupied habitats.

Our Response: It is true that *Silene spaldingii* is, at times, difficult to identify and locate. However, the surveys on which we relied to document the presence of *S. spaldingii* were made by qualified botanists who can identify this species and are familiar with the habitats in which it occurs. Botanists have been looking for this and other rare plant species in Palouse and canyon grasslands for several years. If the species were simply obscure, many new populations should have been located as a result of these widespread surveys.

It is true that observations and monitoring of known populations of *Silene spaldingii* do not prove that it is absent from unsurveyed sites. Unfortunately, Natural Heritage databases and other data sources generally do not contain data on sites that do not contain rare species, such as *S. spaldingii,* unless the species was previously observed there. Therefore, we could not present information on what proportion of sites surveyed have never had *S. spaldingii* observed. As stated above, however, in numerous cases, negative survey results were recorded at sites where botanists had formerly located *S. spaldingii.* These negative results clearly document numerous recent extirpations of this species. Surveys for this species have been conducted and are ongoing in various portions of Oregon's Blue Mountains. Given the substantial information on the threats and decline of *S. spaldingii* throughout its range, waiting for the results of these surveys before listing this species would not be prudent. Similarly, awaiting the results of numerous experimental studies to quantify the effects of all threats to this species would also not be prudent. Threats to plant species and population declines can be documented or inferred based on empirical observations by qualified professionals and on information available in the scientific literature, as we have done for this species.

Issue 6: Understanding of the ecology and life history of *Silene spaldingii* is insufficient to allow listing.

Our Response: We have sufficient information regarding the ecology and life history of *Silene spaldingii.* While there are usually some unknown aspects of nearly every species' life history, the available natural history information for *S. spaldingii* is sufficient to proceed with listing this species. Additionally, the Act requires us to make listing decisions based solely on the *best available* scientific and commercial information (section 4(b)(1)(A)). We cannot delay listing a species to gather more ecological or life history information when the best available scientific and commercial information currently demonstrates that the species meets the definition of threatened. This is the case for *S. spaldingii.*

Issue 7: Noxious weeds, such as knapweed species and yellow star-thistle, are not threats because habitat can be restored using various ''treatments'' and ''revegetation techniques.''

Our Response: The proposed rule describes and cites examples of sites at which yellow star-thistle (*Centaurea solstitialis*) and other nonnative species have invaded habitat in which *Silene spaldingii* occurs. Various practices are being implemented throughout the range of *S. spaldingii* to control or eradicate nonnative species that threaten native plant communities. At many of these sites, however, these practices are not entirely successful in restoring the native plant communities. Based on information obtained from reports, personal communications, and scientific papers that we cited and summarized in the proposed rule, most or all of the nonnative species invasions that threaten *S. spaldingii* cannot be controlled with the current effort levels and techniques. For example, at Garden Creek Ranch, which contains the largest *S. spaldingii* population in Idaho (Idaho Conservation Data Center 1998), *C. solstitialis* spread from approximately 60 hectares (ha) (150 acres (ac)) in 1987 to 810 ha (2,000 ac) in 1998 (J. Hill, *in litt.* 1999). Numerous botanists and ecologists recognize that *S. spaldingii* is always, or almost always, found at sites that are generally free of nonnative plant species. We are not aware of any efforts that have been successful in returning a site dominated by nonnative species to one dominated by native species that included *S. spaldingii.*

Issue 8: Critical habitat designation does not seem to confer added protection for listed plant species, primarily because of limited protection for plants on non-Federal lands.

Our Response: The designation of critical habitat on Federal lands may provide a greater measure of protection than the limited prohibitions against take of plants on areas under Federal jurisdiction. Critical habitat may also confer additional protection for listed plant species because Federal actions may affect non-Federal lands. Moreover, critical habitat designation may educate and inform the public and help focus conservation efforts through future Federal, State, and local planning efforts and the public, by identifying the habitat needs and essential areas for *Silene spaldingii.*

Issue 9: Critical habitat designation may increase the chance that areas in which *Silene spaldingii* occurs that are not designated as critical habitat would be downgraded in importance when making land management decisions.

Our Response: As stated above, critical habitat may increase protection for listed plant species. It is possible that *Silene spaldingii* would receive greater consideration in areas within the critical habitat designation than where it occurs outside critical habitat. However, it is the intention of critical habitat designation, however, to ensure that land managers and others are aware of areas that are essential to the conservation of listed species.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we solicited the expert opinions of three independent specialists regarding pertinent scientific or commercial data and assumptions relating to the taxonomy, population status, and supportive biological and ecological information for the taxon under consideration for listing. The purpose of such review is to ensure that listing decisions are based on scientifically sound data, assumptions, and analyses, including input from appropriate experts and specialists. All three scientists responded to our request for peer review of this listing action, and provided information that supported and augmented the biological and ecological data presented in the proposed rule, and we incorporated the comments, as appropriate, into this final rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, we determine that *Silene spaldingii* should be classified as a threatened species. We followed procedures found at section 4(a)(1) of the Act and regulations (50 CFR part 424) implementing the listing provisions of the Act. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors, and their application to *Silene spaldingii* Watson, are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

As discussed in the ''Background'' section above, the distribution and habitat of *Silene spaldingii* are limited. This species is primarily restricted to mesic slopes, flats, or depressions in grassland or steppe vegetation of the Palouse region in southeastern Washington, northwestern Montana, and adjacent portions of Idaho and Oregon. One site is located in British Columbia, Canada, directly adjoining a Montana population. In Idaho, Palouse prairie is confined to a narrow band along the western edge of central and north-central Idaho, centering on Latah County (Tisdale 1986; Ertter and Moseley 1992), although the largest population of *S. spaldingii* in Idaho occurs in canyon grassland habitat. The areas that supported Palouse prairie are now extensively cultivated, with few remnants of native habitat (Tisdale 1986). About 94 percent of the grasslands have been converted to crop, hay, or pasture lands (Black *et al.* 1998), and more than 98 percent of the original Palouse prairie has been lost to all causes combined, including urbanization (Noss *et al.* 1995). Invasive nonnative species also seriously threaten canyon grasslands occupied by *S. spaldingii* in Idaho (J. Hill, *in litt.* 2000). This loss of habitat has resulted in the decline of numerous sensitive plant species including *S. spaldingii* (Tisdale 1961).

Although historical data on *Silene spaldingii* distribution and population size are incomplete, based on the former distribution of suitable Palouse habitat, this species was likely much more widespread in the past. According to Ertter and Moseley (1992), ''because of the exceptionally rich soil, a deep layer of loess, most of the grasslands have been converted to agriculture. Most of the Palouse prairie vegetation has, therefore, disappeared, and endemic species such as *Aster jessicae* Piper and *Haplopappus liatriformis* (Greene) St. John are threatened with extinction.'' Both *A. jessicae* and *H. liatriformis* may be found within or near habitat occupied by *S. spaldingii* (Lichthardt 1997). Similar to *S. spaldingii*, *A.*

jessicae and *H. liatriformis* are considered globally rare and vulnerable to extinction by the Idaho Native Plant Society (Idaho Native Plant Society 2000).

Invasion by nonnative plant species, herbicide application, and/or grazing (including trampling and consumption of plants) threaten virtually all of the remaining populations of this species, including those present in areas administered by the BLM and U.S. Forest Service (Forest Service) (Biodiversity Legal Foundation *et al.* 1995; Lichthardt 1997; MNHP 1998; ONHP 1998; WNHP 1998).

Nonnative plant species are considered a major threat at nearly all sites supporting *Silene spaldingii*. Threats to *S. spaldingii* posed by nonnative plant species include competition for water, nutrients, and light, in addition to competition for pollinators (Lesica and Heidel 1996). Nonnative plant species such as St. John's-wort (*Hypericum perforatum*, yellow star-thistle, leafy spurge (*Euphorbia esula*, teasel (*Dipsacus sylvestris*, Canada thistle (*Cirsium arvense*, sulfur cinquefoil (*Potentilla recta*, Russian knapweed (*Acroptilon repens*, Scotch thistle (*Onopordium acanthium*, and cheatgrass (*Bromus tectorum* threaten *S. spaldingii* in Idaho, Oregon, Montana, and Washington (Lesica and Heidel 1996; Lichthardt 1997; MNHP 1998; ONHP 1998; WNHP 1998; J. Hill, *in litt.* 1999).

Some of these nonnative species can invade and displace native plant communities in a relatively short period of time. For example, at TNC's Garden Creek Ranch, which contains the largest *Silene spaldingii* population in Idaho (Idaho Conservation Data Center 1998), yellow star-thistle spread from approximately 60 ha (150 ac) in 1987 to 810 ha (2,000 ac) in 1998 (J. Hill, *in litt.* 1999). Another site containing *S. spaldingii* in Idaho (Lawyer's Creek) was apparently extirpated by highway construction in 1990 and the invasion of yellow star-thistle.

Yellow star-thistle is found near all *Silene spaldingii* populations in Idaho (Lichthardt 1997). This aggressive nonnative species can form almost complete monocultures (a single species growing in an area to the exclusion of others), invading and out competing native species. Even small areas that experience soil disturbance are almost immediately colonized by yellow star-thistle or other nonnative winter annuals (Lichthardt 1997). Seeds of yellow star-thistle can remain dormant in the soil for up to 10 years (Callihan and Miller 1997), making effective control of this aggressive nonnative extremely difficult.

Russian knapweed spreads readily by reproducing vegetatively, as well as by seed. Once established, knapweed forms single-species stands by producing chemicals that inhibit the survival of competing plant species, known as allelopathy (U.S. Geological Survey 1999). Knapweed (probably spotted knapweed, *Centaurea maculosa*) has been noted to displace *Silene spaldingii* plants in Montana. At this site, the number of *S. spaldingii* plants declined from 30 in 1983 to 11 in 1990, due to the invasion of knapweed (MNHP 1998). Spotted knapweed is considered ''the number one weed problem on rangeland in western Montana'' (Whitson 1996). Nonnative species also threaten the largest *S. spaldingii* populations in Montana (Biodiversity Legal Foundation *et al.* 1995; Brian Martin, TNC, *in litt.* 1998), Oregon (Jimmy Kagan, ONHP, pers. comm. 1998), and Washington (Scott Riley, Umatilla National Forest, pers. comm. 1999). *Silene spaldingii* and other native plants are generally unable to grow or successfully reproduce in areas dominated by yellow star-thistle and knapweed.

Herbicide drift also threatens *Silene spaldingii* habitat. Most remaining *S. spaldingii* populations are adjacent to agricultural fields, which are often treated with herbicides to control nonnative vegetation. Even *S. spaldingii* sites that are not located immediately adjacent to agricultural areas may be vulnerable to herbicide use due to the presence of nonnative species (Jerry Hustafa, Wallowa-Whitman National Forest, pers. comm. 1999). Herbicide overspray threatens populations in Idaho (Lichthardt 1997; J. Hill, *in litt.* 1999), Oregon (J. Hustafa, pers. comm. 1998; J. Kagan, pers. comm. 1998), and Washington (WNHP 1998). One population of *S. spaldingii* in Idaho (Lewis County) decreased by more than 80 percent in the past 11 years, apparently due to nonnative species invasion, herbicide spraying, and development (Lichthardt 1997). Herbicide spraying to control nonnatives threatens one of the two largest *S. spaldingii* sites on the Umatilla National Forest in Washington (S. Riley, pers. comm. 1999). In addition, knapweed recently invaded the largest *S. spaldingii* population in Oregon. Because knapweed blooms late (*i.e.*, during the active growth period of *S. spaldingii*) and local weed control officials will likely demand spraying at this site, herbicide applications also pose a serious threat to this population (J. Kagan, *in litt.* 2000). A recent aerial herbicide spraying incident in Idaho County, Idaho, impacted the threatened plant species, MacFarlane's four-o'clock (*Mirabilis macfarlanei*). Approximately 2,000 *M. macfarlanei* plants on Federal and private land were accidentally sprayed during treatment for nearby target nonnative species (Craig Johnson, BLM, *in litt.* 1997). This species occurs in similar habitats as *S. spaldingii*. At least two *S. spaldingii* sites in Idaho (Nez Perce County) are particularly vulnerable to herbicide drift because of their proximity to cropland (Lichthardt 1997).

In addition to direct consumption of plants (as discussed under Factor C of this section), grazing animals can also affect *Silene spaldingii* by trampling and changing the plant community composition by fostering the invasion of nonnative species. Impacts from trampling by native ungulates and domestic livestock have been observed at *S. spaldingii* sites in Washington (Gamon 1991; WNHP 1998). Grazing can indirectly affect *S. spaldingii* habitat by altering the species composition (Gamon 1991; Lichthardt 1997; Bonnie Heidel, MNHP, *in litt.* 1999). If grazing is heavy enough to adversely affect native species or allow nonnative species invasion, *S. spaldingii* will likely disappear from sites (Barbara Benner, BLM, *in litt.* 1993). Biennial and nonnative annual plants, adapted to disturbance, have a competitive advantage over *S. spaldingii* because of the soil disturbance associated with grazing (B. Benner, *in litt.* 1995).

Most populations (52 percent) of *Silene spaldingii* occur on privately owned property and are threatened by changes in land use including certain livestock grazing practices, agricultural developments, and urbanization. For example, active housing development threatens to eliminate *S. spaldingii* habitat near Redbird Ridge in Idaho (Lichthardt 1997). Over the past 3 years, residential development immediately adjoining land owned by TNC, which has the largest *S. spaldingii* population in Montana, has destroyed potential habitat, increased the likelihood of uncontrolled, competing nonnative vegetation, and reduced management options such as controlled burning on the preserve (B. Martin, *in litt.* 1998). Continued development in this area is expected (B. Martin, *in litt.* 1998). Habitat for *S. spaldingii* on private land near Wallowa Lake in eastern Oregon, which supports the largest site in Oregon, may be threatened by development because of its proximity to existing recreational facilities and residences (E. Rey-Vizgirdas, pers. obs. 1998). Other *S. spaldingii* sites on private land in Idaho, Montana, and

Washington may also be threatened by development.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

The plant is not a source for human food, nor is it currently of commercial horticultural interest. Therefore, overutilization is not currently considered a threat to this species. However, should it occur, some populations of *Silene spaldingii* are small enough that even limited collection pressure would have adverse impacts on their reproductive or genetic viability.

C. Disease or Predation

Grazing or browsing of *Silene spaldingii* inflorescences by livestock and native herbivores has been observed and is considered a significant threat to the species (Kagan 1989; Lesica 1993; Heidel 1995; B. Benner, *in litt.* 1999). While grazing or browsing of *S. spaldingii* by native herbivores likely occurred historically, the effects of grazing or browsing become even more important as the plant's population sizes decrease. Rodent activity is also considered a significant factor affecting the persistence of *S. spaldingii* at several sites in eastern Washington (B. Benner, *in litt.* 1999). For example, numerous *S. spaldingii* plants were marked with stakes and metal tags as part of a monitoring study on land managed by the BLM in Washington. On a site visit, the BLM botanist discovered that many of these plants were either broken off or missing completely and likely consumed by rodents, as evidenced by rodent burrowing activity in the area (B. Benner, *in litt.* 1999). Since *S. spaldingii* reproduces only by seed (Lesica 1992), grazing, browsing, or trampling directly affects reproduction of this species when flowers or seeds are removed or damaged.

Insect predation on flowers and fruits is also a threat for this species (Kagan 1989; Gamon 1991; B. Benner, *in litt.* 1999). Such predation likely results in reduced reproductive success for *Silene spaldingii* (Heidel 1995). For example, at one of the two largest *S. spaldingii* populations in Washington on land managed by the Forest Service, biologists monitoring the plants have consistently observed seeds consumed by insects. This consumption results in empty capsules with no seeds, thereby limiting sexual reproduction of affected *S. spaldingii* plants (S. Riley, pers. comm. 1999). Similarly, in Oregon, seed weevils destroyed a high percentage of *S. spaldingii* seed heads (Kagan 1989). Insect damage to the foliage of *S. spaldingii* has also been noted (Lichthardt 1997). Although some insect damage to plants may be expected, the effects on the survival of *S. spaldingii* are amplified as plant populations become small and fragmented.

D. The Inadequacy of Existing Regulatory Mechanisms

Silene spaldingii is listed as endangered by the State of Oregon (Oregon Department of Agriculture). However, the Oregon State Endangered Species Act does not provide protection for species on private land, so under State law, any plant protection is at the discretion of the landowner. *Silene spaldingii* is on the Washington Natural Heritage Program's list of threatened species (Gamon 1991), but this designation offers no statutory protection (Ted Thomas, Service, *in litt.* 1998). In addition, although State natural heritage programs in Idaho and Montana consider *S. spaldingii* to be rare and imperiled, these States have no endangered species legislation that protect threatened or endangered plants. The majority of *S. spaldingii* habitat occurs on private land, which is not adequately protected by existing regulatory mechanisms.

In Canada, *Silene spaldingii* is listed on the British Columbia, Ministry of Environment, Lands and Park's Red List. The Red List includes indigenous species or subspecies (taxa) that are either extirpated, endangered, threatened, or candidates for such status. Endangered taxa are those species facing imminent extirpation or extinction. Threatened taxa are likely to become endangered if limiting factors are not reversed. *Silene spaldingii* is a candidate for legal designation as an endangered or threatened species (British Columbia Conservation Data Center 1999). The Red List designation does not provide any statutory protection to this population, which occurs on private pasture land (Mike Miller, University of Victoria, *in litt.* 1999).

Silene spaldingii is considered a sensitive species by the BLM and Region 1 of the Forest Service. Both of these agencies have laws and regulations that address the need to protect sensitive, candidate, and federally listed species (e.g., the Federal Land Policy and Management Act and the National Forest Management Act). Monitoring of some *S. spaldingii* populations on Federal lands has already been initiated. Also, the BLM in eastern Washington has acquired several private land parcels that contain *S. spaldingii* habitat. However, these actions have not eliminated all of the threats to this species. For example, the effects of activities such as livestock grazing have not been evaluated for all *S. spaldingii* sites managed by the Forest Service and BLM. In addition, numerous sites on Federal lands are threatened by nonnative species, herbicide spraying, and habitat succession through fire suppression (see factors A and E of this section).

One *Silene spaldingii* population in eastern Washington occurs on the U.S. Department of Defense Fairchild Air Force Base (Base). The Base asked the WNHP to visit the area in 1999 to assess its habitat and ground-disturbing activities that would affect this species (J. Gamon, pers. comm. 1999). It was found that this population contains 77 plants in 8 subpopulations in an isolated fragment of native habitat. The area has been used for military training (WNHP 1998), although the WNHP has prepared a draft management plan and established a monitoring program for *S. spaldingii* for the Base.

Two populations occur on lands owned by TNC. This organization protects the habitat and natural communities on lands that it owns. TNC will protect *Silene spaldingii* on its lands and actively manage the habitat to improve conditions for this species, such as controlling livestock grazing and nonnative vegetation (J. Hill, *in litt.* 1999; B. Martin, *in litt.* 1998). However, nonnative species cannot be entirely eliminated and will likely remain a threat to *S. spaldingii* in the future.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Competition with other species for a limited number of pollinators (e.g., bumblebees (*Bombus fervidus*)) has the potential to adversely affect both fecundity and individual fitness in *Silene spaldingii* (Lesica and Heidel 1996). Competition for pollinators occurs primarily at *S. spaldingii* sites with large populations of other flowering plants, and the competition can adversely affect the survival of these small populations of *S. spaldingii*. For example, the nonnative flowering plant St. John's-wort competes for pollinators where this plant occurs with *S. spaldingii* in Idaho (Lesica and Heidel 1996; J. Hill, *in litt.* 1999; Karen Gray, botanist, *in litt.* 1999).

Reduced pollinator activity is associated with poor reproductive success of *Silene spaldingii*, particularly in small populations (Lesica 1993; Lesica and Heidel 1996). Agricultural fields do not provide suitable habitat for pollinators of *S. spaldingii*, which requires pollination by insects for maximum seed set and population viability (Lesica and Heidel 1996). Populations of *S. spaldingii* that occupy small areas surrounded by land that does not support bumblebee colonies (e.g., crop lands) are not likely to persist over the long term, and the presence of pollinators is considered critical for the persistence of *S. spaldingii* (Lesica 1993; Lesica and Heidel 1996). In addition to agricultural conversion and pesticides, pollinators are vulnerable to herbicide application, domestic livestock grazing, and fire (Gamon 1991; Lesica 1993).

Climatic fluctuations can adversely affect this species and may contribute to the extirpation of small populations. For example, a population of *Silene spaldingii* at Wild Horse Island (Montana) declined from approximately 250 to 10 plants, due primarily to drought conditions in the late 1980s (Lesica 1988; Heidel 1995). Such reductions in population size are often exacerbated by other factors including pollinator competition and poor reproductive success.

Habitat changes associated with fire suppression threaten this species, even at sites on public lands and those with some protective status (*e.g.*, managed by TNC). Fire suppression can result in an overall decline in suitable habitat conditions for *Silene spaldingii* by facilitating encroachment by woody vegetation and other plant species and contributing to a build-up in the litter or duff layer. Competition from woody plants is frequently considered to reduce fecundity or recruitment of native prairie species (Menges 1995). In areas where fire regimes have been altered or excluded, shrubs and trees can encroach on grassland habitats that support *S. spaldingii* and inhibit seed germination. Prescribed fire may have a positive effect on *S. spaldingii* by removing litter and creating suitable sites for recruitment (Lesica 1999). Recruitment of *S. spaldingii* at study sites in Montana was enhanced following prescribed fire (Lesica 1992; Lesica 1999). However, the effects of fire will vary at different sites within the range of this species due to factors such as fuel moisture content, species composition, and season and intensity of burning (Lesica 1997). The effects of prescribed fire on aggressive, nonnative species, where they occur near *S. spaldingii*, must be carefully considered. In some cases, prescribed fires may adversely affect *S. spaldingii* if the fire indirectly leads to increased coverage of invasive nonnatives, such as yellow star-thistle (Idaho Department of Fish and Game, *in litt.* 2000).

Most populations of *Silene spaldingii* are restricted to small, remnant patches of native habitat (Gamon 1991; Lichthardt 1997; B. Heidel, *in litt.* 1999; S. Riley, pers. comm. 1999). When the number of populations of a species or the population size is reduced, the remnant populations (or portions of populations) have a higher probability of extinction from random events. Small populations are vulnerable to even relatively minor disturbances such as fire, herbicide drift, and nonnative species invasions, which could result in the loss of *S. spaldingii* populations (Gamon 1991). Small populations of Silene regia, a rare prairie species native to the Midwest, have low seed germination, presumably due to reduced pollinator visitation and other factors (Menges 1995). Small fragments of habitat that contain *S. spaldingii* may not be large enough to support viable populations of pollinators (Lesica 1993). Small populations are vulnerable to natural and manmade disturbances and may lose a large amount of genetic variability because of genetic drift (loss of genetic variability that takes place as a result of chance), reducing their long-term viability. Many *S. spaldingii* populations are isolated from other populations by large distances, and the majority of the populations occur at scattered localities separated by habitat that is not suitable for this species, such as agricultural fields. Extinction appears to be imminent for at least two *S. spaldingii* populations in Idaho due to their small size and habitat degradation (Lichthardt 1997). One of these populations consists of four individuals, and the other population has only one *S. spaldingii* plant. With these very small population sizes, even if the habitat was completely undisturbed, these populations would not be considered viable.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the species in developing this final rule. Most of the remaining sites that support *Silene spaldingii* are small and highly fragmented, and the existing sites are vulnerable to impacts from factors including grazing, trampling, herbicide use, and nonnative vegetation, in addition to urban and agricultural development. Only 52 sites supporting this species remain with a total of approximately 16,500 individuals. The majority of this species (52 percent) occurs on private land with little or no protection. Only one-third (33 percent) of *S. spaldingii* populations occur on Federal land (managed primarily by the BLM and Forest Service) and may, therefore, be afforded some level of protection. Even the two *S. spaldingii* sites on land managed by TNC are not completely free of threats such as nonnative vegetation encroachment. As previously described, only 6 *S. spaldingii* populations (12 percent) contain more than 500 plants, and even these relatively large populations (which occur on private and Federal land) are variously threatened by one or more of the above factors. The Act generally defines an endangered species as any species that is in danger of extinction throughout all or a significant portion of its range. Although *S. spaldingii* is facing clear and significant threats, because of the number of remaining populations and the spatial distribution of the populations, we do not believe that *S. spaldingii* is currently in danger of extinction. Alternatively, as a result of threats we have discussed, we have determined that *S. spaldingii* is likely to become in danger of extinction within the foreseeable future throughout all or a significant portion of its range; therefore, *S. spaldingii* meets the Act's definition of a threatened species. We discuss the reasons for not concurrently designating critical habitat for this species in the ''Critical Habitat'' section below.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, we designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)(1)) state that the designation of critical habitat is not prudent when one or both of the following situations exist—(i) the species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (ii) such designation of critical habitat would not be beneficial to the species.

In the last few years, a series of court decisions have overturned our critical habitat determinations for a variety of species (e.g., *Natural Resources Defense Council* v. *U.S. Department of the Interior 113 F. 3d 1121 (9th Cir. 1997); Conservation Council for Hawaii* v. *Babbitt*, 2 F. Supp. 2d 1280 (D. Hawaii 1998)). In the proposed rule, we stated that we would publish a critical habitat determination for *Silene spaldingii* in the **Federal Register** subsequent to the proposed rule. Based on the standards applied in those judicial opinions, we published a notice on April 24, 2000, in which we proposed that designation of critical habitat for *S. spaldingii* is prudent (65 FR 21711).

Due to the small number of populations, *Silene spaldingii* is vulnerable to unrestricted collection, vandalism, or other disturbance. We are concerned that these threats might be exacerbated by the publication of critical habitat maps and further dissemination of location information. However, at this time we do not have specific evidence for *S. spaldingii* of taking, vandalism, collection, or trade of this species or any similarly situated species. Consequently, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and recent case law, we believe that the identification of critical habitat is unlikely to increase the degree of threat to this species of taking or other human activity.

In the absence of a finding that identification of critical habitat would increase threats to a species, if any benefits would result from the designation of critical habitat, then a prudent finding is warranted. In the case of this species, designation of critical habitat may provide some benefits. For example, critical habitat designation may educate and inform the public and help focus conservation efforts through future Federal, State, and local planning efforts, by identifying the habitat needs and crucial areas for *Silene spaldingii.* Therefore, we find that designation of critical habitat is prudent for *S. spaldingii.*

However, our budget for listing activities is currently insufficient to allow us to immediately complete all of the listing actions required by the Act. Listing *Silene spaldingii* without designation of critical habitat will allow us to concentrate our limited resources on other listing actions that must be addressed, while allowing us to invoke protections needed for the conservation of this species without further delay. This is consistent with section 4(b)(6)(C)(i) of the Act, which states that final listing decisions may be issued without critical habitat designations when it is essential that such determinations be promptly published. We will prepare a critical habitat designation in the future at such time when our available resources and priorities allow.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages public awareness and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery plans be developed for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us.

Federal agencies that may have involvement with *Silene spaldingii* include the Federal Housing Administration and the Farm Services Agency, which may be subject to section 7 consultation through potential funding of housing and farm loans where this species or its habitat occurs. Highway construction and maintenance projects that receive funding from the U.S. Department of Transportation for Federal highways will also be subject to review under section 7 of the Act. The Natural Resources Conservation Service may also be involved with *S. spaldingii* through their farm conservation programs. In addition, section 2(c)(1) and 7(a)(1) of the Act require Federal agencies to utilize their authorities in furtherance of the purposes of the Act to carry out conservation programs for endangered and threatened species.

Listing of this plant will provide for development of a recovery plan for the plant. Such a plan will bring together both State and Federal efforts for conservation of this species. The plan will establish a framework for agencies to coordinate activities and cooperate with each other in conservation efforts. The plan will set recovery priorities, assign responsibilities, and estimate the costs of various tasks necessary to accomplish them. It will also describe site-specific management actions necessary to achieve conservation and survival of the plant. Additionally, pursuant to section 6 of the Act, we will be able to grant funds to affected States for management actions promoting the protection and recovery of this species.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all threatened plants. Pursuant to 50 CFR 17.71, generally all prohibitions of 50 CFR 17.61 apply to threatened plants. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport or ship any endangered or threatened plant species in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale such species in interstate or foreign commerce, or remove and reduce such species to possession from areas under Federal jurisdiction. Certain exceptions apply to our agents and State conservation agencies.

Our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34272), is to identify, to the maximum extent practicable, those activities that would or would not constitute a violation of section 9 of the Act at the time of listing. The intent of this policy is to increase public awareness of the effects of the listing on proposed and ongoing activities within a species' range. Collection, damage, or destruction of this species on Federal land is prohibited, although in appropriate cases, we may issue a Federal permit for scientific or recovery purposes.

We believe that, based upon the best available information, the following actions will not result in a violation of section 9, provided these activities are carried out in accordance with existing regulations and permit requirements:

(1) Activities authorized, funded, or carried out by Federal agencies (e.g.,

grazing management, agricultural conversions, wetland and riparian habitat modification, flood and erosion control, residential development, recreational trail development, road construction, hazardous material containment and cleanup activities, prescribed burns, pesticide/herbicide application, and pipeline or utility line construction crossing suitable habitat), when such activity is conducted in accordance with any reasonable and prudent measures given by us in a consultation conducted under section 7 of the Act;

(2) Casual, dispersed human activities on foot or horseback (e.g., bird watching, sightseeing, photography, camping, hiking); and

(3) Activities on non-Federal lands that do not require Federal authorization and do not involve Federal funding.

We believe that the following might potentially result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Unauthorized collecting, or damage to, the species on Federal lands; and

(2) Interstate or foreign commerce and import/export without previously obtaining an appropriate permit.

Questions regarding whether specific activities risk violating section 9 should be directed to the Field Supervisor of the Snake River Basin Office (see **ADDRESSES** section). The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. For threatened plants, permits also are available for botanical or horticultural exhibition, educational purposes, or special purposes consistent with the purposes of the Act. Requests for copies of the regulations on listed plants and animals, and general inquiries regarding prohibitions and permits, may be addressed to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 N.E. 11th Ave., Portland, Oregon 97232–4181 (telephone 503/231–2063; facsimile 503/231–6243).

National Environmental Policy Act

We have determined that an environmental assessment and environmental impact statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

Paperwork Reduction Act

This rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information, unless it displays a currently valid control number. For additional information concerning permit and associated requirements for threatened plants, see 50 CFR 17.72.

References Cited

A complete list of all references cited herein, as well as others, is available upon request from our Snake River Basin Office (see **ADDRESSES** section).

Author

The primary authors of this final rule are Phil Delphey and Edna Rey-Vizgirdas, U.S. Fish and Wildlife Service, Snake River Basin Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations as follows:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Section 17.12(h) is amended by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants.

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
*	*	*	*	*	*	*	
Silene spaldingii	Spalding's catchfly ..	U.S.A. (OR, ID, MT, WA), Canada (B.C.).	Caryophyllaceae	T	712	NA	NA
*	*	*	*	*	*	*	

Dated: September 17, 2001.

Marshall P. Jones, Jr.,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 01–23912 Filed 10–9–01; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 66, No. 196
Wednesday, October 10, 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 39

[Docket No. 98–ANE–39–AD]

RIN 2120–AA64

Airworthiness Directives; General Electric Company GE90 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD), which is applicable to General Electric Company (GE) GE90 series turbofan engines. That AD currently requires revisions to the Life Limits Section of the manufacturer's Instructions for Continued Airworthiness (ICA) to include required enhanced inspection of selected critical life-limited parts at each piece-part exposure. This proposal would modify the airworthiness limitations section of the manufacturer's manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements. A Federal Aviation Administration (FAA) study of in-service events involving uncontained failures of critical rotating engine parts has indicated the need for mandatory inspections. The mandatory inspections are needed to identify those critical rotating parts with conditions, which if allowed to continue in service, could result in uncontained failures. This proposal is prompted by additional focused inspection procedures that have been developed by the manufacturer. The actions specified by this proposed AD are intended to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: Comments must be received by December 10, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–39–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9–ane–adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ian Dargin, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7178, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–ANE–39–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–39–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On April 14, 2000, the FAA issued AD 2000–08–10, Amendment 39'11696 (65 FR 21642, April 24, 2000), to require revisions to the Life Limits Section of the manufacturer's Instructions for Continued Airworthiness (ICA) for GE GE90 series turbofan engines to include required inspection of selected critical life-limited parts at each piece-part exposure.

Additional Inspection Procedures

Since that AD was issued, an FAA study of in-service events involving uncontained failures of critical rotating engine parts has indicated the need for additional mandatory inspections. The mandatory inspections are needed to identify those critical rotating parts with conditions, which if allowed to continue in service, could result in uncontained failures. This proposal would modify the airworthiness limitations section of the manufacturer's manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements.

Proposed Actions

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 2000–08–10 to add additional critical life-limited parts for enhanced inspection at each piece-part opportunity.

This proposed AD would also delete the GE90–92B model from the applicability and add recently certified engine model, the GE 90–94B. Reference to the GE90–92B model is removed from the AD applicability because the manufacturer has informed the FAA that no engines of that model were produced and has requested that the FAA remove this model designation.

Economic Analysis

The FAA estimates that 31 engines installed on airplanes of US registry would be affected by this proposed AD, that it would take approximately 172 work hours per engine to accomplish the proposed new inspections, and that the average labor rate is $60 per work hour for a total approximate cost of $10320 per engine. It is further estimated that there will be about 34 shop visits per year that result in piece-part exposure of the additional affected components. Based on these figures, the total cost impact of the additional inspections that will be mandated by this proposed AD on U.S. operators is estimated to be $350880.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11696 (65 FR 21642, April 24, 2000), and by adding a new airworthiness directive, to read as follows:

General Electric Company: Docket No. 98–ANE–39–AD. Supersedes AD 2000–08–10, Amendment 39–11696.

Applicability

This airworthiness directive (AD) is applicable to General Electric Company (GE) GE90–76B/ –77B/ –85B/ –90B/ –94B series turbofan engines. These engines are installed on but not limited to Boeing 777 series airplanes.

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

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

To prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane, accomplish the following:

Inspections

(a) Within the next 30 days after the effective date of this AD, revise the manufacturer's Life Limits Section of the Instructions for Continued Airworthiness (ICA), and for air carrier operations revise the approved continuous airworthiness maintenance program, by adding the following:

MANDATORY INSPECTIONS

(1) Perform inspections of the following parts at each piece-part opportunity in accordance with the instructions provided in the applicable manual provisions:

Part nomenclature	Part No. (P/N)	Inspect per engine manual chapter
For GE90 Engines:		
HPCR Disk, Stage 1	All	72–31–05–200–001–001 Fluorescent Penetrant Inspection (subtask 72–31–05–230–051), and 72–31–05–200–001–001 Eddy Current Inspection of the Bore, and 72–31–05–200–001–001 Eddy Current Inspection of the Dovetail Slots.
HPCR Spool, Stage 2–6	All	72–31–06–200–001–001 Fluorescent Penetrant Inspection (subtask 72–31–06–230–051), and 72–31–06–200–001–001 Eddy Current Inspection of the S2 Dovetail Slots.
HPCR, Disk, Stage 7	All	72–31–07–200–001–001 Fluorescent Penetrant Inspection (subtask 72–31–07–230–051), and 72–31–07–200–001–001 Eddy Current Inspection (subtask 72–31–07–250–051 or 72–31–07–230–052 or 72–31–07–230–053.
HPCR Spool, Stage 8–10	All	72–31–08–200–001–001 Fluorescent Penetrant Inspection and 72–31–08–800–001 Eddy Current Inspection of the stage 8–9 inertia weld.
HPCR Seal, Compressor Discharge Pressure.	All	72–31–09–200–001–001 Fluorescent Penetrant Inspection (subtask 72–31–09–230–051), and 72–31–09–200–001–001 Eddy Current Inspection of the Boltholes.
HPCR Ring, Tube Supporter	All	72–31–10–200–001–001 Fluorescent Penetrant Inspection.
HPTR, Interstage Seal	All	72–53–03–200–001–001 Fluorescent Penetrant Inspection (subtask 72–53–03–230–053), and 72–53–03–200–001–001 Eddy Current Inspection of the Bore.
Fan Disk, Stage 1	All	72–21–03–200–001–001 Fluorescent Penetrant Inspection (subtask 72–21–03–230–051), and 72–21–03–200–001–001 Eddy Current, and 72–21–03–200–001–001 Ultrasonic Inspection of Dovetail Slots.

Part nomenclature	Part No. (P/N)	Inspect per engine manual chapter
HPTR Disk, Stage 1	All	72–53–02–200–001–002 Fluorescent Penetrant Inspection (subtask 72–53–02–160–051), and 72–53–02–200–001–002 Eddy Current Inspection of the Bore.
HPTR Disk, Stage 2	All	72–53–04–200–001–004 Fluorescent Penetrant Inspection (subtask 72–53–04–230–052), and 72–53–04–200–001–004 Eddy Current Inspection of the Bore.
LPTR Cone Shaft	All	72–56–07–200–001–001 Fluorescent Penetrant Inspection.
LPTR Fan Mid Shaft	All	72–58–01–200–001–001 Magnetic Particle Inspection.
LPTR Disk, Stage 1	All	72–56–02–200–001–001 Fluorescent Penetrant Inspection.
LPTR Disk, Stage 2	All	72–56–02–200–001–001 Fluorescent Penetrant Inspection.
LPTR Disk, Stage 3	All	72–56–02–200–001–001 Fluorescent Penetrant Inspection.
LPTR Disk, Stage 4	All	72–56–02–200–001–001 Fluorescent Penetrant Inspection.
LPTR Disk, Stage 5	All	72–56–02–200–001–001 Fluorescent Penetrant Inspection.
LPTR Disk, Stage 6	All	72–56–02–200–001–001 Fluorescent Penetrant Inspection.
Fan Shaft, Forward	All	72–22–01–200–001–001 Fluorescent Penetrant Inspection.

(2) For the purposes of these mandatory inspections, piece-part opportunity means:

(i) The part is considered completely disassembled when accomplished in accordance with the disassembly instructions in the manufacturer's engine manual; and

(ii) The part has accumulated more than 100 cycles in service since the last piece-part opportunity inspection, provided that the part was not damaged or related to the cause for its removal from the engine.''

(b) Except as provided in paragraph (c) of this AD, and notwithstanding contrary provisions in section 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these mandatory inspections must be performed only in accordance with the Life Limits Section of the manufacturer's ICA.

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

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

Special Flight Permits

(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.

Continuous Airworthiness Maintenance Program

(e) FAA-certificated air carriers that have an approved continuous airworthiness maintenance program in accordance with the recordkeeping requirement of § 121.369(c) of the Federal Aviation Regulations [14 CFR 121.369(c)] of this chapter must maintain records of the mandatory inspections that result from revising the Life Limits Section of the ICA and the air carrier's continuous airworthiness program. Alternatively, certificated air carriers may establish an approved system of record retention that provides a method for preservation and retrieval of the maintenance records that include the inspections resulting from this AD, and include the policy and procedures for implementing this alternate method in the air carrier's maintenance manual required by § 121.369(c) of the Federal Aviation Regulations [14 CFR 121.369(c)]; however, the alternate system must be accepted by the appropriate PMI and require the maintenance records be maintained either indefinitely or until the work is repeated. Records of the piece-part inspections are not required under § 121.380(a)(2)(vi) of the Federal Aviation Regulations [14 CFR 121.380 (a)(2)(vi)]. All other Operators must maintain the records of mandatory inspections required by the applicable regulations governing their operations.

Note 3: The requirements of this AD have been met when the engine manual changes are made and air carriers have modified their continuous airworthiness maintenance plans to reflect the requirements in the engine manuals.

Issued in Burlington, Massachusetts, on September 26, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–25400 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–47–AD]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Pratt & Whitney JT9D series turbofan engines, that currently requires revisions to the Airworthiness Limitations Section (ALS) of the manufacturer's Instructions for Continued Airworthiness (ICA) to include required enhanced inspection of selected critical life-limited parts at each piece-part exposure. This action would add additional critical life-limited parts for enhanced inspection. An FAA study of in-service events involving uncontained failures of critical rotating engine parts has indicated the need for mandatory inspections. The mandatory inspections are needed to identify those critical rotating parts with conditions, which if allowed to continue in service, could result in uncontained failures. The actions specified by this proposed AD are intended to prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane.

DATES: Comments must be received by November 9, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–47–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location by appointment between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–

5299; telephone (781) 238–7130, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–ANE–47–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–47–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

Discussion

On January 19, 2000, the FAA issued AD 2000–01–13, Amendment 39–11511 (65 FR 2864, January 19, 2000), to require revisions to the Time Limits section in the Engine Manual (EM) for certain Pratt & Whitney (PW) JT9D series turbofan engines to include required enhanced inspection of selected critical life-limited parts at each piece-part exposure.

Additional Inspection Procedures

Since the issuance of that AD, an FAA study of in-service events involving uncontained failures of critical rotating engine parts has indicated the need for additional mandatory inspections. The mandatory inspections are needed to identify those critical rotating parts with conditions, which if allowed to continue in service, could result in uncontained failures. This proposal would modify the airworthiness limitations section of the manufacturer's manual and an air carrier's approved continuous airworthiness maintenance program to incorporate additional inspection requirements.

In this proposal, the mandatory manual and inspection references in Table (a)(1) have also been revised to more accurately describe the required FPI inspection of HPT disks.

Proposed Action

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 2000–01–13 to require the additional critical life-limited rotating engine parts to be subject to focused inspection at each piece-part opportunity.

Economic Analysis

The FAA estimates that 837 engines installed on airplanes of US registry would be affected by this proposed AD, that it would take approximately 1 work hour per engine to accomplish the proposed actions. The average labor rate is $60 per work hour. Based on these figures the total cost impact of the proposed AD on U.S. operators is estimated to be $903,960.

Regulatory Impact

The regulations proposed herein would 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. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11511 (65 FR 2864, January 19, 2000),), and by adding a new airworthiness directive, to read as follows:

Pratt & Whitney: Docket No. 98–ANE–47–AD. Supersedes AD 2000–01–13, Amendment 39–11511.

Applicability: Pratt & Whitney (PW) JT9D–3A, –7, –7A, –7H, –7AH, –7F, –7J, –20J, –59A, –70A, –7Q, –7Q3, –7R4D, –7R4D1, –7R4E, –7R4E1, –7R4E4, –7R4G2, and –7R4H1 series turbofan engines, installed on but not limited to Boeing 747 and 767 series, McDonnell Douglas DC–10 series, and Airbus Industrie A300 and A310 airplanes.

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

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

To prevent critical life-limited rotating engine part failure, which could result in an uncontained engine failure and damage to the airplane, accomplish the following:

Inspections

(a) Within the next 30 days after the effective date of this AD, revise the manufacturer's Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness (ICA), and for air carrier operations revise the approved continuous airworthiness maintenance program, by adding the following:

''MANDATORY INSPECTIONS

(1) Perform inspections of the following parts at each piece-part opportunity in accordance with the instructions provided in the applicable manual provisions:

Engine model	Engine manual part No.	Part nomenclature	FPI per manual section	Inspection
7/7A/7AH/7F, 7H/7J/20/20J.	646028 (or the equivalent customized versions, 770407 and 770408).	All Fan Hubs	72–31–04	02
		All HPC Stage 5–15 Disks	72–35–00	03
		All HPT Stage 1–2 Disks and Hubs	72–51–00	03
		All LPT Stage 3–6 Disks and	72–52–00	03
59A/70A	754459	All Fan Hubs	72–31–00	Heavy Maintenance Check
		All HPC Stage 5–15 Disks	72–35–00	Heavy Maintenance Check
		All HPT Stage 1–2 Disks and Hubs	72–51–00	Heavy Maintenance Check-3
		All LPT Stage 3–6 Disks	72–52–00	Heavy Maintenance Check-3
7Q/7Q3	777210	All Fan Hubs	72–31–00	03
		All HPC Stage 5–15 Disks	72–35–00	03
		All HPT Stage 1–2 Disks and Hubs	72–51–00	03
		All LPT Stage 3–6 Disks	72–52–00	03
7R4	785058, 785059, and 789328	All Fan Hubs	72–31–00	03
		All HPC Stage 5–15 Disks	72–35–00	03
		All HPT Stage 1–2 Disks and Hubs	72–51–00	03
		All LPT Stage 3–6 Disks	72–52–00	03

*P/N 770407 and 770408 are customized versions of P/N 646028 engine manual.

(2) For the purposes of these mandatory inspections, piece-part opportunity means:

(i) The part is considered completely disassembled when accomplished in accordance with the disassembly instructions in the manufacturer's engine manual; and

(ii) The part has accumulated more than 100 cycles in service since the last piece-part opportunity inspection, provided that the part was not damaged or related to the cause for its removal from the engine.''

(b) Except as provided in paragraph (c) of this AD, and notwithstanding contrary provisions in section 43.16 of the Federal Aviation Regulations (14 CFR 43.16), these mandatory inspections shall be performed only in accordance with the ALS of the manufacturer's ICA.

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

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

Special Flight Permits

(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.

Continuous Airworthiness Maintenance Program

(e) FAA-certificated air carriers that have an approved continuous airworthiness maintenance program in accordance with the record keeping requirement of § 121.369 (c) of the Federal Aviation Regulations [14 CFR 121.369 (c)] of this chapter must maintain records of the mandatory inspections that result from revising the Time Limits section of the Instructions for Continuous Airworthiness (ICA) and the air carrier's continuous airworthiness program. Alternately, certificated air carriers may establish an approved system of record retention that provides a method for preservation and retrieval of the maintenance records that include the inspections resulting from this AD, and include the policy and procedures for implementing this alternate method in the air carrier's maintenance manual required by § 121.369 (c) of the Federal Aviation Regulations [14 CFR 121.369 (c)]; however, the alternate system must be accepted by the appropriate PMI and require the maintenance records be maintained either indefinitely or until the work is repeated. Records of the piece-part inspections are not required under § 121.380 (a) (2) (vi) of the Federal Aviation Regulations [14 CFR 121.380 (a) (2) (vi)]. All other Operators must maintain the records of mandatory inspections required by the applicable regulations governing their operations.

Note 3: The requirements of this AD have been met when the engine manual changes are made and air carriers have modified their continuous airworthiness maintenance plans to reflect the requirements in the Engine Manuals.

Issued in Burlington, Massachusetts, on September 28, 2001.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–25399 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–CE–30–AD]

RIN 2120–AA64

Airworthiness Directives; Pilatus Aircraft Ltd. Model PC–7 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Pilatus Aircraft Ltd. (Pilatus) Model PC–7 airplanes. This proposed AD would require you to inspect the landing-gear emergency-extension cable for damage and replace if necessary; verify the correct installation of the bowden-cable conduit clamp and correct if necessary; and modify the temperature-control lever mechanism. This proposed AD is the result of mandatory continuing airworthiness information (MCAI)

issued by the airworthiness authority for Switzerland. The actions specified by this proposed AD are intended to prevent the malfunction of the emergency landing-gear extension system. Insufficient clearance between the temperature-control lever mechanism and the landing-gear emergency-extension cable could result in damage to the emergency landing gear extension cable, or the cable could get caught on the temperature control lever. Damage to, or interference with, the landing-gear emergency-extension cable could lead to a malfunction of the emergency landing-gear extension system.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before December 4, 2001.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–CE–30–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may get service information that applies to this proposed AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6509; facsimile: +41 41 610 3351. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES.** We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of this proposed AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How can I be sure FAA receives my comment? If you want FAA to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2001–CE–30–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The Federal Office for Civil Aviation (FOCA), which is the airworthiness authority for Switzerland, recently notified FAA that an unsafe condition may exist on certain Pilatus Model PC–7 airplanes. The FOCA reports one occurrence of restricted movement of the temperature control lever. Investigation of the problem revealed that the landing-gear emergency-extension cable was caught on the temperature-control lever mechanism. Insufficient clearance between the landing-gear emergency-extension cable and the temperature-control lever caused the interference. This interference could also cause damage to the landing-gear emergency-extension cable.

What are the consequences if the condition is not corrected?

If not detected and corrected, damage to or interference with the landing-gear emergency-extension cable could lead to a malfunction of the emergency landing-gear extension system.

Is there service information that applies to this subject? Pilatus has issued Service Bulletin No. 32–020, dated July 5, 2001.

What are the provisions of this service information? The service bulletin includes procedures for:

—Inspecting the landing-gear emergency-extension cable for damage;
—Replacing any damaged landing-gear emergency-extension cable;
—Verifying the correct installation of the bowden-cable conduit clamp;
—Correcting improper installation of the clamp; and
—Installing a new bolt and a new nut on the temperature-control lever mechanism.

What action did the FOCA take? The FOCA classified this service bulletin as mandatory and issued Swiss AD Number HB 2001–483, dated August 20, 2001, in order to ensure the continued airworthiness of these airplanes in Switzerland.

Was this in accordance with the bilateral airworthiness agreement? This airplane model is manufactured in Switzerland and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, the FOCA has kept FAA informed of the situation described above.

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

What has FAA decided? The FAA has examined the findings of the FOCA; reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Pilatus PC–7 airplanes of the same type design;
—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and
—AD action should be taken in order to correct this unsafe condition.

What would this proposed AD require? This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.

Cost Impact

How many airplanes would this proposed AD impact? We estimate that this proposed AD affects 13 airplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected airplanes? The manufacturer has agreed to pay the costs for the inspection, replacement parts, and installation workhours.

The only impact this proposed AD would have on the owners/operators of the affected airplanes is the time it would take to have the actions of this proposed AD incorporated.

Compliance Time of This Proposed AD

What would be the compliance time of this proposed AD? The compliance time of this proposed AD is ''within the next 12 calendar months after the effective date of this AD.''

Why is the compliance time presented in calendar time instead of hours time-in-service (TIS)? Although malfunction of the emergency landing gear extension system is unsafe during flight, the condition is not a direct result of airplane operation. The chance of this situation occurring is the same for an airplane with 10 hours TIS as it would be for an airplane with 500 hours TIS. A calendar time for compliance will ensure that the unsafe condition is addressed on all airplanes in a reasonable time period.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Pilatus Aircraft LTD.: Docket No. 2001–CE–30–AD.

(a) *What airplanes are affected by this AD?* This AD affects Model PC–7 airplanes, Manufacturer Serial Number (MSN) 001 through MSN 616, that are certificated in any category.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent the malfunction of the emergency landing-gear extension system. Insufficient clearance between the temperature-control lever mechanism and the landing-gear emergency-extension cable could result in damage to the emergency landing gear extension cable, or the cable could get caught on the temperature control lever. Damage to, or interference with, the landing-gear emergency-extension cable could lead to a malfunction of the emergency landing-gear extension system.

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

Actions	Compliance	Procedures
(1) Inspect the landing-gear emergency-extension cable for damage and replace any damaged cable found.	Inspect within the next 12 calendar months after the effective date of this AD. Replace prior to further flight	≤In accordance with Pilatus Service Bulletin No. 32–020, dated July 5, 2001.
(2) Verify the correct installation of the bowden-cable conduit clamp, correct if necessary, and install a new bolt and a new nut in the temperature-control lever mechanism.	≤Prior to further flight after the inspection required in paragraph (d)(1) of this AD	≤In accordance with Pilatus Service Bulletin No. 32–020, dated July 5, 2001.
(3) Do not install any temperature-control lever mechanism (or FAA-approved equivalent part number), unless it has been modified as required in paragraph (2) of this AD.	≤As of the effective date of this AD	≤Not applicable.

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

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

(2) The Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

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

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Pilatus Aircraft Ltd., Customer Liaison Manager, CH–6371 Stans, Switzerland; telephone: +41 41 619 6509; facsimile: +41 41 610 3351. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in Swiss AD HB 2001–483, dated August 20, 2001.

Issued in Kansas City, Missouri, on October 2, 2001.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–25398 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–01–052]

RIN 2115–AE47

Drawbridge Operation Regulations; Darby Creek, Pennsylvania

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to change the operating regulations for the Consolidated Rail Corporation (CONRAIL) Railroad Bridge and the Reading Railroad Bridge, across Darby Creek both at mile 0.3, in Essington, Pennsylvania. The proposal for the CONRAIL Railroad Bridge would eliminate the need for a bridge tender by allowing the bridge to be operated by the bridge/train controller from a remote location. The Reading Railroad Bridge would be left in the open position. These changes will provide for the reasonable needs of navigation.

DATES: Comments and related material must reach the Coast Guard on or before December 10, 2001.

ADDRESSES: You may mail comments and related material to Commander (Aowb), Fifth Coast Guard District, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or they may be hand delivered to the same address between 8 a.m. and 4 p.m., Monday through Friday, except Federal Holidays. The telephone number is (757) 398–6222. The Commander (Aowb), Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CCGD5–01–052), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Commander, Fifth Coast Guard District at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

CONRAIL, who owns and operates both drawbridges, has requested changes to the operating procedures for both their drawbridges across Darby Creek, mile 0.3, located in Essington, Pennsylvania. The proposed changes would allow the operation of the CONRAIL Railroad Bridge from a remote location. CONRAIL has requested that the bridge/train controller at the Delair Railroad Bridge, in Delair, New Jersey, operate the CONRAIL Railroad Bridge across Darby Creek. The Reading Railroad Bridge would be maintained in the open position for vessels at all times. The operating schedule for both drawbridges is set out in 33 CFR 117.903. The regulation states that from May 15 through October 15, from 11 p.m. to 7 a.m., the draws need not be opened for the passage of vessels. Between 7 a.m. and 11 p.m., the draws shall open on signal at 7:15 a.m., 10:30 a.m., 1 p.m., 3 p.m., 7:30 p.m. and 10:30 p.m. and at all other times during these hours, if an opening will not unduly delay railroad operations. From October 16 through May 14, the draws shall open on signal if at least 24 hours notice is given. However, in reality the CONRAIL Railroad Bridge currently is left in the open position and only closed by a bridge tender on site for passage of an approaching train.

Under the proposed rule, when a train approaches the CONRAIL Railroad Bridge, it will stop and a crewmember will be on-site to assist in observing the waterway for approaching craft, which will be allowed to pass. The crewmember will then communicate with the off-site bridge/train controller at the Delair Railroad Bridge either by radio or telephone, requesting the off-site bridge/train controller to lower the bridge. Before closing the CONRAIL Railroad Bridge, the off-site bridge/controller would monitor waterway traffic on Darby Creek in the area of the drawbridge by maintaining constant surveillance of the navigation channel using infrared channel sensors to ensure no conflict with maritime traffic exists. Channel traffic lights located on top of the bridge would change from flashing green to flashing red any time the bridge is not in the full open position.

This change is being requested to make the closure process of the CONRAIL Railroad Bridge more efficient during train crossings and periodic maintenance and to save operational costs by eliminating bridge tenders while still providing the same bridge capabilities.

Since 1980, the Reading Railroad Bridge has had the tracks removed on the north and south sides of the bridge and is secured in the full open position to allow marine traffic to pass. In accordance with 33 CFR 117.41, the lift-span had been placed in the full open position for vessels. This proposal formalizes the current operation of the Reading Railroad Bridge.

Discussion of Proposed Rule

The Coast Guard proposes to amend 33 CFR 117.903, which governs the CONRAIL railroad drawbridges across Darby Creek both at mile 0.3, in Essington, Pennsylvania, by allowing remote operation of the CONRAIL Railroad Bridge and maintenance of the Reading Railroad Bridge in the full open position for vessel traffic at all times.

The Coast Guard proposes to revise 33 CFR 117.903 by amending paragraph (a) for the remote operation of the CONRAIL Railroad Bridge and by removing the Reading Railroad Bridge from its requirements. The regulation would require the draw of the CONRAIL Railroad Bridge to be lowered and raised off-site by the bridge/train controller at the Delair Railroad Bridge, in Delair, New Jersey. From May 15 through October 15, the bridge would be left in the open position and would only close for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part.

From October 16 to May 15, the draw of the CONRAIL Railroad Bridge need only open on signal if at least 24 hours notice is given by calling (856) 231–7088 or (856) 662–8201.

Before the CONRAIL Railroad Bridge closes for any reason, a crewmember on-site will assist in observing the waterway for approaching craft, which will be allowed to pass. The crewmember will then communicate with the off-site bridge/train controller at the Delair Railroad Bridge either by radio or telephone, requesting the off-site bridge/train controller to lower the bridge.

The CONRAIL Railroad Bridge would only be lowered if infrared channel sensors show there are no vessels in the area.

While the CONRAIL Railroad Bridge is moving from the full open position to the full closed position, the off-site bridge/train controller will maintain constant surveillance of the navigation channel using infrared channel sensors to ensure no conflict with maritime traffic exists. In the event of failure or obstruction of the infrared channel sensors, the bridge will automatically stop and return to the full open position. The off-site bridge/train controller, from the remote location, shall not operate the bridge in the event of loss of radio or telephone communication with the on-site crewmember.

The CONRAIL Railroad Bridge channel traffic lights would change from flashing green to flashing red any time the bridge is not in the full open position. During downward span movement, the channel traffic lights would change from flashing green to flashing red, horn will sound two times, followed by a pause, and then two repeat blasts until the bridge is seated and locked down.

When the rail traffic has cleared, the off-site bridge/train controller at the Delair Railroad Bridge will sound the horn five times that the draw of the CONRAIL Railroad Bridge is about to return to its full open position. The channel traffic lights would turn from flashing red to flashing green. After the train has cleared the bridge by leaving the track circuit, any delay in opening of the draw shall not exceed ten minutes except as provided in 33 CFR 117.31(b). Operational information will be provided 24 hours a day by telephone at (856) 231–7088 or (856) 662–8201.

The Coast Guard proposes to revise 33 CFR 117.903 by amending paragraphs (a) and (b). The provision for clearance gages would remain at paragraph (a); however, the language for clearance gage requirements would change to identify only the Conrail Railroad Bridge because the Reading Railroad Bridge is maintained in the open position for vessels at all times and no clearance gage is needed. Paragraph (b) would govern the Reading Railroad Bridge. The regulation would require the draw of the Reading Railroad Bridge to be left in the full open position at all times in accordance with 33 CFR 117.41.

The surplus language currently stated in 33 CFR 117.903(b)(3) and (4) would be removed to be consistent with the general operating regulations under 33 CFR 117.11 and 33 CFR 117.31. The provision delineated in 33 CFR 117.11(b) already requires that no vessel owner signal a drawbridge to open for any purpose other than to pass through the drawbridge opening. Also, 33 CFR 117.31(b)(2) and (3) states that the draw shall open as soon as possible for an emergency or vessel in distress and is no longer required to be published in each specific bridge regulation.

Elimination of surplus language is based on the fact that the Reading Railroad Bridge is secured in the full open position for vessel traffic and would be maintained in the full open position until removal of its lift span. Further, the CONRAIL Railroad Bridge proposal would allow for remote operation by maintaining the bridge in the open position, and would only close for the passage of trains and to perform maintenance.

Additional text modifications would be made as appropriate.

Regulatory Evaluation

This proposed rule is not a ‘‘significant regulatory action’’ under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ‘‘significant’’ under the regulatory policies and procedures of the Department of Transportation (DOT)(44 FR 11040, February 26, 1979).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. We reached this conclusion based on the fact that the proposed changes for the Conrail Railroad Bridge regulations will provide for greater flow of vessel traffic than the current regulations of the drawbridge.

Under the current regulations, the Conrail Railroad Bridge remains closed and opens after proper signal from May 15 through October 15. The proposed regulation will require the bridge to remain in the open position, permitting vessels to pass freely. The bridge will close only for train crossings and bridge maintenance. This proposed regulation will provide for the reasonable needs of navigation.

For the Reading Railroad Bridge, the proposed regulation will provide for the reasonable needs of navigation since the bridge is maintained in the open position for vessel passage at all times.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ‘‘small entities’’ comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

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

This proposed rule would not have a significant economic impact on a substantial number of small entities because it will provide for the CONRAIL Railroad Bridge to operate remotely and remain in the open position, allowing the free flow of vessel traffic. The bridge would only close for the passage of trains and maintenance.

The Reading Railroad Bridge will have no impact since the bridge is maintained in the open position at all times for vessel passage.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see ADDRESSES) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed 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 Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, (757) 398–6222.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this proposed rule might impact tribal governments, even if that impact may not constitute a ‘‘tribal implication’’ under the Order.

Energy Effects

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

Environment

We have considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph (32)(e), of Commandant Instruction M16475.lC, this rule is categorically excluded from further environmental documentation. The proposed rule only involves the operation of existing drawbridges and will not have any impact on the environment. A ‘‘Categorical Exclusion Determination’’ is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

2. Section 117.903 is revised to read as follows:

§ 117.903 Darby Creek.

(a) The draw of the CONRAIL Railroad Bridge, mile 0.3, at Essington, will operate as follows:

(1) The owner of this bridge on this waterway shall provide and keep in good legible condition two board gages painted white with black figures, nine inches high to indicate the vertical clearance under the closed draw at all stages of the tide. The gages shall be so placed on the bridge that they are plainly visible to operators of vessels approaching the bridge either up or downstream.

(2) Trains shall be controlled so that any delay in opening of the draw shall not exceed ten minutes except as provided in § 117.31(b). However, if a train moving toward the bridge has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, the train may continue across the bridge and must clear the bridge interlocks before stopping.

(3) From May 15 through October 15, the draw shall be left in the open position at all times and will only be lowered for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part.

(4) The bridge will be operated by the bridge/train controller at the Delair Railroad Bridge in Delair, New Jersey.

(5) Before the bridge closes for any reason, an on-site crewmember will observe the waterway for approaching craft, which will be allowed to pass. The on-site crewmember will then communicate with the off-site bridge/train controller at the Delair Railroad Bridge either by radio or telephone, requesting the off-site bridge/train controller to lower the bridge.

(6) The bridge shall only be lowered from the remote site if the on-site crewmember's visual inspection shows there are no vessels in the area and the infrared channel sensors are not obstructed.

(7) While the CONRAIL Railroad Bridge is moving from the full open to the full closed position, the off-site bridge/train controller will maintain constant surveillance of the navigational channel using infrared sensors to ensure no conflict with maritime traffic exists. In the event of failure or obstruction of the infrared channel sensors, the bridge will automatically stop and return to the open position. In the event of loss of radio or telephone communications with the on-site crewmember, the bridge will automatically stop and return to the open position.

(8) When the draw cannot be operated from the remote site, a bridge tender must be called to operate the bridge in the traditional on-site manner.

(9) The CONRAIL Railroad channel traffic lights will change from flashing green to flashing red anytime the bridge is not in the full open position.

(10) During downward span movement, the channel traffic lights will change from flashing green to

flashing red, the horn will sound two times, followed by a pause, and then two repeat blasts until the bridge is seated and locked down.

(11) When the rail traffic has cleared, the off-site bridge/train controller at the Delair Railroad Bridge will sound the horn five times to signal the draw of the CONRAIL Railroad Bridge is about to return to its full open position.

(12) During upward span movement, the channel traffic lights will be flashing red, the horn will sound two times, followed by a pause, and then sound repeat blasts until the bridge is in the full open position. In the full open position, the channel traffic lights will then turn from flashing red to flashing green.

(13) From October 16 through May 14, the draw shall open on signal if at least 24 hours notice is given by telephone at (856) 231–7088 or (856) 662–8201. Operational information will be provided 24 hours a day by telephone at (856) 231–7088 or (856) 662–8201.

(b) The Reading Railroad Bridge, mile 0.3, at Essington, will be left in the full open position at all times.

Dated: September 25, 2001.

Thad W. Allen,

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

[FR Doc. 01–25425 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–15–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 260

[Docket No. 96–5 CARP DSTRA]

Determination of Reasonable Rates and Terms for the Digital Performance of Sound Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Copyright Office is extending the period to file comments to proposed regulations that will govern the RIAA collective when it functions as the designated agent receiving royalty payments and statements of accounts from nonexempt, subscription digital transmission services which make digital transmissions of sound recordings under the provisions of section 114 of the Copyright Act.

DATES: Comments and Notices of Intent to Participate in a Copyright Arbitration Royalty Panel Proceeding are due October 17, 2001.

ADDRESSES: An original and five copies of any comment and Notice of Intent to Participate shall be delivered to: Office of the General Counsel, Copyright Office, James Madison Building, Room LM–403, First and Independence Avenue, SE Washington, DC; or mailed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, DC 20024–0977.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION: On July 23, 2001, the Copyright Office published a notice of proposed rulemaking seeking comments on proposed regulations that will govern the RIAA collective when it functions as the designated agent receiving royalty payments and statements of accounts from nonexempt, subscription digital transmission services which make digital transmissions of sound recordings under the provisions of section 114 of the Copyright Act. 66 FR 38226 (July 23, 2001). Comments on the proposed terms and Notices of Intent to Participate in a Copyright Arbitration Royalty Panel Proceeding, the purpose of which would be to adopt terms governing the RIAA collective in its handling of royalty fees collected from the subscription services, were due on August 22, 2001.

On August 22, 2001, The American Federation of Musicians of the United States and Canada (''AFM'') and The American Federation of Television and Radio Artists (''AFTRA'') filed a request for an extension of the filing date for comments until September 19, 2001. The Office granted this request and extended the deadline for filing comments to September 19, 2001. 66 FR 46250 (September 4, 2001). On September 14, 2001, AFM and AFTRA requested a further extension of the filing date for comments in light of the events of September 11, 2001, and stated that the RIAA joined in the request. The Office granted this request and extended the deadline for filing comments until September 28, 2001. 66 FR 48648 (September 21, 2001).

On September 26, 2001, AFM and AFTRA requested a further extension of the filing date for comments, and RIAA expressed its support for the request. The Office is granting this request and is extending the deadline for filing comments to October 17, 2001.

Dated: October 4, 2001.

David O. Carson,

General Counsel.

[FR Doc. 01–25392 Filed 10–9–01; 8:45 am]

BILLING CODE 1410–33–P

POSTAL SERVICE

39 CFR Part 111

Domestic Mail Manual Changes To Announce the Periodicals Accuracy, Grading, and Evaluation (PAGE) Program

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposed rule changes certain sections applicable to Periodicals mail in the Domestic Mail Manual (DMM). It adds a new optional method a publisher may use to determine per-copy weights and to substantiate the advertising percentage in each edition of each issue of a periodical. The option requires Postal Service certification of the publisher's employees' ability to use PAGE-certified software accurately, and it requires the publisher to use one of the software programs that is PAGE-certified by the Postal Service. This option will eliminate the publisher's need to submit a manually marked copy showing the percentage of advertising for each edition of each issue at the time of mailing. It also eliminates to some degree the requirement for Postal Service acceptance employees to determine per-copy weights by weighing 10 copies of each edition at the time of mailing.

DATES: Comments must be received on or before November 9, 2001.

ADDRESSES: Send written comments to the Manager, Business Mail Acceptance, U.S. Postal Service, 1735 North Lynn Street, Room 3011, Arlington, VA 22209–6030. Written comments may be submitted via fax to 703–292–3738. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Charles Tricamo, New York Rates and Classification Service Center, 212–613–8754.

SUPPLEMENTARY INFORMATION: New technology innovations have been made in the publishing industry. In response, the Postal Service developed an evaluation program to test the accuracy of publishing and print planning (PPP) software to calculate advertising percentages and copy weights. The Postal Service proposes to use the new certification process to reduce the time the publisher spends manually computing advertising percentages and the need for Postal Service staff to verify per-copy weights.

This new optional program was designed in cooperation with the Periodicals industry. It allows publishers to submit postage statements entirely completed using electronically generated per-copy weights in a completely automated environment. The Postal Service will sample a limited amount of actual copies to ensure the weights are accurate. If the sampling determines that the publisher's weights are not within tolerance, a postage adjustment will be generated.

To participate in this program, publishers must successfully complete three stages of authorization.

Stage One—Certification of Software Developer

Developers may have their PPP software certified by applying to the National Customer Support Center (NCSC) and paying the appropriate fee. Developers are charged the software analysis fee of $1,000.00 for testing at the NCSC. One charge will cover up to three certification reviews of a specific software package by a software developer. If a developer requires an on-site analysis the fee will be $2,500.00. An additional $1,500.00 will be charged for each subsequent certification review of a specific software package required at a developer's site. A developer's software will be certified for one PAGE cycle only. A PAGE cycle is one year beginning with the date that will be announced by the Postal Service in the final **Federal Register** notice. Certification for the next PAGE cycle will require payment of an analysis fee of either $1,000.00 for NCSC analysis or $2,500.00 for an on-site analysis. Publishers must use PPP software certified by the Postal Service to generate per-copy weights and advertising percentages to progress to the next stage.

The first testing cycle is planned for November 2001.

Stage Two—Certification of Publisher's Employees as Software Users

A publisher may participate in PAGE only when its employees have been certified by the Postal Service to use PAGE-certified software. All of a publisher's employees who will input data into a PPP software program must be certified. Publishers will be charged $25.00 for a User Testing Package and Analysis Kit for each employee. There will be a $25.00 fee for each attempt at user certification. Every user must reapply for certification every two years. Any new employees who will use PPP software must be certified before using the software if a publisher has been authorized to submit Periodicals mailings using PAGE. At the publisher's option, a reference kit containing mailing standards; Postal Service Customer Service Support Rulings (and updates); Publication 32, Glossary of Postal Terms; and Postal Explorer may be purchased for $20.00.

A users testing cycle is planned for December 2001.

Stage Three—Authorization To Accept Publisher's PAGE-Certified Periodicals Weights and Advertising Percentages

Publishers must be authorized to submit their PAGE-certified calculated copy weights and advertising percentages to participate in the program. To be authorized, publishers must complete an application. The application may be obtained from and must be returned to the New York Rates and Classification Service Center (RCSC), U.S. Postal Service, 1250 Broadway, 14th Floor, New York, NY 10095–9599. A publisher must report all authorized Periodicals publications and print sites that will use PAGE-certified software. There is no charge for this authorization and the publisher must reapply annually.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites comments on the following proposed revisions to the Domestic Mail Manual, incorporated by reference in the Code of Federal Regulations. See 39 CFR Part 111.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual (DMM) as set forth below:

P Postage and Payment Methods

P000 BASIC INFORMATION

P010 General Standards

* * * * *

P013 Rate Application and Computation

* * * * *

7.0 COMPUTING POSTAGE—PERIODICALS

7.1 Percentage of Advertising

[Add the following sentence at the end of 7.1:]

* * * Advertising percentages may also be calculated through the Periodicals Accuracy, Grading, and Evaluation (PAGE) Program using the procedures in P200.4.0.

7.2 Weight Per Copy

[Add the following sentence at the end of 7.2:]

* * * Per-copy weights may also be calculated through the Periodicals Accuracy, Grading, and Evaluation (PAGE) Program using the procedures in P200.4.0.

* * * * *

P200 Periodicals

1.0 BASIC INFORMATION

* * * * *

1.2 Marked Copy

[Add the following sentence at the end of 1.2:]

* * * Mailers do not have to submit marked copies if certified by the Postal Service to use the Periodicals Accuracy, Grading, and Evaluation (PAGE) Program in 4.0.

* * * * *

[Add new 4.0 as follows:]

4.0 PERIODICALS ACCURACY, GRADING, AND EVALUATION (PAGE) PROGRAM

4.1 Overview

The Periodicals Accuracy, Grading, and Evaluation (PAGE) Program is a process to evaluate publishing and print planning (PPP) software and determine its accuracy in computing per-copy weights and calculating advertising percentages for Periodicals mail. Certification of PAGE software is available only to companies that use PPP software. PAGE certification does not guarantee acceptance of a publisher's per-copy weights and advertising percentages prepared with PAGE-certified software.

4.2 Process

The PAGE Program evaluates and tests PPP software. In addition, the PAGE Program tests and qualifies publishing personnel to submit data to the Postal Service using PAGE and certified PPP software. The PAGE

Program involves the following three elements:

a. Product Certification for Software Developers. The National Customer Support Center (NCSC) evaluates the accuracy of the calculations of PPP software by processing a test publication file either at the NCSC or at the developer's location (on-site visit).

b. User Certification for PPP Software. The NCSC provides test packages to the users and evaluates the results.

c. PAGE Program Authorization. Publishers who want to use PAGE-certified software and PAGE-certified users to submit per-copy weight and calculated advertising percentages must apply for authorization to the Manager, New York Rates and Classification Service Center (RCSC). See G042 for address.

4.3 Participation

For information about the PAGE certification program, publishers may request a program technical guide (including order forms) by calling 800–238–3150.

* * * * *

If this proposal is adopted, an appropriate amendment to 39 CFR 111.3 will be published to reflect this change.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 01–25433 Filed 10–9–01; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 242–0292b; FRL–7067–1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Ventura County Air Pollution Control District (VCAPCD) portion of the California State Implementation Plan (SIP). This revision concerns nitrogen oxide (NO_X) emissions from boilers, steam generators, and process heaters. We are proposing to approve a local rule that regulates these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by November 9, 2001.

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

You can inspect copies of the submitted rule revision and EPA's technical support document (TSD) at our Region IX office during normal business hours. You may also see copies of the submitted rule revision and TSD at the following locations:

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

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

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

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 744–1135.

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of the local VCAPCD Rule 74.15.1. In the Rules and Regulations section of this **Federal Register**, we are approving this local rule in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: September 17, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

[FR Doc. 01–25256 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 242–0297b; FRL–7075–9]

Revisions to the California State Implementation Plan, El Dorado County Air Pollution Control District and Imperial County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the El Dorado County Air Pollution Control District (EDCAPCD) and Imperial County Air Pollution Control District (ICAPCD) portions of the California State Implementation Plan (SIP). These revisions concern Oxides of Nitrogen (NO_X) emissions from industrial, institutional, and commercial boilers, steam generators, and process heaters as well as administrative matters. We are proposing to approve local rules and proposing to approve the recision of local rules that regulate emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by November 9, 2001.

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

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

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

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

El Dorado County Air Pollution Control District, 2850 Fairlane Court, Building C, Placerville, CA 95667.

Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243.

FOR FURTHER INFORMATION CONTACT: Al Petersen, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX; (415) 744–1135.

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of the local EDCAPCD Rules 101 and 229, the recision of local EDCAPCD Rules 101 and 102, and the approval of local ICAPCD Rules 100 and 113. In the Rules and Regulations section of this **Federal Register**, we are approving and rescinding these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: September 12, 2001.

Mike Shulz,

Acting Regional Administrator, Region IX.

[FR Doc. 01–25253 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[VA–T5–2001–01b; FRL–7073–5]

Clean Air Act Full Approval of Operating Permit Program; Virginia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to fully approve the operating permit program of the Commonwealth of Virginia. Virginia's operating permit program was submitted in response to the Clean Air Act (CAA) Amendments of 1990 that required States to develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the States' jurisdiction. The EPA granted final interim approval of Virginia's operating permit program on June 10, 1997, as corrected on March 19, 1998. Virginia amended its operating permit program to address deficiencies identified in the interim approval action and this action proposes to approve those amendments. In the Final Rules section of this **Federal Register**, EPA is approving the Commonwealth's operating permit program as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

DATES: Comments must be received in writing by November 9, 2001.

ADDRESSES: Written comments should be mailed to Ms. Makeba Morris, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103 and Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219.

FOR FURTHER INFORMATION CONTACT: David Campbell, (215) 814–2196, or by e-mail at *campbell.dave@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: September 25, 2001.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 01–25013 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NV 044–OPP; FRL–7077–2]

Clean Air Act Proposed Full Approval of Title V Operating Permit Programs; Clark County Department of Air Quality Management, Washoe County District Health Department, and Nevada Division of Environmental Protection, Nevada

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to fully approve the operating permit programs submitted by the Clark County Department of Air Quality Management [1] (Clark County), Washoe County District Health Department (Washoe County), and the Nevada Division of Environmental Protection (NDEP). The three operating permit programs were submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. EPA granted final interim approval to Clark County's program on July 13, 1995 (60 FR 36070), to Washoe County's program on January 5, 1995 (60 FR 1741), and to NDEP's program on December 12, 1995 (60 FR 63631). All three permitting agencies revised their programs to satisfy the conditions of interim approval and this action proposes approval of those revisions. NDEP and Clark County made other revisions to their programs since interim approval was granted. EPA is proposing to approve some of the additional revisions made by NDEP and is taking no action on Clark County's additional changes.

DATES: Comments on the program revisions discussed in this proposed action must be received in writing by November 9, 2001.

ADDRESSES: Written comments on this proposed action should be addressed to Gerardo Rios, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of the program submittals, and other supporting documentation relevant to this action, during normal business hours at Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You may also see copies of the submitted title V programs at the appropriate permitting agency location below:

Clark County Department of Air Quality Management, 651 Shadow Lane, Las Vegas, Nevada 89106;

Washoe County District Health Department, 401 Ryland Street, Suite 331, Reno, Nevada 89520; and

Nevada Division of Environmental Protection, 333 W. Nye Lane, Room 138, Carson City, Nevada 89706.

[1] On August 7, 2001, the governor of Nevada officially shifted responsibility for air quality management in Clark County from the County's Health District to a newly created Department of Air Quality Management, overseen by the Clark County Air Quality Management Board. Since the change is effectively a shift in the organizational location of the County's air quality management program and all rules, regulations, and policies of the Health District are being carried over to the new Department, EPA is today proposing to grant full approval to Clark County's operating permits program, which will be administered by the County's Department of Air Quality Management.

FOR FURTHER INFORMATION CONTACT: David Albright, EPA Region IX, at (415) 744–1627 or albright.david@epa.gov.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the operating permit program?
What is being addressed in this document?
Are there other issues with the program?
What are the program changes that EPA proposes to approve?
What is involved in this proposed action?

I. What Is the Operating Permit Program?

The CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under this program include ''major'' sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds, carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO_X), or particulate matter ($PM_{10)}$; those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as ''serious,'' major sources include those with the potential of emitting 50 tons per year or more of volatile organic compounds or nitrogen oxides.

II. What Is Being Addressed in This Document?

Where an operating permit program substantially, but not fully, met the criteria outlined in the implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct the deficiencies. Because the Clark County, Washoe County, and Nevada Division of Environmental Protection programs substantially, but not fully, met the requirements of part 70, EPA granted interim approval to each program in three separate rulemakings, published on July 13, 1995 (60 FR 36070), January 5, 1995 (60 FR 1741), and December 12, 1995 (60 FR 63631), respectively. Each interim approval notice described the conditions that had to be met in order for the programs to receive full approval. Since that time, each of the permitting agencies has submitted to EPA one revision to its interimly approved operating permit program. Clark County submitted its revision on June 1, 2001; Washoe County submitted its revision on May 8, 2001; and NDEP submitted its program revision on May 30, 2001. This document describes changes that have been made to the Clark County, Washoe County, and NDEP operating permit programs since EPA granted interim approval. The changes that EPA is proposing to approve include those that were made by each permitting authority to address interim approval deficiencies identified by EPA. In addition, EPA is proposing to approve several additional program changes made by NDEP. Although NDEP's program combines the requirements for operating permits and construction permits (''integrated program''), EPA's proposed approval of changes to the Nevada Administrative Code (NAC) addresses only those elements that pertain to NDEP's operating permit program. The proposed approval is not being made under EPA's title I authority, and hence, is not amending Nevada's new source review program.

III. Are There Other Issues With the Program?

On May 22, 2000, EPA promulgated a rulemaking that extended the interim approval period of 86 operating permits programs until December 1, 2001. (65 FR 32035) The action was subsequently challenged by the Sierra Club and the New York Public Interest Research Group (NYPIRG). In settling the litigation, EPA agreed to publish a document in the **Federal Register** that would alert the public that they may identify and bring to EPA's attention alleged programmatic and/or implementation deficiencies in title V programs and that EPA would respond to their allegations within specified time periods if the comments were made within 90 days of publication of the **Federal Register** document.

Two members of the public commented on what they believe to be deficiencies with respect to the Clark County title V program. EPA takes no action on those comments in today's action; however, as stated in the **Federal Register** document published on December 11, 2000, (65 FR 77376) EPA will respond by December 1, 2001 to timely public comments on programs that have obtained interim approval. We will publish a notice of deficiency (NOD) if we determine that a deficiency exists, or we will notify the commenter in writing to explain our reasons for not making a finding of deficiency. A NOD will not necessarily be limited to deficiencies identified by citizens and may include any deficiencies that we have identified through our program oversight.

IV. What Are the Program Changes That EPA Proposes To Approve?

EPA made full approval of the Clark County, Washoe County, and NDEP title V operating permit programs contingent upon satisfaction of certain conditions. Described below are the conditions of approval for each program and a summary of how each of the three permitting agencies revised their part 70 programs and rules to meet the conditions required for full program approval. In addition, Clark County and NDEP made additional changes to their programs that were not required as a condition for full program approval. EPA is not taking any action on the additional changes made by Clark County, but will evaluate these additional changes and take appropriate action at a later date. As described below, EPA is proposing to approve most of the additional changes made by NDEP in today's proposed action.

A. Changes Required for Clark County Health District To Receive Full Program Approval

As explained in EPA's July 13, 1995 rulemaking, Clark County was required to make the following changes:

(1) *Enforcement Commitments:* In the 1995 interim approval, EPA required the District to submit documentation and commitments for implementing its enforcement and compliance tracking program. Part 70 requires that the District submit enforcement policies, including agreements with the EPA, and

a description of the District's enforcement program, compliance tracking activities, and inspection strategies. (40 CFR 70.4(b)(4) and (5)) In addition, failure to act on violations of permits or other program requirements, failure to seek adequate penalties and fines and collect all assessed penalties and fines, and failure to inspect and monitor activities subject to regulation are grounds for withdrawing program approval. (40 CFR 70.10(c)(iii)) Therefore, the District was required to submit the descriptions and/or commitments required under §§ 70.4(b)(4) and (5) to qualify for full approval and ensure that the commitments meet the criteria in § 70.10(c)(iii).

Clark County fulfilled this requirement in its title V program revision by submitting a title V Compliance Monitoring Strategic Plan. This strategic plan outlines and explains the District's standard procedures and commitments for targeting and conducting inspections, evaluating source compliance, addressing various types of violations, and reporting compliance and enforcement data to EPA. EPA has determined that the District's Plan contains the enforcement policies, descriptions of the District's enforcement program, compliance tracking activities, and inspection strategies that are required by 40 CFR 70.4(b)(4) and (5). Furthermore, the District's commitments, as outlined in their Compliance Monitoring Strategic Plan, demonstrate that they are enforcing the part 70 program consistent with the requirements of part 70, and that the criteria in § 70.10(c)(iii) (criteria for a finding that a permitting authority is failing to adequately enforce their part 70 program) are not present given the District's implementation of their submitted Plan.

(2) *Operational Flexibility Gatekeeper:* EPA determined in the 1995 interim approval that the District's operational flexibility gatekeeper (APCR section 19.4.1.8) was not explicitly as broad as the § 70.4(b)(12) gatekeeper for section 502(b)(10) changes. Part 70 prohibits operational flexibility for ''modifications under any provision of title I of the Act.'' In contrast, the District prohibited these changes for any ''New Source Review modifications under any provision of title I of the Act,'' which does not expressly include modifications under sections 111 and 112. EPA expected that most section 111 or 112 modifications will be subject to the District's New Source Review program; however, in certain cases the section 111 or 112 modification definition will be more inclusive than the District's New Source Review rule. Therefore, revising the rule to explicitly prohibit section 502(b)(10) changes for all title I modifications was a requirement for full approval.

Clark County met this condition by revising section 19.4.1.8 to clarify that a source may make 502(b)(10) changes in operations without a permit revision only if the changes are not modifications under any provision of Title I of the Act.

(3) *Confidential Business Information:* The District Counsel's opinion did not document that the District's definition of confidential business information (''CBI''), which is not available to the public, is as narrow as EPA's. Section 19.3.1.3 states that ''emissions'' may not be considered confidential. EPA's regulation states that ''emissions data'' may not be considered confidential. (40 CFR 2.301) The District was required to adopt EPA's narrower definition of confidential information. Alternatively, the District Counsel was asked to issue a statement that the District's program does not contain more restrictions on public access to information than the federal regulations.

Clark County met this condition by revising section 19.3.1.3(a) to clarify that the Health District may not consider ''emissions data'' (rather than just ''emissions'') as confidential information which is not available to the public.

(4) *Insignificant Activities:* In its initial title V program submittal, the District submitted criteria defining the units that are not subject to the part 70 permitting program. For criteria pollutants, the rule exemption threshold was based on potential emissions of either one or two tons per year. EPA believed these criteria pollutant thresholds are acceptable. The rule also exempted units with potential emissions of 200 pounds per year of hazardous air pollutants (HAPs). EPA believed that this threshold is acceptable, except for very hazardous substances for which EPA has promulgated or proposed a lower title I modification threshold. To receive full approval, the District's exemption needed to be no less stringent than these thresholds.

Clark County fulfilled this requirement by amending section 19 to clarify which emissions units can qualify as insignificant activities and to eliminate the statement that these activities are exempt from the permit. In lieu of using an emissions threshold as the means of identifying insignificant activities, the District adopted an EPA-approved list of insignificant activities as attachment A to section 19. Attachment A notes that the listed activities may be presumptively omitted from part 70 permit applications but does not suggest that these activities are exempt from the requirements of the permit. The adoption of Attachment A (List of Insignificant Activities or Emission Units) resolves EPA's concern about the stringency of emission thresholds contained in the District's previous version of section 19.

(5) *Applicable Requirements and National Ambient Air Quality Standards (NAAQS):* The District was required to add NAAQS, visibility, and increment requirements for temporary sources to the definition of applicable requirements (40 CFR 70.3). Sources that temporarily operate at multiple locations, such as non-metallic minerals processors or asphalt batch plants, may qualify for temporary source permits. The temporary source permits issued to these sources was required to comply with applicable requirements, as defined in part 70, at each location.

To address this condition, Clark County made an appropriate revision to section 0, their ''definitions'' regulation. Clark County revised the definition of ''applicable requirement'' in section 0 to include, ''any national ambient air quality standard or increment or visibility requirement under part C of title 1 of the Act, but only as it would apply to temporary sources permitted pursuant to section 504(e) (Temporary Sources) of the Act.''

(6) *Early reductions permit deadline:* The District was required to add a deadline of nine months or less for early reductions permits issued under section 112(i)(5) of the Act (40 CFR 70.4(b)(11)).

Clark County fulfilled this condition by revising section 19.5.1.4(a) as follows: ''(a) Any complete permit application containing an early reduction demonstration under section 112(i)(5) of the Act shall be acted on within nine months of receipt of the complete application.''

B. Changes Required for Washoe County District Health Department To Receive Full Program Approval

As explained in EPA's January 5, 1995 rulemaking, Washoe County was required to make the following changes:

(1) *Insignificant activities:* EPA required Washoe County to revise its insignificant activity provisions so that they comply with 40 CFR 70.5(c). Specifically, rule 030.905(B)(3) was required to state that any activity at a title V facility that is subject to an applicable requirement may not qualify as an insignificant activity. Because Washoe defines insignificant activities by size, both rule 030.020(C)(4) and the

application form must require the applicant to list all insignificant activities in enough detail to determine applicability and fees, and to impose any applicable requirements.

Washoe County met this condition with two rule revisions and a modification to its permit application form. First, they revised Rule 030.905(B)(3) to state that "No source which is itself subject to an applicable requirement may qualify as an insignificant activity." In addition, Washoe modified Rule 030.020(C)(4) to require that each permit application contain "* * * description of all insignificant activities for Part 70 permits, and all emission points in sufficient detail to determine applicability and fees." Finally, Washoe amended their title V permit application form to require the applicant to list all emissions associated with insignificant activities.

(2) *Applications:* EPA required Washoe County to revise 030.020 to state that each application must contain the following information: (a) Description of any processes and products associated with alternate scenarios (40 CFR 70.5(c)(2)); (b) description of compliance monitoring devices or activities (§ 70.5(c)(3)(v)); (c) when emissions trading provisions are requested by a source, proposed replicable procedures and permit terms (§ 70.4(b)(12)(iii)); and (d) a statement that the source will, in a timely manner, meet all applicable requirements that will become effective during the permit term (§ 70.5(c)(8)). In addition, rule 030.020 must clearly require that any application form, report, or compliance certification submitted in the permit application include a certification based on information and belief formed after reasonable inquiry (40 CFR 70.5(d)).

Washoe County met this requirement by revising Rule 030.020(C)(12) to include the required provisions from §§ 70.5(c), 70.4(b), and 70.5(d) identified in the interim approval notice by EPA. In addition, Washoe County's permit application form (which was submitted as an addendum to their revised title V program submittal) contains clear certification requirements that are consistent with part 70 regulations.

(3) *Supplementary information:* As a condition of the 1995 interim approval, EPA required Washoe County to add a provision to its rules that imposes a general duty on the permit applicant to submit supplementary facts or corrected information upon becoming aware of any failure to submit relevant facts or submittal of incorrect information. (40 CFR 70.5(b))

Washoe County fulfilled this condition by revising their Rule 030.910 to include the following requirement: "Any part 70 permittee or permit applicant must submit any previously unknown, supplementary or corrected information upon becoming aware of any failure to submit relevant facts or the submittal of incorrect information. The permittee shall also notify the Control Officer of any change in operations or change in applicable requirements."

(4) *Public notice:* Washoe County was required to revise 030.930 to provide public notice "by other means if necessary to assure adequate notice to the affected public." (40 CFR 70.7(h)(1))

Washoe County met this condition by amending Rule 030.930. The amended Rule states that the District shall give public notice and "such notice shall be made in a newspaper of general circulation within Washoe County and by mailing notice to persons on a list which shall be developed for such part 70 notifications, or by other means if necessary to assure adequate notice to the affected public." Although Washoe's rule language differs slightly from that contained in part 70 (which says "*and* by other means * * *"), EPA interprets Rule 030.930 to require the District to provide notice in every case in a newspaper of general circulation and to persons on the mailing list, as well as by other means if necessary, which is consistent with the requirements of part 70.

(5) *Certifications:* EPA required Washoe County to revise 030.960(C)(8) to state that certifications by a responsible official must be based on information and belief formed after reasonable inquiry. (40 CFR parts 70.6(c)(1) and 70.5(d)).

Washoe County fulfilled this condition by revising Rule 030.960(C)(8) to add the following language: "* * * and that all certifications are based on information and belief formed after a reasonable inquiry."

(6) *Compliance schedules:* Washoe County was required to revise 030.970(B) to state that schedules for compliance shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order (40 CFR 70.5(c)(8)(iii)(C) and 70.6(c)(3)).

Washoe County met this condition by modifying Rule 030.970(B) to add item (6) as follows: "(6) Any schedule for compliance must be at least as stringent as that contained in any judicial consent decree or administrative order."

(7) *Significant permit modifications:* Part 70 prohibits sources from implementing significant permit modifications prior to final permit action unless the changes have undergone preconstruction review pursuant to section 112(g) or a program approved into the SIP pursuant to part C or D of title I, and the changes are not otherwise prohibited by the source's existing part 70 permit. At the time of Washoe's interim approval, its regulations required sources to submit applications for significant permit modifications 6 months prior to implementing the change, yet final permit action did not need to occur until 9 months after receipt of a complete application. Hence, rule 030.950(E) needed to be revised to eliminate the 3 month time frame that sources were able to implement significant permit modifications without revised permits (40 CFR 70.5(a)(1)(ii)).

Washoe County met this condition by revising Rule 030.950(E) to add the following language: "No changes covered under a significant permit modification may be implemented by the source without an Authority to Construct (ATC) permit if such authorization is required under regulation 030.002. The source must submit a complete application at least nine (9) months prior to the time it intends to implement the change."

C. Changes Required for Nevada Division of Environmental Protection To Receive Full Program Approval

As explained in EPA's December 12, 1995 rulemaking, NDEP was required to make the following changes:

(1) *Compliance certifications:* NDEP was required to revise Nevada Administrative Code (NAC) section 445.7054.2(h)(2) to clearly require that compliance certifications submitted as part of the permit applications include the compliance status of all applicable requirements and the methods used for determining compliance with all applicable requirements. As NDEP's rule was written in 1995, a compliance certification was part of the source's compliance plan, and the elements of the compliance plan were required to address all applicable requirements (NAC 445.7054.2(h)). However, the compliance certification provision, within the compliance plan framework, could have been read, inappropriately, to narrow the scope of certifications to those applicable requirements that become effective during the term of the permit (40 CFR 70.5(c)(9)).

NDEP met this condition by amending NAC 445B.295.2 (formerly 445.7054.2) [2]

[2] The State of Nevada re-numbered their Administrative Code in section 445 during the 1995

Continued

to add the specific compliance certification requirements of 40 CFR 70.5(c)(9).

(2) *Agricultural and food processing activities:* In order to have a fully approvable program, NDEP was required to remove all ambiguity regarding the permitting of agricultural and food processing activities and clearly require all major sources to obtain Class I permits. If a regulatory impediment exists outside of the submitted program, then NDEP was required to eliminate that impediment prior to full program approval.

NDEP fulfilled this condition of full approval by revising NAC 445B.288 (formerly 445.705) to clarify that agricultural and food processing activities are not exempt from permitting unless they are not subject to title V permitting themselves and they are located at a source that is not required to get a title V permit.

(3) *Application deadline:* NDEP's rule did not contain a title V permit application trigger for existing sources that become subject to the program after the program's effective date. NAC 445.7052.1 needed to be revised to include an application requirement for such sources (40 CFR 70.5(a)(1)(i)).

NDEP met this condition by amending NAC 445B.289 (formerly NAC 445.7042) to add 445B.289.2, which states, ''If an existing stationary source becomes subject to the requirements of a Class I stationary source, the owner or operator of the existing stationary source must submit a Class I–A application to the director within 12 months after the date on which the stationary source becomes subject to the requirements for Class I sources.''

(4) *Permit shield:* NDEP's permit shield provisions in NAC 445.7114.1(j) were not fully consistent with part 70 and needed to be revised as follows: (a) clearly indicate that NAC 445.7114.1(j) provides for permit shields; (b) require the permit to expressly state that a permit shield exists or the permit is presumed not to provide such a shield (40 CFR 70.6(f)(2)); and (c) add a statement that the permit shield may not be extended to minor permit modifications (40 CFR 70.7(e)(2)(vi)).

NDEP fulfilled this condition by revising NAC 445B.316 (formerly 445.7114) to add new language at 445B.316.2 clearly indicating that a Class I operating permit may provide a permit shield, that a shield exists only if the permit expressly states that a permit shield exists, and noting that permit shields do not apply to minor permit modifications.

(5) *Emissions trading:* NDEP was required to add emissions trading provisions consistent with 40 CFR 70.6(a)(10), which requires that trading must be allowed where an applicable requirement provides for trading increases and decreases without a case-by-case approval.

NDEP fulfilled this requirement by amending NAC 445B.316.1(g) (formerly 445.7114.1(g)) to allow for the trading of emissions increases and decreases to the extent that the applicable requirements provide for such trading without a case-by-case approval.

(6) *Compliance schedule:* A schedule of compliance contained in a title V permit must be consistent with that required in the permit application (40 CFR 70.6(c)(3)). While NDEP application provisions required all the necessary elements of a schedule of compliance, the permit requirements in NAC 445.7114.1(h) needed to be revised either by referencing the application requirements in NAC 445.7054.2(h)(3) or by adding that the schedule of compliance will contain a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance and that the schedule shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order. In addition, the schedule of compliance was required to address requirements that become applicable during the term of the permit pursuant to 40 CFR 70.5(c)(8)(iii)(B).

NDEP met this condition by revising their regulations at NAC 445B.316.1 (formerly 445.7114.1) to reference the application requirements in 445B.295.2(h) (formerly 445.7054.2(h)) NDEP also amended NAC 445B.295.2(h) (formerly 445.7054.2(h)) by adding the following language at 445B.295.2(h)(3)(II): ''(II) For the applicable requirements that may become effective during the term of the permit, a statement that the stationary source will comply with those requirements on a timely basis* * *''

(7) *Progress reports:* At the time of interim approval in 1995, the progress report requirement in NAC 445.7114.1(h)(1) was vague and needed to be revised to more clearly meet the requirements of 40 CFR 70.6(c)(4). EPA suggested adding the following language to NAC 445.7114.1(h)(1): ''Requirements for [s]emiannual progress reports with dates for achieving milestones and dates when such milestones were achieved.''

NDEP met this condition by modifying NAC 445B.295 (formerly 445.7054) to include a schedule for the submission of certified progress reports and added additional language to 445B.295.2(h)(4) to require all the provisions of 40 CFR 70.6(c)(4).

(8) *Portable sources:* NDEP indicated in its program description that Class I permits may be issued to portable sources (program submittal, section II, p. 8). In order to satisfy the part 70 requirements for temporary sources, NDEP needed to add a requirement that the owner or operator of a Class I ''portable source'' (as defined in NAC 445.5695) notify NDEP at least 10 days in advance of each change in location. (40 CFR 70.6(e)(2))

NDEP fulfilled this requirement by revising NAC 445B.194 (formerly 445.5695) to replace the term ''portable source'' with the term ''temporary source.'' Also, NDEP revised NAC 445B.331.2 (formerly 445.7145.2) to require that Class I sources make a request in writing to the director for a change in location of an emission unit, and to further require that the request be made ''at least 10 days in advance of each change in location.''

(9) *Emissions trading under a federally enforceable cap:* For full approval, NDEP was required to revise NAC 445.7114.1(g) to ensure that any trade under a federally enforceable emissions cap is preceded by a written notification to NDEP at least 7 days in advance of the trade. Part 70 requires that the notification specify when the change will occur and include a description of the change in emissions that will result and how the increases and decreases will comply with the terms and conditions of the permit (40 CFR 70.4(b)(12) and 70.4(b)(12)(iii)(A)).

NDEP met this condition by revising NAC 445B.316 (formerly 445.7114) to require that requests for emissions trading under a federally enforceable emissions cap be made pursuant to NAC 445B.320. NAC 445B.320 requires requests to be made by written notification to the NDEP Director and the EPA Administrator at least 7 days before making the change and requires that the notifications meet other specific criteria, pursuant to the requirements at 40 CFR 70.4(b)(12)(iii)(A).

(10) *Clarification of permit exemption:* NDEP was asked to remove the phrase ''Except as otherwise provided in subsection 2'' from NAC 445.705.1, as it inaccurately suggested that major sources subject to either the New Source Performance Standard for new residential wood heaters or the

legislative session. Since EPA's final interim approval identified changes that needed to be made in the previously numbered NAC provisions, in this notice we identify both the current and former NAC regulatory citations. Also, see Tables 1 and 2 below for a complete cross reference of old and new NAC provisions that are part of NDEP's operating permit program.

National Emissions Standard for Hazardous Air Pollutants for asbestos demolition are not required to obtain title V operating permits.

NDEP fulfilled this condition by revising NAC 445B.288.1 (formerly 445.705.1) to remove the phrase ''except as otherwise provided in subsection 2.'' NAC 445B.288.1 now clearly states that the title V exemption for sources subject to part 61, subparts AAA and M, only applies where sources would otherwise be subject to permitting solely because they are regulated by subpart AAA or M.

(11) *Insignificant activities:* NDEP was required to provide additional defining criteria to ensure that NDEP's insignificant activities are truly insignificant and are not likely to be subject to an applicable requirement. Alternatively, NDEP could have restricted their list of insignificant activities to those that are not likely to be subject to an applicable requirement or that emit less than State-established emission levels. NDEP needed to demonstrate that these emission levels would be insignificant compared to the level of emissions from and type of units that are required to be permitted or subject to applicable requirements.

NDEP fulfilled this requirement through several revisions to NAC 445B.288 (formerly 445.705). First, NDEP added additional defining criteria to their list of insignificant activities to ensure that activities on the list are truly insignificant. In addition, 445B.288 now notes that any activities on the list do not qualify for treatment as an insignificant activity if they are otherwise subject to a specific applicable requirement. Finally, NDEP has clarified in their regulations at 445B.288 that insignificant activities at part 70 sources are not exempt from the part 70 permit by removing the prior language from NAC 445B.288 (formerly 445.705) which stated that insignificant activities do not require operating permits.

D. Other Program Changes Made by the Nevada Division of Environmental Protection

NDEP made other changes to its operating permits program since EPA granted interim approval. These changes were not required to correct deficiencies identified by EPA in our interim approval of December 12, 1995. EPA has reviewed the additional changes and proposes to approve most of the changes. Table 1 identifies the additional rule sections EPA is proposing to approve. One of the changes listed in Table 1 is a revision of NAC section 445B.138, the definition of potential to emit (''PTE''). The revised definition states that limitations on the capacity of a source to emit air pollutants ''may be treated as part of its design for the purposes of determining its potential to emit if the limitation is enforceable by the director.'' The definition had previously required such limitations to also be enforceable by the EPA Administrator, pursuant to the definition of PTE in 40 CFR 70.2.

Although NDEP's definition is different from the current definition in 40 CFR 70.2, litigation has affected EPA's consideration of this issue. In *Clean Air Implementation Project* vs. *EPA*, No. 96–1224 (D.C. Cir. June 28, 1996), the court remanded and vacated the requirement for federal enforceability of potential to emit limits under part 70. Even though Part 70 has not been revised it should be read to mean, ''federally enforceable or legally and practicably enforceable by a state or local air pollution control agency.'' [3]

EPA proposes to approve this revision because the State's rule is consistent with the current meaning of potential to emit as described above in the court's interpretation. EPA has issued several guidance memoranda that discuss how the court rulings affect the definition of potential to emit under CAA section 112, New Source Review (NSR) and Prevention of Significant Deterioration (PSD) programs, and title V.[4] In particular, the memoranda reiterate the Agency's earlier requirements for practical enforceability for purposes of effectively limiting a source's potential to emit.[5] For example, practical enforceability for a source-specific permit means that the permit's provisions must, at a minimum: (1) Be technically accurate and identify which portions of the source are subject to the limitation; (2) specify the time period for the limitation (hourly, daily, monthly, and annual limits such as rolling annual limits); (3) be independently enforceable and describe the method to determine compliance including appropriate monitoring, recordkeeping and reporting; (4) be permanent; and (5) include a legal obligation to comply with the limit.

EPA will rely on NDEP implementing this revised PTE definition in a manner that is consistent with the court's decisions and EPA policies. In addition, EPA wants to be certain that absent federal and citizen's enforceability, NDEP's enforcement program still provides sufficient incentive for sources to comply with permit limits. Prior to our final action on this rulemaking, we will discuss with the State our expectations for ensuring that the permit limits they impose are enforceable as a practical matter and that its enforcement program will still provide sufficient compliance incentive. In the future, if NDEP does not implement the PTE definition consistent with our guidance, and/or has not established a sufficient compliance incentive absent federal and citizen's enforceability, EPA could find that the State has failed to administer or enforce its program and may take action as authorized by 40 CFR 70.10(b).

Some changes made by the State are not approvable and EPA is not acting on those sections. Table 2 below lists the NAC sections of NDEP's program on which EPA is not taking action. Please refer to the TSD for additional information on the basis for our decision to either approve or not act on other changes made by the State.

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[3] See also, *National Mining Association (NMA)* v. *EPA*, 59 F.3d 1351 (D.C. Cir. July 21, 1995) (Title III) and *Chemical Manufacturing Ass'n (CMA)* v. *EPA*, No. 89–1514 (D.C. Cir. Sept. 15, 1995)(Title I).

[4] *See*, e.g., January 22, 1996, Memorandum entitled, ''Release of Interim Policy on Federal Enforceability of Limitations on Potential to Emit'' from John Seitz, Director, OAQPS and Robert I. Van Heuvelen, Director, Office of Regulatory Enforcement to EPA Regional Offices; January 31, 1996 paper to the Members of the Subcomittee on Permit, New Source Review and Toxics Integration from Steve Herman, OECA, and Mary Nichols, Assistant Administrator of Air and Radiation; and the August 27, 1996 Memorandum entitled, ''Extension of January 25, 1995 Potential to Emit Transition Policy'' from John Seitz, Director, OAQPS and Robert Van Heuvelen, Director, Office of Regulatory Enforcement.

[5] *See*, e.g., June 13, 1989 memorandum entitled, ''Guidance on Limiting Potential to Emit in new Source Permitting, from Terrell F. Hunt, Associate Enforcement Counsel, OECA, and John Seitz, Director, OAQPS, to EPA Regional Offices. This guidance is still the most comprehensive statement from EPA on this subject. Further guidance was provided on January 25, 1995 in a memorandum entitled ''Options for Limiting the Potential to Emit (PTE) of a Stationary Source Under Section 112 and Title V of the Clean Air Act (Act),'' from John Seitz, Director, OAQPS and Robert I. Van Heuvelen, Director, ORE to Regional Air Directors. Also please refer to the EPA Region 7 database at http://www.epa.gov/region7/programs/artd/air/policy/policy.htm for more information.

TABLE 1.—OTHER RULE SECTIONS THAT WERE CHANGED SINCE INTERIM APPROVAL THAT EPA IS PROPOSING TO APPROVE

Interim approved NAC provision	New NAC provision	Section title	Date of adoption
445.430	445B.001	Definitions	5/10/01
445.432	445B.002	"Act" defined	N/A
445.433	445B.004	"Administrator" defined	N/A
445.434	445B.005	"Affected facility" defined	10/30/95
445.4346	445B.007	"Affected state" defined	N/A
445.438	445B.013	"Allowable emissions" defined	10/30/95
445.4395	445B.016	"Alternative operating scenarios" defined	10/30/95
445.4415	445B.019	"Applicable requirement" defined	3/5/98
445.4425	445B.021	"Area source" defined	N/A
445.4615	445B.034	"Class I–A application" defined	N/A
445.4625	445B.035	"Class I–B application" defined	N/A
445.4635	445B.036	"Class I source" defined	N/A
445.4645	445B.037	"Class II source" defined	10/30/95
445.477	445B.043	"Confidential information" defined	N/A
445.4915	445B.055	"Effective date of the program" defined	N/A
445.4955	445B.056	"Emergency" defined	N/A
445.500	445B.059	"Emission unit" defined	10/30/95
445.5008	445B.061	"EPA" defined	N/A
445.504	445B.063	"Excess emissions" defined	N/A
445.506	445B.066	"Existing stationary source" defined	10/30/95
445.5095	445B.069	"Federally enforceable" defined	N/A
445.5105	445B.070	"Federally enforceable emissions cap" defined	N/A
445.521	445B.077	"Fugitive emissions" defined	10/30/95
445.5275	445B.082	"General permit" defined	10/30/95
445.5305	445B.084	"Hazardous air pollutant" defined	N/A
445.5431	445B.096	"Maximum achievable control technology" defined	10/30/95
445.548	445B.103	"Monitoring device" defined	10/30/95
445.550	445B.108	"New stationary source" defined	10/30/95
445.559	445B.123	"Operating permit" defined	N/A
445.571	445B.138	"Potential to emit" defined	5/3/96
445.5855	445B.147	"Program" defined	N/A
445.5905	445B.153	"Regulated air pollutant" defined	10/30/95
445.5915	445B.154	"Renewal of an operating permit" defined	N/A
445.5925	445B.156	"Responsible official" defined	N/A
445.5935	445B.157	"Revision of an operating permit" defined	N/A
445.613	445B.170	"Single source" defined [REPEALED]	10/30/95
445.630	445B.190	"Stop order" defined	N/A
445.5695	445B.194	"Temporary source" defined	5/10/01
445.649	445B.200	"Violation" defined	N/A
445.6605	445B.221	Adoption by reference of provisions of federal law and regulations	9/27/99
445.662	445B.224	Public and confidential information	3/5/98
445.664	445B.227	Prohibited conduct: Operation of source without required equipment; removal or modification of required equipment; modification of required procedure.	10/30/95
445.696	445B.275	Violations: Acts constituting; notice	10/30/95
445.697	445B.277	Stop orders	10/30/95
445.699	445B.281	Violations: Classification; administrative fines	N/A
445.704	445B.287	Operating permits and permits to construct: General requirements; restrictions on transfer	5/10/01
445.705	445B.288	Operating permits: Exemptions from requirements	5/10/01
445.7042	445B.289	Class I–A application for Class I operating permit: Filing requirement	5/10/01
445.7054	445B.295	Contents of application for operating permit: General requirements	5/10/01
445.7056	445B.296	Contents of application for operating permit: Requests for inclusion of additional provisions	10/30/95
445.7058	445B.297	Application for operating permit: Submission of application and corrected or additional information.	10/30/95
445.706	445B.298	Application for operating permit: Official date of submittal	3/5/98
445.707	445B.300	Operating permits: Action on applications; expiration	9/27/99
445.7073	445B.303	Operating permits: Initial periods for action on applications	3/5/98
445.7075	445B.305	Operating permits: Imposition of more stringent standards for emissions	10/30/95
445.7077	445B.306	Class I operating permits: Prerequisites to issuance, revision, or renewal	3/5/98
445.7112	445B.315	Contents of operating permits: Conditions	3/5/98
445.7114	445B.316	Contents of Class I operating permits	5/10/01
445.7122	445B.319	Operating permits: Administrative amendment	9/27/99
445.7124	445B.320	Operating permits: Making certain changes without revision of permit	3/5/98
445.7126	445B.321	Class I operating permits: Minor revision	4/17/98
445.7128	445B.322	Class I operating permits: Significant revision	3/5/98
445.713	445B.323	Operating permits: Renewal	10/30/95
445.7131	445B.325	Operating permits: Termination, reopening and revision, revision, or revocation and reissuance.	3/5/98
445.7133	445B.326	Operating permits: Assertion of emergency as affirmative defense to action for noncompliance.	N/A

TABLE 1.—OTHER RULE SECTIONS THAT WERE CHANGED SINCE INTERIM APPROVAL THAT EPA IS PROPOSING TO APPROVE—Continued

Interim approved NAC provision	New NAC provision	Section title	Date of adoption
445.7135	445B.327	Fees: Operating permits; revision of operating permit; annual fee for emissions and maintenance of stationary source.	9/27/99
445.7145	445B.331	Fees: Replacement of lost or damaged operating permit; request for change of location of emission unit.	5/10/01
445.7155	445B.335	General permits	10/30/95
445.717	445B.339	Identification of substances	5/3/96
445.7191	445B.343	Development of maximum achievable control technology; establishment of lower emission rates or different criteria.	3/26/96
445.7193	445B.345	Maximum achievable control technology: Approval, degree of reduction in emission, methods.	3/26/96
445.7195	445B.347	Prerequisites to issuance or renewal of operating permit	3/26/96

Note: Rule sections marked as N/A in the ''Date of Adoption'' column were not changed since EPA granted NDEP interim approval, except for changes related to the Legislative renumbering of the NAC in 1995.

TABLE 2.—OTHER RULE SECTIONS THAT WERE CHANGED SINCE INTERIM APPROVAL THAT EPA IS NOT PROPOSING TO APPROVE

Interim approved NAC provision	New NAC provision	Section title	Date of adoption
445.5405	445B.094	''Major source'' defined	3/5/98
445.628	445B.187	''Stationary source'' defined	5/10/01
445.7044	445B.290	Class I–B application for Class I operating permit: Filing requirement	5/10/01
445.7052	445B.294	Class I–A application for Class I operating permit: Period for filing; effect of application and previous permits.	10/30/95

V. What Is Involved in This Proposed Action?

Clark County, Washoe County, and NDEP have fulfilled the conditions of their respective interim approvals, and EPA proposes full approval of their title V operating permit programs.

Clark County and NDEP also made additional changes to their operating permits programs. These changes were not required by EPA to address conditions of the interim approvals granted to them on July 13, 1995, and December 12, 1995, respectively. EPA is proposing to approve most, but not all, of the changes made by NDEP and is taking no action today on additional changes made by Clark County. EPA will evaluate the additional program changes made by Clark County and will take appropriate action at a later date.

Request for Public Comment

EPA requests comments on the program revisions discussed in this proposed action. Copies of the Washoe County, Clark County, and NDEP submittals and other supporting documentation used in developing our proposed full approval are contained in docket files maintained at the EPA Region 9 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. EPA will consider any comments received in writing by November 9, 2001.

Administrative Requirements

Under Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities because it merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. This rule does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4) because it proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duties beyond that required by state law. This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This rule also does not have Federalism implications because 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, ''Federalism'' (64 FR 43255, August 10, 1999). The rule merely proposes to approve existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the State and the Federal government established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) or

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866. This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060–0243. For additional information concerning these requirements, see 40 CFR part 70. 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.

In reviewing State operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve State programs provided that they meet the requirements of the Clean Air Act and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a State operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program , to use VCS in place of a State program that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: September 28, 2001.

Sally Seymour,

Acting Regional Administrator, Region IX.

[FR Doc. 01–25410 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL–7077–1]

Ocean Dumping; Proposed Site Modification

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to modify the designation of an Ocean Dredged Material Disposal Site (ODMDS) in the Atlantic Ocean offshore Charleston, South Carolina. The proposed modification is to modify the restriction on use and shorten the site's name. This proposed action is necessary to allow for disposal activities to continue as previously planned by the site's Task Force for management and monitoring.

DATES: Comments must be received on or before November 26, 2001.

ADDRESSES: Send comments to: Wesley B. Crum, Chief, Coastal Section, Water Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Gary W. Collins, 404/562–9395.

SUPPLEMENTARY INFORMATION:

A. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended, 33 U.S.C. 1401 *et seq.*, gives the Administrator of EPA the authority to designate sites where ocean disposal may be permitted. On December 23, 1986, the Administrator delegated the authority to the Regional Administrator of the Region in which sites are located. The EPA Ocean Dumping Regulations promulgated under MPRSA (40 CFR chapter I, subchapter H, § 228.11) state that use of disposal sites may be modified.

Two ODMDS's were ultimately designated for Charleston in 1987. One was a 12-square mile site for deepening material. The second site was 3-square miles and was placed within the 12-square mile site. During the 1980's, additional benthic and sedimentological studies were conducted by South Carolina Department of Natural Resources (SCDNR). In 1987, live bottoms were identified in the western portion of the 12-square mile site. Concerns regarding impacts to the living resources at the ODMDS encouraged EPA to place a restriction on the use of the 12-square mile site. The Final Rule regarding this restriction was published in the **Federal Register** March 5, 1991 stating, ''Disposal shall be limited to dredged material from the Charleston Harbor area. All dredged material, except entrance channel material, shall be limited to that part of the site east of the line between coordinates 32°39′04″ N, 79°44′25″ W and 32°37′24″ N, 79°45′30″ W unless the materials can be shown by sufficient testing to contain 10% or less of fine material (grain size of less than 0.074mm) by weight and shown to be suitable for ocean disposal.'' This bisecting line was an immediate effort by EPA to protect live bottom resources initially reported by fishermen. The line was set with limited knowledge of the exact location and extent of those resources, and was set in a location that was believed to be as protective as possible at that time.

During this same time frame, an interagency group (EPA, DNR, COE and State Ports Authority) began working together to develop a monitoring and management plan (MMP) for the ODMDS. As part of this MMP process, construction of an L-shaped berm was developed approximately midway within the ODMDS. The COE began construction of the L-shaped berm using consolidated material from the last (42-foot) deepening project. The berm was evident on 1993 bathymetry. Also, as part of the MMP, the interagency group began looking for an area within the ODMDS for disposal of dredged material which would have the least impacts on the live bottom resources located in the western region of the site. A 4-square mile area (disposal box) was identified within the eastern half of the 12-square mile designated ODMDS and placed in position with the L-shaped berm as part of the western boundary. This location was approved by all the agencies involved, and placed where it would impact minimal reef habitat. At that time, the bisecting line should have been moved, but due to an oversight, it was not.

In 1995, EPA de-designated the smaller 3-square mile site and modified the larger site to allow for continued disposal of all material, not just deepening material. However, the COE agreed not to place any material outside of the 4-square mile disposal box. During the 1999–2000 (deepening project) dredging, a number of unauthorized dumps occurred to the west of the 4-square mile site. To date, studies indicate that some fine-grained material is present to the west of the 4-square mile site. It is unknown at this time whether the disposal material is moving from the ODMDS over the berms, from the berms, is part of the unauthorized dumps that occurred in 1999 and 2000, whether it is from the dispersion of the material during disposal activities at the site, or whether it is some combination of these four possibilities. Subsequent investigation and studies conducted by SCDNR to date have not identified adverse impacts at index reef sites being monitored. Other samples of the sand bottom benthic communities in areas that now have muddy sediments are still being processed.

B. EIS Determination

EPA has voluntarily committed to prepare Environmental Impact Statements (EIS) in connection with the designation of ocean disposal sites (39 FR 16186 (May 7, 1974)). The need for an EIS in the case of modifications is addressed in 39 FR 37420 (October 21, 1974), section 1(a)(4). If the change is judged sufficiently substantial by the responsible official, an EIS is needed.

The continued use of the Charleston ODMDS is vital to the management goals of the Plan. EPA believes these changes do not warrant the preparation of an Environmental Impact Statement (EIS).

EPA's primary concern is to provide an environmentally acceptable ocean disposal site for Charleston Harbor area dredging projects on a continued basis.

C. Proposed Site Modification

The proposed site modification for the Charleston Harbor Deepening Project ODMDS is the removal of the line that restricts disposal of fine-grained material and the addition of four corner coordinates (4 square-mile disposal box) that will define where all dredged material must be placed within the ODMDS. In addition, the site's official name is being shortened to the Charleston ODMDS.

D. Regulatory Assessments

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules that may have a significant impact on a substantial number of small entities. EPA has determined that this proposed action will not have a significant impact on small entities since the modification will only have the effect of providing an environmentally acceptable disposal option for dredged material on a continued basis. Consequently, this Rule does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is ''major'' and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a ''major'' rule. Consequently, this Rule does not necessitate preparation of a Regulatory Impact Analysis.

This Proposed Rule does not contain any information collection requirements subject to Office of Management and Budget review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: September 12, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

In consideration of the foregoing, subchapter H of chapter I of Title 40 is proposed to be amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.15(h)(5), the Period of Use and the Restriction on use of the Charleston Harbor Deepening Project, is proposed to be amended to read as follows:

§ 228.15 Dumping sites designated on a final basis.

* * * * *

(h) * * *

(5) Charleston, SC, Ocean Dredged Material Disposal Site.

* * * * *

(v) Period of Use: Continued use.

(vi) Restriction: Disposal shall be limited to dredged material from the Charleston Harbor area. All dredged materials must be placed within the box defined by the following four corner coordinates (NAD83): 32.65663° N, 79.75716° W; 32.64257° N, 79.72733° W; 32.61733° N, 79.74381° W; and 32.63142° N, 79.77367° W. Additionally, all disposals shall be in accordance with all provisions of disposal placement as specified by the Site Management Plan, which is periodically updated.

* * * * *

[FR Doc. 01–25411 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 587

[Docket No. NHTSA–01–10435]

RIN 2127–AI05

Federal Motor Vehicle Safety Standards; Side Impact Protection; Fuel System Integrity

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: Pursuant to the agency's grant of a petition for rulemaking from Mr. James E. Stocke, NHTSA proposes to update the Federal motor vehicle safety standards on side impact protection and fuel system integrity by requiring that radial tires of certain specifications, rather than bias ply tires, be used on the moving barriers specified in these standards. In conjunction with that proposal, NHTSA also proposes to delete certain outdated or incorrect specifications for the moving barriers in those standards.

DATES: You should submit your written comments so that they are received by December 10, 2001.

ADDRESSES: You may submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC, 20590. Alternatively, you may submit your comments electronically by logging onto the Docket Management System (DMS) website at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to view instructions for filing your comments electronically. Regardless of how you submit your comments, you should mention the docket number of this document.

FOR FURTHER INFORMATION CONTACT:

For technical and policy issues: Dr. William Fan, Office of Crashworthiness Standards, NPS–11, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–4922. Fax: (202) 366–4329.

For legal issues: Nancy Bell, Attorney Advisor, Office of the Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–2992. Fax: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

I. Background

Federal Motor Vehicle Safety Standard (FMVSS) No. 214, Side impact protection (49 CFR 571.214), and FMVSS No. 301, Fuel system integrity (49 CFR 571.301), specify impact tests using moving barriers. Paragraph S6.10 of FMVSS No. 214 contains specifications for a moving deformable barrier. FMVSS No. 301 contains specifications for two 1,814 kilogram (4,000 pound) rigid moving barriers, a flat rigid moving barrier (Paragraphs S7.2 and S7.3) [1] and a contoured rigid

[1] The FMVSS No. 301 flat rigid moving barrier is identical to the moving barrier specified for the lateral moving barrier test in paragraph S8.2 of FMVSS No. 208, Occupant crash protection (49 CFR 571.208). At this time, the tire specifications in S8.2

Continued

moving barrier (Paragraph S7.5). Both FMVSS No. 301 barriers are used to assess vehicle fuel system integrity. The FMVSS No. 301 flat rigid moving barrier is used for testing passenger cars, multipurpose passenger vehicles, trucks and buses with a gross vehicle weight rating (GVWR) of 4,536 kilograms (10,000 pounds) or less, and the FMVSS No. 301 contoured rigid barrier is used for testing large school buses with a GVWR greater than 4,536 kilograms (10,000 pounds). The FMVSS No. 214 barrier is a 1,367 kilogram (3,000 pound) moving deformable barrier used for testing passenger cars, and multipurpose passenger vehicles, trucks and buses with a GVWR of 2,722 kilograms (6,000 pounds) or less in side impact crashes. G78–15 bias ply tires are currently specified for the FMVSS No. 301 barriers.[2]

The tire specifications for the FMVSS No. 214 moving barrier are not set out in FMVSS No. 214. Rather, S6.10 of FMVSS No. 214 refers to the moving barrier specified in 49 CFR Part 587, Side Impact Moving Deformable Barrier. The tire specifications for that barrier are contained in Drawing DSL–1278, Sheet 2 of 2, Item –11 and Note 8. Item –11 specifies ''Bias belted tire (BF Goodrich—G78–15 CLM).'' On October 1991, Note 8 was added to drawing DSL–1278 that states ''Bias belted tire, size P215/75B15, may be substituted for that specified in –11. Inflate to recommended pressure.''

II. Petition for Rulemaking

On February 3, 2000, Mr. James E. Stocke, a retired automotive safety engineer, submitted a petition for rulemaking requesting that NHTSA amend FMVSS No. 301 to require that the moving barrier assembly be equipped with P205/75R15 radial tires inflated to 207 kPa (30 psi), replacing the currently required G78–15 bias ply tires inflated to 165 kPa (24 psi).

In his petition, Mr. Stocke stated that the bias tire size designation referenced in FMVSS No. 301 was outdated 15 years ago and that bias tires are no longer readily available because they have been replaced with radial tires. Mr. Stocke noted that the Society of Automotive Engineers, Inc. (SAE) J972 Recommended Practice ''Moving Barrier Collision Tests'' was revised (in August 1997) to specify both P205/75R15 radial tires and G78–15 bias ply tires for use on moving barriers.[3]

Additionally, Mr. Stocke stated that a P205/75R15 tire inflated to 207 kPa (30 psi) is equivalent to a G78–15 tire inflated to 165 kPa (24 psi). Also, he asserted that the tread width specification for the bias ply tire would not be necessary for a radial tire specification because the radial tire size designation (width to height ratio) is sufficient to define the tread width. Accordingly, Mr. Stocke suggested amending FMVSS No. 301 to read as follows: ''The moving barrier assembly is equipped with P205/75R15 pneumatic tires inflated to 207 kPa.'' In a letter dated August 16, 2000, NHTSA granted Mr. Stocke's petition for rulemaking.

III. NHTSA's Response to Petition

In reviewing Mr. Stocke's petition, we were guided by a number of considerations. First, with the increased use of the radial tire design over the past 30 years in the U.S., the bias ply tire design has become virtually obsolete.[4] The manufacture and use of bias ply tires has largely been replaced by the manufacture and use of radial tires. Consequently, bias tires are not readily available to testing laboratories at present and will become even more difficult for the laboratories to obtain in the future. Also, as the petitioner points out, the SAE Recommended Practice for ''Moving Barrier Collision Tests'' now includes specifications for radial tires as well as for bias ply tires. Both P205/75R15 and P215/75R15 radial tires are readily available at present and are widely recommended for use by vehicle manufacturers on passenger cars, small passenger vans, and small sport utility vehicles.

Another consideration for the agency is the possible effect on ride height (the height at the center of gravity) and vertical motion (bounce) of a moving barrier if tires different from those currently specified in FMVSS Nos. 214 and 301 are used on those barriers. Bias ply tires and radial tires are different in design and construction, and they exhibit different performance characteristics. For instance, bias ply tires have their inner carcass cords laid at an angle of about 50 degrees to the center line of the tread, and cords in successive plies (two or four) usually run in a criss-cross fashion—an arrangement which serves to equalize cord tensions. On the other hand, radial tires have cords which run at right angles to the center line of the tread and parallel to the radius of the tire. The radial construction creates a tread which is stiffer and a sidewall which is more flexible than that of a bias ply tire. These factors may affect the performance of moving barriers as discussed below.

The moving barrier tests in FMVSS Nos. 214 and 301 specify a static barrier ride height, an important impact parameter measurement. Further, the Laboratory Test Procedure in FMVSS No. 214 provides a guideline for barrier vertical displacement. Because a radial tire has a lower profile and a more flexible sidewall than a bias ply tire, the use of radial tires, rather than bias ply tires, on the moving barriers specified in FMVSS Nos. 214 and 301 could affect the barrier ride height (the center of gravity height and/or barrier contact height). Additionally, if an improper tire inflation pressure is used, it may affect the barrier's vertical motion as it is being towed during the test.

IV. Related Barrier Tire Research

P215/75R15 Radial Tires

Recently, Ford Motor Company (Ford) conducted a barrier tire study (Ford Study) to better understand the effect of tires on testing done pursuant to FMVSS No. 214 and 96/27/EC, the European Union side impact directive.[5] This study included investigating vertical and horizontal displacements of the barriers, quantifying cart/barrier behavior at impact, and evaluating factors that may contribute to noncompliance with the requirements of the regulations.

The Ford Study was based on data derived from 34 U.S. side impact tests and 16 European side impact tests conducted in 1997.[6] Three principal

of FMVSS No. 208 will not be amended. FMVSS No. 208's lateral moving barrier crash test was part of an optional requirement for automatic restraint systems which can no longer be utilized by manufacturers to certify their vehicles. Vehicle manufacturers are currently required to fulfill a more stringent requirement by installing air bags and Type 2 seat belts in both front outboard designated seating positions.

[2] Paragraph S7.5.4 of FMVSS No. 301 specifies G78–15 bias ply tires for use on the contoured rigid moving barrier. The requirements for the FMVSS No. 301 flat rigid moving barrier do not specify bias ply tires, but, in practice, the flat rigid moving barrier utilizes the identical under-structure and G78–15 bias ply tires as the contoured rigid moving barrier.

[3] SAE is an organization which develops voluntary standards for aerospace, automotive and other industries. Many of SAE's recommended practices are developed using technical information supplied by vehicle manufacturers and automotive test laboratories.

[4] According to the Rubber Manufacturers Association's ''Factbook 2000,'' original equipment radial tires shipment sales surpassed those of bias ply tires by a wide margin in the early 1970s. In 1999, radial tires shipments comprised 99.8% of the replacement market.

[5] Ford engineers have provided a copy of their summary report to NHTSA. Test details are not currently available. A copy of the summary report is available in the docket for this Notice.

[6] The Ford Study recommended conducting eight additional tests to measure the barrier motion. Ford did not conduct the additional tests because it concluded that no new information would be derived from resulting data. NHTSA concurs with

variables in the study were (1) release mechanisms (pins/chains), (2) tire types (bias/radial) and (3) tire pressures (103 kPa (15 psi)/221 kPa (32 psi)). The study indicated that all 34 U.S. side impact tests were within the horizontal displacement specification of +/−50 mm (2 inches) and approximately three-fourths of the tests were within the vertical displacement guideline of +/−20 mm (0.8 inch). More specifically, the test data indicated that the barriers with the P215/75R15 radial tires inflated to 221 kPa (32 psi) were able to meet the +/−20 mm (0.8 inch) guideline in almost 100% of the tests. After careful review of this extensive study, NHTSA has tentatively concluded that the P215/75R15 radial tire inflated to 221 kPa (32 psi) is an appropriate alternative to the G78–15 bias ply tire for use on the FMVSS No. 214 barrier.

P205/75R15 Radial Tires

As mentioned previously, SAE J972 was recently revised to specify that P205/75R15 radial tires inflated to 207 kPa (30 psi), as well as G78–15 bias ply tires inflated to 165 kPa (24 psi), may be used on all 1,814 kilogram (4,000 pound) moving barriers. Because SAE will not issue a Recommended Practice that has not been approved by its test engineers and auto industry representatives, NHTSA believes that vehicle manufacturers and their test laboratories have already tested and accepted the revised SAE J972 Recommended Practice. NHTSA, following the SAE Recommended Practice, tentatively concludes that the P205/75R15 tires inflated to 207 kPa (30 psi) are appropriate for use on both of the 1,814 kilogram (4,000 pound) moving barriers specified in FMVSS No. 301. Accordingly, NHTSA has tentatively concluded that the P205/75R15 radial tires inflated to 207 kPa (30 psi) is an appropriate alternative to the G78–15 bias ply tire for use on the FMVSS No. 301 barriers.

V. Agency Proposal

A. Radial Tire Size and Inflation Pressure

While NHTSA has tentatively made conclusions concerning the use of one tire (the P215/75R15 tire inflated to 221 kPa (32 psi)) for the FMVSS No. 214 moving barrier and another tire (the P205/75R15 tire inflated to 207 kPa (30 psi)) for the FMVSS No. 301 moving barriers, the agency recognizes that it would be easier for test laboratories to use only one size tires for FMVSS Nos. 214 and 301 moving barriers. The agency therefore proposes specifying either P215/75R15 tires inflated to 221 kPa (32 psi) for use on FMVSS Nos. 214 and 301 moving barriers or P205/75R15 tires inflated to 207 kPa (30 psi) for use on FMVSS Nos. 214 and 301 moving barriers. In other words, NHTSA plans to pick one of these tires and specify it in the final rule for both barriers.

As discussed above, the ride height and vertical motion of a moving barrier determine the impact location and the height of the moving barrier can have an effect on test results. Prior to making a final decision, the agency will assess the extent to which the substitution of a single tire may have unintended effects on either (1) the ride height, or (2) the impact performance of the FMVSS Nos. 214 and 301 moving barriers. For example, in attempting to find a set of appropriate radial tires (tire size and inflation pressure) for use on the FMVSS No. 214 barrier, NHTSA is concerned that a set of four incorrectly inflated tires could result in excessive barrier vertical motion during the towing process, which could make it difficult to stay within the +/−20 mm (0.8 inch) vertical displacement guideline.[7] NHTSA solicits comments and laboratory test data concerning these matters.

B. Other Issues

Tread Width

NHTSA concurs with petitioner's comments that the tread width specification for radial tires is not necessary since the radial tire size designation is sufficient to define tread width. For instance, the first three numbers in the P205/75R15 radial tire designation indicate that the tire width is 205 mm. The Tire and Rim Association, Inc. Yearbooks contain a chart to define the maximum dimensions of grown tires in service.[8] According to the chart, the maximum tire tread width of a 75 series aspect ratio tire is 80 percent of the overall width. Mr. Stocke is correct that the tread width of P205/75R15 tires (205 mm × 0.8 = 164 mm) is within the specification in FMVSS No. 301 for tire width of 152 mm +/−25 mm (6.0 in. +/−1.0 in.). Likewise, the P215/75R15 tires are within that specification (215 mm × 0.8 = 172 mm). In addition, FMVSS No. 214 does not specify any tire tread width. Therefore, NHTSA proposes that the tread width specification be deleted from the tire specifications in FMVSS No. 301.

Moments of Inertia

Data received from NHTSA's contractors and from the Vehicle Research and Test Center at East Liberty, Ohio (VTRC) indicate that it is extremely difficult, if not impossible, to construct the FMVSS No. 301 contoured moving barrier in accordance with both the center of gravity and the moments of inertia specified in FMVSS No. 301.[9]

The FMVSS No. 301 moving contoured barrier test was initially based on an old SAE Recommended Practice which included specifications for moments of inertia, as well as dimensional drawings and a specified center of gravity. In its rulemaking for the FMVSS No. 301 contoured moving barrier (40 FR 18469, April 28, 1975; 40 FR 47790, October 15, 1975), NHTSA retained the SAE Recommended Practice specifications of measurement, but made modifications to the original SAE design by lowering the front face of the barrier design by 178 mm (7 inches). With this modification, the moments of inertia derived from the SAE Recommended Practice are difficult to achieve. However, there has been no reason to believe that the actual barriers utilized by the agency and by manufacturers have yielded inappropriate results.

Based on the current measurements, excepting the moments of inertia, the FMVSS No. 301 contoured moving barrier can be constructed to the barrier specifications with the dimensional drawings and the specified center of gravity. There are no moments of inertia specified for the FMVSS No. 301 flat moving barrier. Therefore, NHTSA proposes that the moment of inertia specifications for the contoured moving barrier be removed from FMVSS No. 301.

VI. Rulemaking Analyses and Notices

Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

This notice has not been reviewed under E.O. 12866. After considering the

Ford's decision that the 34 Ford side impact tests and the 16 European tests provide a sufficient data basis for analysis.

[7] To control the impact height in the impact test in FMVSS No. 214, NHTSA's Office of Vehicle Safety Compliance specifies a vertical displacement guideline of +/−20 mm (0.8 inch) in its Laboratory Test Procedure. (This guideline only applies to NHTSA contractors conducting FMVSS No. 214 side impact compliance tests.)

[8] A "grown" tire means that a tire has experienced a growth or a stretch of its fabric during service. Some tire tables show an allowance on the maximum tire dimensions to compensate for this "growth." To prevent the tire from rubbing the vehicle, vehicle manufacturers use this maximum number in their vehicle designs.

[9] The moment of inertia is the quantitative measure of the rotational inertia of a body, i.e., the opposition that the body exhibits to having its speed of rotation about an axis altered by the application of a torque (turning force).

impacts of this rulemaking action, we have determined that the action is not significant within the meaning of the Department of Transportation regulatory policies and procedures. The intent of the rulemaking action is to update regulatory procedures that have been in effect for over 25 years. In most cases, the effect of the proposed amendments would be to relax or eliminate burdens on regulated entities. This action does not involve a substantial public interest or controversy. The rulemaking action would not have a substantial impact on any transportation safety program or on state and local governments. The impacts are so minimal as not to warrant the preparation of a full regulatory evaluation. The tires specified in the proposed rule are more readily available than those currently specified, and they are already widely recommended by voluntary standards organizations for use by vehicle manufacturers for testing. Accordingly, there will be no increase in the cost of tires used for testing, and we do not anticipate any impact on the ability to conduct valid tests or any other impact on the cost or ease of testing.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), we have evaluated the effects of this rule on small entities. NHTSA certifies that this action would not have a significant economic impact on a substantial number of small entities. This action merely replaces an outdated tire specification for testing devices with an equivalent current tire specification.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et. seq.*), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. NHTSA has reviewed this proposal and determined that it does not contain collection of information requirements.

Unfunded Mandates Reform Act of 1995

This rule would not impose a Federal mandate resulting in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $ 100 million or more in any one year. (2 U.S.C. 1531 *et seq.*).

Executive Order 12778 (Civil Justice Reform)

This proposed rule would not have any retroactive effect. Under section 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Executive Order 13045 (Protection of Children)

We have analyzed this action 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 safety that may disproportionately affect children.

Executive Order 12630 (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.

National Environmental Policy Act

The agency has analyzed this action for the purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Executive Order 13132 (Federalism)

E.O. 13132 (64 FR 43255, August 10, 1999), revokes and replaces E.O.'s 12612 ''Federalism'' and 12875 ''Enhancing the Intergovernmental Partnership.'' E.O. 13132 requires NHTSA 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.'' E.O. 13132 defines the term ''Policies that have federalism implications'' to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under E.O. 13132, NHTSA may not issue a regulation that has federalism implication, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

The proposed rule would 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 E.O. 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

Plain Language

E.O. 12866 requires each agency to write all rules in plain language. Application of the principles of plain language include consideration of the following questions:

—Have we organized the material to suit the public's needs?

—Are the requirements in the proposed rule clearly stated?

—Does the proposed rule contain technical language or jargon that is unclear?

—Would a different format (grouping and order of sections, use of heading, paragraphing) make the rule easier to understand?

—Would more (but shorter) sections be better?

—Could we improve clarity by adding tables, lists, or diagrams?

—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 on this document.

VII. Comments

How Do I Prepare and Submit Comments?

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

Your comments 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.**

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, 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 three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, 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 Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES.** To the extent possible, we will also consider comments that Docket Management receives after that date.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management 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 on the Internet. To read the comments 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–1999–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

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

You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

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. Accordingly, we recommend that you periodically check the Docket for new material.

List of Subjects

49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

49 CFR Part 587

Incorporation by reference, Motor vehicle safety.

In consideration of the foregoing, we propose to amend 49 CFR parts 571 and 587 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30166 and 30177; delegation of authority at 49 CFR 1.50.

2. Section 571.301 would be amended by revising S7.5.2, S7.5.4 and S7.5.5; by removing S7.5.6; and by adding S7.6 to read as follows:

§ 571.301 Standard No. 301; Fuel system integrity.

* * * * *

S7.5.2 The moving contoured barrier, including the impact surface, supporting structure, and carriage, has a mass of 1,814 kg ± 23 kg with the mass distributed so that 408 kg ± 11 kg is at each rear wheel and 499 kg ± 11 kg is at each front wheel. The center of gravity is located 1,372 mm ± 38 mm rearward of the front wheel axis, in the vertical longitudinal plane of symmetry, 401 mm above the ground.

* * * * *

S7.5.4 The concrete surface upon which the vehicle is tested is level, rigid, and of uniform construction, with a skid number of 75 when measured in accordance with American Society of Testing and Materials Method E; 274–65T at 64 km/h, omitting water delivery as specified in paragraph 7.1 of that method.

S7.5.5 The barrier assembly is released from the guidance mechanism immediately prior to impact with the vehicle.

S7.6

[Alternative 1]

The moving barrier assemblies specified in S7.2, S7.3 and S7.5 are equipped with P215/75R15 pneumatic tires inflated to 221 kPa.

[Alternative 2]

The moving barrier assemblies specified in S7.2, S7.3 and S7.5 are equipped with P205/75R15 pneumatic tires inflated to 207 kPa.

* * * * *

3. Figure 2 at the end of section 571.301 would be revised to read as follows: [blank page for figure 2]

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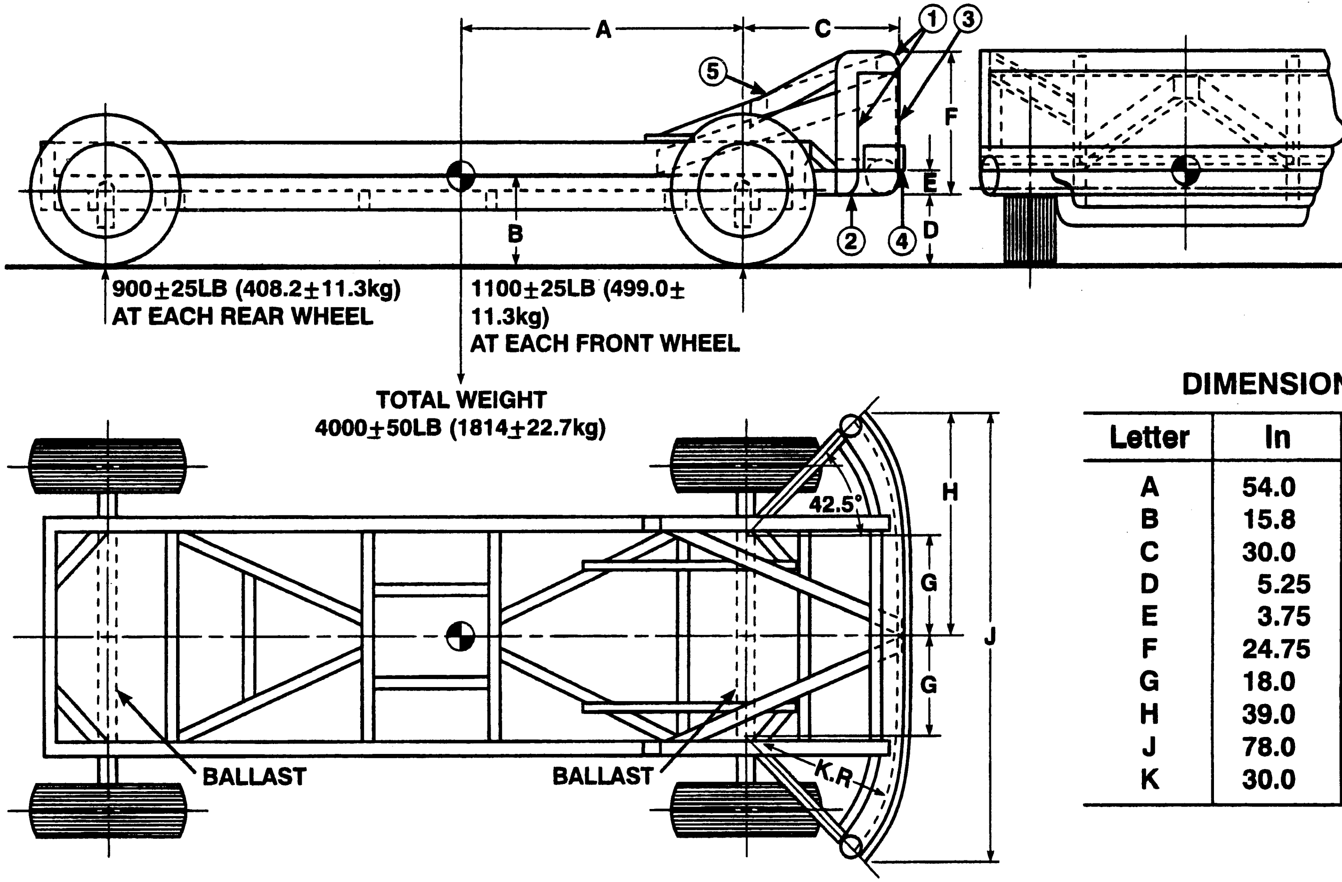

DIMENSIONS

Letter	In	mm
A	54.0	1372
B	15.8	401
C	30.0	762
D	5.25	133
E	3.75	95
F	24.75	629
G	18.0	457
H	39.0	991
J	78.0	1981
K	30.0	762

NOTES:

1. UPPER FRAME 4.0 IN DIA X 0.25 IN WALL (102 mm DIA X 6 mm WALL) STEEL TUBING (THREE SIDES).
2. LOWER FRAME 6.0 IN DIA X 0.50 IN WALL (152 mm DIA X 13 mm WALL) STEEL TUBING.
3. FACE PLATE 0.75 IN (19 mm) THICK COLD ROLLED STEEL.
4. LEADING EDGE 1.0 X 4.0 IN (25 X 102 mm) STEEL BAND, SHARP EDGES BROKEN.
5. ALL INNER REINFORCEMENTS 4.0 X 2.0 X 0.19 IN (102 X 51 X 5 mm) STEEL TUBING.

Fig. 2 – Common Carriage with Contoured Impact Surface Attached

BILLING CODE 4910–59–C

PART 587—DEFORMABLE BARRIERS

4. The authority citation for part 587 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30166 and 30177; delegation of authority at 49 CFR 1.50.

5. Section 587.6 would be amended by revising paragraph (b)(1) to read as follows:

§ 587.6 General description.

* * * * *

(b)(1) The specifications for the final assembly of the moving deformable barrier are provided in the drawings shown in DSL–1278, dated [date of the final drawing change].

* * * * *

Issued on: October 4, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–25428 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register

Vol. 66, No. 196

Wednesday, October 10, 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. 01–085–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of restrictions related to the importation of pork from Mexico.

DATES: We invite you to comment on this docket. We will consider all comments that we receive by December 10, 2001.

ADDRESSES: Please send four copies of your comment (an original and three copies) to: Docket No. 01–085–1, 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. 01–085–1.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 pm., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: For information on restrictions related to the importation of pork from Yucatan and Sonora, Mexico, contact Dr. Michael David, Assistant Director, Sanitary International Standards Team, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 33, Riverdale, MD 20737–7477, (301) 734–8093. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: Importation of Pork and Pork Products From Yucatan and Sonora, Mexico.

OMB Number: 0579–0138.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is responsible for administering regulations to prevent the importation of animal diseases, such as hog cholera (also known as classical swine fever), into the United States. The regulations in 9 CFR part 94 currently provide for the importation of pork and pork products into the United States from Yucatan and Sonora, Mexico, under certain conditions. These conditions ensure that the pork or pork products pose a negligible risk of introducing hog cholera into the United States. The regulations require the use of two information collection activities, the completion of a foreign meat inspection certificate and the placing of serially numbered seals on shipping containers. These information collection activities are necessary to ensure that the pork and pork products are derived from swine slaughtered at federally inspected slaughter plants and meet other conditions of the regulations, and that the shipments have not been tampered with en route to the United States.

We are asking the Office of Management and Budget (OMB) to approve our use of these information collection activities for an additional 3 years.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. These comments will help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the Agency functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use as appropriate, of automated, electronic, mechanical, and other collection technologies; e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden of this collection of information is estimated to average 1.0 hour per response.

Respondents: Federal animal health authorities in Mexico, and personnel in Yucatan and Sonora, Mexico, who operate slaughtering and processing plants and who engage in the export of pork to the United States.

Estimated annual number of respondents: 10.

Estimated annual number of responses per respondent: 4.

Estimated annual number of responses: 40.

Estimated total annual burden on respondents: 40 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 3rd day of October 2001.

W. Ron DeHaven,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–25372 Filed 10–9–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Financial Assistance To Promote Water Conservation in the Klamath Basin

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of intent to make monies available to promote water conservation in the Klamath Basin.

SUMMARY: Section 2104 of the Supplemental Appropriations Act, 2001, Pub. L 107–20, provided for financial assistance to eligible producers to promote water conservation in the Klamath Basin. This notice sets out the method by which the payment will be distributed on behalf of eligible producers to eligible owners and operators who did not receive certain expected deliveries of irrigation water within the Klamath Basin during the past crop year, and who agree to promote water conservation methods in future agricultural activities.

FOR FURTHER INFORMATION CONTACT: Ilka Gray, Agricultural Program Specialist, USDA/FSA/CEPD/STOP 0513, 1400 Independence Ave., S.W., Washington, DC 20250–0513, (202) 690–0794, or email at: ilka_gray@wdc.usda.gov.

SUPPLEMENTARY INFORMATION: Section 2104 of the Supplemental Appropriations Act, 2001 (Pub. L. 107–20), provided $20,000,000 to make available financial assistance to eligible producers to promote water conservation in the Klamath Basin (Basin). The Basin is located in the high-desert inter-mountain region of Klamath County, Oregon, and Siskiyou and Modoc Counties, California. There are typically over 220,000 acres of irrigated crops in the Basin including: alfalfa, 50,450 acres; barley, 31,700 acres; other hay, 27,160 acres; and oats, 8,800 acres. Cropland in the area is traditionally serviced by the deliveries of water by the U.S. Bureau of Reclamation's (USBR) Klamath Project (Project) which also delivers water to the Tule Lake and Lower Klamath National Wildlife Refuges. The Project was authorized by President Theodore Roosevelt in 1905. USBR is an entity within the U.S. Department of Interior (USDOI).

From September 1, 2000, through March 26, 2001, the Basin watershed received about 32 percent of normal precipitation. Stream flows were estimated by USBR hydrologists to be at about 29 percent of normal. Meanwhile, as estimated by the U.S. Department of Agriculture's Natural Resources Conservation Service, the estimated snow pack in the upper Basin was about 34 percent of normal. Because of record low levels, USBR determined on April 6, 2001, that water could not be delivered under the Project to the producers who normally use Project water for irrigation purposes. There are about 1,400 agricultural producers whose land normally receives Klamath Basin Irrigated Contract Acres (Contract Acres) in the Basin whose farming operations were substantially impacted by the water shortage.

To assist producers adversely affected by the drought, Congress included in section 2104 of Pub. L. 107–20 $20 million, to remain available until expended, from amounts available to the U.S. Department of Agriculture's Commodity Credit Corporation under 15 U.S.C. 713a–4, ''for the Secretary of Agriculture to make available financial assistance to eligible producers to promote water conservation in the Klamath Basin, as determined by the Secretary.'' In addition, the statute specified that to the extent that regulations might be found to be needed, the issuance of regulations promulgated pursuant to this new authority would be made without regard to: (1) The notice and comment provisions of section 553 of title 5, United States Code; (2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 FR 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and (3) chapter 35 of title 44, United States Code (commonly known as the ''Paperwork Reduction Act''). It was also specified that in carrying out this section the Secretary should use the authority provided under section 808 of title 5, United States Code, which exempts certain rules from having to undergo certain Congressional oversight procedures prior to the time that the rules are made effective.

Eligibility

FSA will use data on Basin farming operations, along with data from USDOI, to identify the universe of eligible producers. Anyone that has an interest in the eligible land may also contact the FSA office to determine eligibility.

Land within the Horsefly and Langell Valley Irrigation Districts in the Basin received water. Accordingly, land in those districts will not be eligible for payment under this new program. Likewise, under the 2001 Klamath Basin Pilot Irrigation Demand Reduction Program, USBR purchased water normally provided to about 16,000 acres in the Basin and, because these producers have already been or will be compensated through that effort, this land will also be generally ineligible for this assistance. Benefits will be made available for producers that sold water to USBR for a per acre amount less than per acre payment that would otherwise be available to eligible land. The potential payment will be equal to the difference between the two amounts. In no case may this per acre payment, taken in the aggregate with the USBR per acre payment, exceed the per acre payment otherwise payable under this new program.

Funds will be divided up according to contract acres and according to payment shares indicated. Such shares must be agreed to by the owner and operator located on the eligible land. Only undisputed requests for assistance will be paid. Producers will be provided with information on what kinds of conservation measures might be undertaken and other options as may be available to them. Such actions may include: (1) moving to less water-intensive crops, (2) improving irrigation scheduling, and (3) developing on-farm irrigation improvements such as land-leveling, canal maintenance, and sprinkler calibration. FSA can provide producers with assistance in determining the best water conservation practice(s) for their operation. All participating producers will agree to promote water conservation methods in future agricultural activities as a condition of payment. FSA will keep this agreement on file with the producers' other USDA records, and recipients may be subject to monitoring and/or enforcement measures.

Further information about the program will be made available at the local Farm Service Agency offices of the USDA.

Signed at Washington, DC, on October 4, 2001.

James R. Little,

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

[FR Doc. 01–25462 Filed 10–5–01; 9:50 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Broad Creek Watershed, DE

AGENCY: Natural Resources Conservation Service, Delaware.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Broad Creek Watershed, Sussex County, Delaware.

FOR FURTHER INFORMATION CONTACT: Elesa K. Cottrell, State Conservationist, Natural Resources Conservation Service (NRCS), Suite 101, 1203 College Park Dr., Dover, Delaware 19904–8713, telephone (302) 678–4160.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Elesa K. Cottrell, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This watershed protection plan is a plan for water quality improvement and watershed protection within the Broad Creek watershed. This will be accomplished through accelerated technical and financial assistance to plan and install needed conservation measures. These measures include agricultural waste management systems, waste storage structures, livestock composters, nutrient management, conservation buffers, and irrigation water management.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment and planning phase of this project are on file and may be reviewed by contacting Paul M. Petrichenko, Assistant State Conservationist, at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearing house review of Federal and federally assisted programs and project is applicable)

Dated: September 5, 2001.

Elesa K. Cottrell,

State Conservationist.

[FR Doc. 01–25329 Filed 10–9–01; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Notice of Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Indiana

AGENCY: Natural Resources Conservation Service (NRCS).

ACTION: Notice of availability of proposed changes in Section IV of the FOTG of the NRCS in Indiana for review and comment.

SUMMARY: It is the intention of NRCS in Indiana to issue four revised conservation practice standards in Section IV of the FOTG. The revised standards are: Contour Farming (330); Water and Sediment Control Basin (638); Constructed Wetland (656); Forest Stand Improvement (666). These practices may be used in conservation systems that treat highly erodible land and/or wetlands.

DATES: Comments will be received for a 30-day period commencing with this date of publication.

ADDRESSES: Address all requests and comments to Jane E. Hardisty, State Conservationist, Natural Resources Conservation Service (NRCS), 6013 Lakeside Blvd., Indianapolis, Indiana 46278. Copies of this standard will be made available upon written request. You may submit your electronic requests and comments to darrell.brown@in.usda.gov.

FOR FURTHER INFORMATION CONTACT: Jane E. Hardisty, 317–290–3200.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that after enactment of the law, revisions 2 made to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the next 30 days, the NRCS in Indiana will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Indiana regarding disposition of those comments and a final determination of changes will be made.

Dated: September 17, 2001.

Jane E. Hardisty,

State Conservationist, Indianapolis, Indiana.

[FR Doc. 01–25328 Filed 10–9–01; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Economics and Statistics Administration

Performance Review Board Membership; Correction

SUMMARY: In FR Doc. 01–23281 published on page 48232 in the **Federal Register** on September 19, 2001, the list of executives eligible to serve on the Economics and Statistics Administration Performance Review Board requires a change to the spelling of one name and the addition of two board members. Change the name of ‘‘Brent R. Moton’’ to read ‘‘Brent R. Moulton’’, and add the names: Alan C. Lorish and Gloria Gutierrez.

Dated: October 3, 2001.

James K. White,

Associate Under Secretary for Management, Chair, Performance Review Board.

[FR Doc. 01–25377 Filed 10–9–01; 8:45 am]

BILLING CODE 3510–BS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–507–502]

Certain In-Shell Pistachios From Iran: Initiation of New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of new shipper review on certain in-shell pistachios from Iran.

SUMMARY: On July 31, 2001, the Department of Commerce (the Department) received a request to conduct a new shipper review of the antidumping duty order on certain in-shell pistachios (in-shell pistachios) from Iran. In accordance with section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(d), we are initiating this new shipper review.

EFFECTIVE DATE: October 10, 2001.

FOR FURTHER INFORMATION CONTACT: Dena Aliadinov or Donna Kinsella, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution

Avenue, NW., Washington, DC 20230; telephone: (202) 482–3362 or (202) 482–0194, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all references to the Department's regulations are to 19 CFR part 351 (2001).

Background

On July 17, 1986, the Department issued an antidumping duty order on in-shell pistachios from Iran. See Antidumping Duty Order; Certain In-Shell Pistachios From Iran, 51 FR 25922 (July 17, 1986). This order covers raw in-shell pistachios and specifically excludes roasted in-shell pistachios. See Certain In-Shell Pistachios From Iran; Clarification of Scope in Antidumping Duty Investigation, 51 FR 23254 (June 26, 1986). In October 1987, the United States imposed a trade embargo on imports of all products to the United States from Iran. Effective April 28, 2000, the Department of the Treasury lifted the embargo on imports of certain Iranian-origin foodstuffs (including pistachios) and carpets.

On July 31, 2001, the Department received a timely request from Tehran Negah Nima Trading Company, Inc., trading as Nima Trading Company (Nima), in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214(c), for a new shipper review of the antidumping duty order on in-shell pistachios from Iran. This order has a July anniversary month.

Period of Review

The period of review (POR) is July 1, 2000 through June 30, 2001.

Initiation of Review

In accordance with 19 CFR 351.214(b)(2), Nima certified that: (1) It did not export subject merchandise to the United States during the period of investigation (POI) (April 1, 1985 through September 30, 1985); and (2) since the initiation of the investigation, on October 23, 1985, it has never been affiliated with any exporter or producer who exported the subject merchandise to the United States during the POI, including those exporters or producers not individually examined during the investigation. Nima also submitted documentation establishing the following: (1) The date on which it first shipped subject merchandise for export to the United States; (2) the volume of that shipment; and (3) the date of the first sale to an unaffiliated customer in the United States.

As Nima meets the eligibility requirements for a new shipper review, we are initiating a new shipper review of the antidumping duty order on in-shell pistachios from Iran, in accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214(d)(1). In accordance with 19 CFR 351.214(i)(1), we intend to issue the preliminary results of this review no later than 180 days after the day on which this new shipper review is initiated.

Concurrent with publication of this notice, and in accordance with 19 CFR 351.214(e), we will instruct the U.S. Customs Service to allow, at the option of the importer, the posting of a bond or security in lieu of a cash deposit for each entry of the merchandise exported by Nima until the completion of this new shipper review.

The interested parties must submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306.

This initiation notice is published in accordance with section 751(a)(2)(B)(ii) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: October 2, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–25408 Filed 10–9–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809]

Certain Stainless Steel Flanges From India; Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 10, 2001.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam or Robert James, AD/CVD Enforcement, Office 8, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482–5222, or (202) 482–0649, respectively.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Tariff Act) requires the Department of Commerce (the Department) to make a preliminary determination within 245 days after the last day of the month in which occurs the anniversary of the date of the order, or, if it is not practicable to complete the review within this time period, within 365 days.

Background

On March 22, 2001, the Department published in the **Federal Register** the notice of initiation of the administrative review of the antidumping duty order on certain stainless steel flanges from India, covering the period February 1, 2000 through January 31, 2001 (*Initiation of Antidumping Duty Administrative Reviews and Requests for Revocation in Part,* 66 FR 16037, March 22, 2001). The preliminary results are currently due no later than October 31, 2001. The respondents are Echjay Forgings Ltd. (with affiliate Pushpaman), Isibars, Ltd., Panchmahal Steel Ltd., Patheja Forgings & Auto Parts, Ltd., and Viraj Forgings, Ltd.

Extension of Time Limit

The Department has determined that because this review involves complex issues, such as comparison market selection and model definition, it is not practicable to complete the preliminary results of review within the original 245 day time limit mandated by section 751(a)(3)(A) of the Tariff Act and section 351.213(h)(1) of the Department's regulations. Therefore, the Department is extending the time limit for completion of the preliminary results until February 28, 2002 in accordance with section 351.213(h)(2).

Dated: October 2, 2001.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 01–25406 Filed 10–9–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–869, A–428–831, A–475–831, A–423–810, A–821–814, A–791–811, A–469–811, A–583–838]

Notice of Postponement of Preliminary Determinations of Sales at Less Than Fair Value: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: We are postponing the preliminary determinations in the antidumping duty investigations of structural steel beams from the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan.

EFFECTIVE DATE: October 9, 2001.

FOR FURTHER INFORMATION CONTACT: David Goldberger (Luxembourg) at (202) 482–4136; Katherine Johnson (Taiwan) at (202) 482–4929; Lyn Johnson (People's Republic of China) at (202) 482–5287; Thomas Schauer (Germany) at (202) 482–0410; Alysia Wilson (Italy) at (202) 482–0108; Hermes Pinilla (Russia) at (202) 482–3477; David Dirstine (South Africa) at (202) 482–4033; Jennifer Gehr (Spain) at (202) 482–1779; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

Applicable Statute and Regulations: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR part 351 (April 2001).

Postponement of Preliminary Determinations: On June 12, 2001, the Department published the initiation of the antidumping duty investigations of imports of structural steel beams from People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan. The notice of initiation stated that we would make our preliminary determinations for these antidumping duty investigations no later than 140 days after the date of issuance of the initiation (*i.e.*, October 30, 2001). *See Notice of Initiation of Antidumping Duty Investigations: Structural Steel Beams From the People's Republic of China, Germany, Italy, Luxembourg, Russia, South Africa, Spain, and Taiwan,* 66 FR 33048 (June 12, 2001).

On September 25, 2001, the petitioners[1] made a timely request pursuant to 19 CFR 351.205(e) for a 31-day postponement of the preliminary determinations, or until November 30, 2001. The petitioners requested a postponement of the preliminary determinations in order to provide the Department additional time in which to review the responses and issue requests for clarification and additional information prior to the issuance of the preliminary determinations.

[1] The petitioners are Committee for Fair Beam Imports (''CFBI'') and its individual members, Northwestern Steel and Wire Company, Nucor Corporation, Nucor-Yamato Steel Company, and TXI-Chaparral Steel Company.

For the reasons identified by the petitioners, and because there are no compelling reasons to deny the request, we are postponing the preliminary determinations under section 733(c)(1) of the Act. We will make our preliminary determinations no later than November 30, 2001.

This notice is published pursuant to sections 733(f) and 777(i) of the Act.

Dated: October 2, 2001.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–25405 Filed 10–9–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–475–819]

Final Results of Sunset Review: Countervailing Duty Order on Certain Pasta From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Final Results of Expedited Sunset Review: Countervailing Duty Order on Certain Pasta from Italy.

SUMMARY: On June 1, 2001, the Department of Commerce (''the Department'') initiated a sunset review of the countervailing duty order on certain pasta (''pasta'') from Italy (66 FR 29771) pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and adequate substantive comments filed on behalf of the domestic interested parties, and inadequate response from respondent interested parties, we determined to conduct an expedited (120-day) sunset review of this countervailing duty order. Based on our analysis of the comments received, we find that revocation of the countervailing duty order would be likely to lead to continuation or recurrence of a countervailable subsidy. The net countervailable subsidy and the nature of the subsidy are identified in the Final Results of Review section of this notice.

EFFECTIVE DATE: October 10, 2001.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Carole A. Showers, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5050 or (202) 482–3330, respectively.

SUPPLEMENTARY INFORMATION:

Statute and Regulations

Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreement Act (''URAA''). The Department's procedures for the conduct of sunset reviews are set forth in Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders, 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''), and in 19 CFR Part 351 (2000) in general. Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3 Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Scope of Order

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags, of varying dimensions. Excluded from the scope of this order are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione (''IMC''), by Bioagricoop Scrl, by QC&I International Services, by Ecocert Italia, by the Conzorzio per il Controllo dei Prodotti Biologici, or by the Associazione Italiana per l'Agricoltura Biologica. The merchandise subject to this order is currently classifiable under item 1902.19.20 of the Harmonized Tariff Schedule of the United States

(''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Scope Rulings

(1) On August 25, 1997, the Department issued a scope ruling that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the countervailing duty order. (See August 25, 1997 memorandum from Edward Easton to Richard Moreland, which is on file in Central Record Unit (''CRU'') in Room B–099 of the main Commerce building.)

(2) On July 30, 1998, the Department issued a scope ruling, finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the countervailing duty order. (See July 30, 1998 letter from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Import Administration, to Barbara P. Sidari, Vice President, Joseph A. Sidari Company, Inc., which is on file in the CRU).

(3) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances may be within the scope of the countervailing duty order. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the countervailing duty order. (See May 24, 1999 memorandum from John Brinkmann to Richard Moreland, which is on file in the CRU.

Background

On June 1, 2001, the Department initiated a sunset review of the countervailing duty order on pasta from Italy (66 FR 29771), pursuant to section 751(c) of the Act). The Department received a Notice of Intent to Participate on behalf of New World Pasta, American Italian Pasta Company, Borden Foods Corporation, and Dakota Growers Pasta Company (collectively, ''the domestic interested parties''), on June 15, 2001, within the applicable deadline specified in section 351.218(d)(1)(i) of the *Sunset Regulations.* Pursuant to section 771(9)C) of the Act, the domestic interested parties claimed interested-party status as domestic producers of certain pasta. The domestic interested parties assert that most of them participated in the original investigation and the scope clarification proceeding.[1] The domestic interested parties are fully committed to full participation in this sunset review to preserve and maintain the countervailing duty order.[2] We received complete substantive response from the domestic interested parties on July 16, 2001, within the 30-day deadline specified in the *Sunset Regulations* under section 351.218(d)(3)(i).

On June 29, 2001, we received a request for an extension to file substantive responses and rebuttal comments from the domestic interested parties.[3]

On June 28, 2001, we received a response from the European Union Delegation of the European Commission (''EC''), expressing its willingness to participate in this review as the authority responsible for defending the interest of the Member States of the European Union (''EU'').[4] We received also a response from the Government of Italy (''GOI''), on June 29, 2001 expressing its willingness to participate in this review as the government of a country in which the subject merchandise is produced and exported. On July 16, 2001 we received a complete response from interested parties, Rienzi & Sons, Inc. (''Rienzi'') an importer of pasta from Italy, and N. Puglisi & F. Industria Paste Alimentari S.p.A. (''Puglisi'') an Italian producer of pasta. Rienzi and Puglisi claim interested-party status pursuant to section 771(9)(A) of the Act. The GOI and the EU claim interested-party status in this sunset review pursuant to section 771(9)(B) of the Act.[5]

On July 23, 2001, the Department determined that the response of the respondent interested parties in this review was inadequate.[6] As a result, pursuant to 19 CFR 351.218(e)(2)(ii)(C), the Department determined to conduct an expedited, 120-day, review of the countervailing duty order on pasta from Italy.[7]

Analysis of Comments Received

All issues raised by parties to this sunset review are addressed in the Issues and Decision Memorandum (''Decision Memorandum'') from Jeffrey A. May, Director, Office of Policy, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated October 1, 2001, which is hereby adopted by this notice. The issues discussed in the Decision Memorandum include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail were the order to be revoked. Parties can find a complete discussion of all issues raised in these reviews and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099, of the main Commerce building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at http://ia.ita.doc.gov/frn, under the heading ''October 2001.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Final Results of Review

We determine that revocation of the countervailing duty order on pasta from Italy would likely lead to continuation or recurrence of a countervailable subsidy at the rates listed below:

Manufacturer/producer	Net countervailable subsidy
Agritalia, S.r.l	3.03
Arrighi S.p.A. Industrie Alimentari	2.92
De Matteis Agroalimentare S.p.A	2.55
Delverde, S.r.l	4.04
F.lli De Cecco di Filippo Fara S. Martino S.p.A	3.47
Industria Alimentare Colavita, S.p.A	2.08
Isola del Grano S.r.L	11.71
Italpast S.p.A	11.71
Italpasta S.r.L	2.92
La Molisana Alimentari S.p.A.,	3.94
Labor S.r.L	11.71
Molino e Pastificio De Cecco S.p.A. Pescara	3.47

[1] See Substantive Response by the Domestic Industry, Sunset Review of the Countervailing Duty Order on Certain Pasta from Italy, July 2, 2001, at 4.

[2] Id.

[3] On June 29, 2001, the Department received a letter from the domestic interested parties regarding request for additional time to file substantive and rebuttal comment in this sunset review. On June 29, 2001, the Department granted the extension to the domestic parties and to all participants to file substantive and rebuttal comments. Pursuant to 19 CFR 351.302(b), the deadline for all parties for filing substantive responses was extended to July 16, 2001. Pursuant to 19 CFR 351.218(d)(4), the deadline for filing rebuttal comments was therefore extended to July 23, 2001 for all parties. In this case, no rebuttal briefs were filed.

[4] See June 28, 2001 Response of the EC.

[5] See June 29, 2001 Response of the GOI.

[6] Section 351.218 (e)(1)(ii)(C)(2) provides that, where respondent interested parties provide inadequate response, the Department will conduct an expedited sunset review under section 751(c)(3)(B) of the Act and issue final results of review based on the facts available.

[7] See July 23, 2001, Letter from Jeffrey A. May, Director, Office of Policy to Lynn Featherstone, Director, Office of Investigations, International Trade Commission, regarding Pasta from Italy: Expedited Sunset Reviews of Antidumping and Countervailing Duty Orders.

Manufacturer/producer	Net countervailable subsidy
Pastificio Guido Ferrara	1.41
Pastificio Campano, S.p.A ...	2.54
Pastificio Riscossa F.lli Mastromauro S.r.L	6.48
"All Other" Manufacturers/producers/exporters	3.89

Barilla G.e R. F.lli S.p.A ("Barrilla") and Gruppo Agricoltura Sana S.r.L. ("Gruppo") are excluded the countervailing duty order on pasta from Italy.

Nature of Subsidies

In the Sunset Policy Bulletin, the Department states that, consistent with section 752(a)(6)of the Act, the Department will provide to the Commission information concerning the nature of the subsidy, and whether the subsidy is a subsidy described in Article 3 or Article 6.1 of the Subsidies Agreement. In this review we find that three of the programs included in the calculations of the net countervailable subsidy fall within the definition of an export subsidy under Article 3.1(a) of the Subsidies Agreement. They are: Export Marketing Grants Under Law 304/90, Remission of Taxes on Export Credit Insurance Under Article 33 of Law 227/77, and the Export Restitution Program. Furthermore, some or all of the programs at issue could be found to be inconsistent with Article 6.1. For example, the net countervailable subsidy may exceed five percent, as measured in accordance with Annex IV of the Subsidies Agreement. The Department, however, has no information with which to make such a calculation; nor do we believe it appropriate to attempt such a calculation in the course of a sunset review. Moreover, we note that, as of January 1, 2000, Article 6.1 has cease to apply (see Article 31 of the Subsidies Agreement). As such, we are providing the Commission with program descriptions in our Decision Memo.

This notice serves as the only reminder to parties subject to administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This five-year ("sunset") review and notice are in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: October 1, 2001.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–25407 Filed 10–9–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100101B]

Advisory Committee to the U.S. Section of the International Commission for the Conservation of Atlantic Tunas (ICCAT); Fall Meeting

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

ACTION: Notice of public meeting.

SUMMARY: In preparation for the 2001 ICCAT meeting, the Advisory Committee to the U.S. Section to ICCAT will hold its annual fall meeting in October 2001.

DATES: Open sessions will be held on October 28, 2001, from 12:30 p.m. to 6 p.m. and October 29, 2001, from 8:30 a.m. to 12 p.m. Closed sessions will be held on October 29, 2001, from 1:15 p.m. to 6:30 p.m. and on October 30, 2001, from 8:30 a.m. to 11:30 a.m. Written comments should be received no later than October 24, 2001.

ADDRESSES: The meeting will be held at the Holiday Inn, 8777 Georgia Avenue, Silver Spring, MD. Written comments should be sent to Kim Blankenbeker, Executive Secretary to the Advisory Committee, NOAA - Fisheries/SF4, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Kim Blankenbeker, 301–713–2276.

SUPPLEMENTARY INFORMATION: The Advisory Committee to the U.S. Section to ICCAT will meet in two open sessions to consider information on stock status of highly migratory species and 2001 management recommendations of ICCAT's Standing Committee on Research and Statistics (SCRS). Also in the open sessions, the Advisory Committee will review the results of recent meetings, including the SCRS workshop on bluefin tuna mixing, ICCAT's working group meeting on allocation criteria, and the technical experts' meeting to develop statistical documents for swordfish and bigeye tuna. The Committee will also discuss other ICCAT-related activities. Further, in open session, the Committee will review the implementation of 2000 and prior ICCAT recommendations and resolutions and will receive an overview of implementation of recommendations for research and management resulting from its Spring 2001 Species Working Group meeting. The only opportunity for public comment will be during the October 28, 2001, open session. Written comments are encouraged and, if mailed, should be received by October 24, 2001 (see **ADDRESSES**). Written comments can also be submitted during the open sessions of the Advisory Committee meeting.

The Advisory Committee will go into executive session on the afternoon of October 29, 2001, and for the entire October 30, 2001, session to discuss sensitive information relating to upcoming international negotiations. These sessions are not open to the public.

Please be reminded that NMFS expects members of the public to conduct themselves appropriately for the duration of the meeting. At the beginning of the public comment session, an explanation of the ground rules will be provided(e.g., alcohol in the meeting room is prohibited, speakers will be called to give their comments in the order in which they registered to speak, each speaker will have an equal amount of time to speak, and speakers should not interrupt one another). The session will be structured so that all attending members of the public are able to comment, if they so choose, regardless of the degree of controversy of the subject(s). Those not respecting the ground rules will be asked to leave the meeting.

Special Accommodations

The meeting locations are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kim Blankenbeker at (301) 713–2276 at least 7 days prior to the meeting date.

Dated: October 3, 2001.

Bruce C. Morehead,

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

[FR Doc. 01–25432 Filed 10–9–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100101G]

New England Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Groundfish Oversight Committee, Scallop Oversight Committee and Red Crab Oversight Committee in October, 2001 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from these groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meetings will be held from October 24 to October 29, 2001. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held in Peabody and Danvers, MA. and Warwick, RI. See **SUPPLEMENTARY INFORMATION** for specific locations.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Meeting Dates and Agendas

Wednesday, October 24, 2001, 9:30 a.m.—Groundfish Oversight Committee Meeting.

Location: Holiday Inn, One Newbury Street, Peabody, MA 01960; telephone: (978) 535–4600.

The committee will meet to continue development of Framework 36 to the Northeast Multispecies Fishery Management Plan (FMP). Framework 36 was initiated by the Council in January, 2001, to address the following issues: reducing excessive regulatory discards of Gulf of Maine cod resulting from a trip limit, meeting the fishing mortality objectives for Gulf of Maine cod, extending and/or adjusting the Western Gulf of Maine closure (currently scheduled to open May, 1, 2002), considering allowing access to groundfish closures by tuna purse seine vessels, and expanding the area for the northern shrimp exempted fishery. Options under consideration include a wide variety of management tools (closed areas, gear restrictions, effort restrictions, trip limits, recreational fishing restrictions, etc.). The committee may also meet in closed session to discuss the advisory panel membership.

Thursday, October 25th, 2001 at 9:30 a.m and Friday October 26, 2001 at 8:30 a.m.—Scallop Oversight Committee Meeting.

Location: Crowne Plaza Hotel, 801 Grenwich Avenue, Warwick, RI 02886; telephone: (401) 732–6000.

The Oversight Committee will continue development of management alternatives for Draft Amendment 10 to the Sea Scallop FMP. The committee discussion will focus on measures (bycatch total allowable catches, gear modifications, rock chains, etc.) to reduce bycatch and habitat impacts, measures to improve data collection, measures to manage scallop fishing by vessels with General Category permits, a 12-day maximum trip length proposal, a minimum 120-day allocation principal, hardship exemptions for carrying forward day-at-sea allocations, and incentive programs for using improved gear. Other issues and measures associated with Amendment 10 may also be developed.

Monday, October 29, 2001 at 9:00 a.m.—Red Crab Oversight Committee Meeting.

Location: Sheraton Ferncroft, 50 Ferncroft Road, Danvers, MA 01923; telephone: (978) 777–2500.

The Committee will review the draft Red Crab FMP, Draft Environmental Impact Statement, and draft public hearing document. They will also review the proposed management measures and alternatives and may select preferred alternatives to recommend to the full Council.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: October 4, 2001.

Richard W. Surdi,

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

[FR Doc. 01–25431 Filed 10–9–01; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 01–27]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of P.L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 01–27 with attached transmittal and policy justification.

Dated: October 3, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

26 SEP 2001
In reply refer to:
I-01/010551

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 01-27, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Egypt for defense articles and services estimated to cost $98 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 01-27

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

(i) Prospective Purchaser: Egypt

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$98 million
TOTAL	$98 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Two hundred forty wheeled bulldozers, spare and repair parts, support equipment, a U.S. Government Quality Assurance Team, personnel training and training equipment, publications and technical documents, and U.S. Government and contractor engineering and logistics services.

(iv) Military Department: Army (UUI)

(v) Prior Related Cases, if any: None

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: None

(viii) Date Report Delivered to Congress: 26 SEP 2001

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Egypt - Wheeled Bulldozers and Logistics Services

The Government of Egypt has requested the possible sale of 240 wheeled bulldozers, spare and repair parts, support equipment, a U.S. Government Quality Assurance Team, personnel training and training equipment, publications and technical documents, and U.S. Government and contractor engineering and logistics services. The estimated cost is $98 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in Middle East.

Egypt requires the bulldozers for General Military and Civil Engineering support. The equipment will be assigned to various departments within the Egyptian Armed Forces and used to construct facilities as required. Egypt will have no difficulty absorbing the bulldozers in its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

At this time, the prime contractor is unknown, as the award will be made on a competitive basis. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of a Quality Assurance team for a three month interval, twice annually, to prepare for operational use and insure fully mission capability of the vehicles. There will be one contractor representative for a period of one year in Egypt.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 01–25327 Filed 10–9–01; 8:45 am]

BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Finance and Accounting Service Board of Advisors

AGENCY: Department of Defense, Office of the Under Secretary of Defense (Comptroller).

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the first meeting of the Defense Finance and Accounting Service (DFAS) Board of Advisors. The Deputy Secretary of Defense chartered the Board on October 4, 2000, to provide advice and recommendations to the Secretary of Defense and Deputy Secretary of Defense regarding the mission of DFAS as it transforms its financial management operations, processes, and systems. The meeting will be open to the public. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: Wednesday, October 31, 2001.

ADDRESSES: Sheraton Crystal City, Ballroom C, 1800 Jefferson Davis Highway, Arlington, VA 22202.

Proposed Schedule and Agenda: The Defense Finance and Accounting Service Board of Advisors will meet in open session from 1:30 p.m. to 3:30 p.m. on October 31, 2001. The meeting will include discussions on the DFAS Strategic Plan and Balanced Scorecard, DFAS Competitive Sourcing Program, and Financial Management Reform Plans and Initiatives.

FOR FURTHER INFORMATION: Contact Major Dianne Armon, Resource Management, DFAS, Crystal Mall 3 (room 200), 1931 Jefferson Davis Highway, Arlington, VA 22240. Telephone (703) 607–5184.

Public seating is limited, and is available on a first-come-first-served basis.

Dated: October 3, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–25326 Filed 10–9–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Threat Reduction Advisory Committee

AGENCY: Department of Defense, Office of the Under Secretary of Defense (Acquisition, Technology and Logistics).

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Threat Reduction Advisory Committee will meet in closed session on Thursday November 8, 2001, at the Institute for Defense Analyses (IDA), and on Friday, November 9, 2001 in the Pentagon, Washington, D.C.

The mission of the Committee is to advise the Under Secretary of Defense (Acquisition, Technology and Logistics) on technology security, counter-proliferation, chemical and biological

defense, sustainment of the nuclear weapons stockpile, and other matters related to the Defense Threat Reduction Agency's mission.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. Appendix II), it has been determined that this Committee meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly the meeting will be closed to the public.

DATES: Thursday November 8, 2001, (8:00 a.m. to 4:00 p.m.) and Friday, November 9, 2001, (8:00 a.m. to 9:20 a.m.)

ADDRESSES: Institute for Defense Analyses, Board Room, 1801 North Beauregard Street, Alexandria, Virginia and the USD (AT&L) Conference Room (3D1019), the Pentagon, Washington, D.C.

FOR FURTHER INFORMATION: Contact Colonel Rick Baker, Defense Threat Reduction Agency/AST, 8725 John J. Kingman Road MS 6201, Fort Belvoir, VA 22060–6201. Phone: (703) 767–4759.

Dated: October 3, 2001.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–25325 Filed 10–9–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by October 31, 2001. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before December 10, 2001.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Karen L. Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: October 3, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Reinstatement.

Title: Annual Report of Children in State Agency and Locally Operated Institutions for Neglected and Delinquent Children.

Abstract: An annual survey is conducted to collect data on (1) the number of children enrolled in educational programs of State-operated institutions for neglected or delinquent (N or D) children, community day programs for N or D children; and adult correctional institutions and (2) the October caseload of N or D children in local institutions.

Additional Information: ED is requesting an emergency clearance of this Annual Report due to the unanticipated delay in the reauthorization of the Elementary and Secondary Education Act (ESEA). The lack of action of the ESEA reauthorization in conference caused ED to delay the process since ED needed to determine if there would be changes in the final legislation. However, because of the need to have these data available early next year so we can calculate Title I allocations based on the most up-to-date data available, we need to request emergency processing of the attached data collection form, which reflects our best guess as to what the new law will look like.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 3,052.

Burden Hours: 4,224.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the Internet address *OCIO__IMG__Issues@ed.gov, or should be faxed to 202–708–9346.*

Comments regarding burden and/or the collection activity requirements, contact Kathy Axt at (540) 776–7742 or via her Internet address *Kathy.Axt@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–25342 Filed 10–9–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 10, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10202, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Karen_F._Lee@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: October 3, 2001.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Vocational and Adult Education

Type of Review: Revision.

Title: Vocational Technical Education Annual Performance and Financial Reports.

Frequency: Annually.

Affected Public: State, local, or tribal gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 54.

Burden Hours: 7,033.

Abstract: The information collected by the Vocational Technical Education Annual Performance and Financial Reports is used to monitor program performance and the uses of funds under the Carl D. Perkins Vocational and Technical Education Act of 1998. Respondents include eligible agencies in 53 States and outlying areas. This revision corrects the omission of two columns that are needed in order to collect information about expenditures for the full twenty-seven month period of the grant award.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the Internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Sheila Carey at (202) 708–6287 or via her Internet address Internet address *Sheila.Carey@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–25341 Filed 10–9–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Science; Advanced Scientific Computing Advisory Committee; Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Advanced Scientific Computing Advisory Committee (ASCAC). Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register.**

DATES: Thursday, October 25, 2001, 8:30 a.m. to 5 p.m.; Friday, October 26, 8:30 a.m. to 1 p.m.

ADDRESSES: Crowne Plaza Hotel, 14th and K Streets, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Melea Baker, Office of Advanced Scientific Computing Research; U. S. Department of Energy; 19901 Germantown Road; Germantown, MD 20874–1290; Telephone (301)–903–7486 (Email: Melea.Baker@science.doe.gov).

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting

The purpose of this meeting is to provide advice and guidance with respect to the advanced scientific computing research program.

Tentative Agenda: Agenda will include discussions of the following:

Thursday, October 25, 2001

Introduction
Remarks from the Director, Office of Science
Presentations on Facilities
Discussions on Facilities
Public Comment

Friday, October 26, 2001

Remarks from the Office of Advanced Scientific Computing Research
Scientific Discovery through Advanced Computing Update
Computational Biology Discussion
Advisory Committee Open Discussion of Issues
Public Comment

Public Participation

The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Melea Baker via FAX at 301–903–4846 or via email (*Melea.Baker@science.doe.gov*). You must make your request for an oral statement at least 5 business days prior to the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes

The minutes of this meeting will be available for public review and copying within 60 days at the Freedom of Information Public Reading Room; 1E–190, Forrestal Building; 1000 Independence Avenue, SW; Washington, DC 20585; between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Issued in Washington, DC on October 4, 2001.

Rachel M. Samuel,

Deputy Advisory Committee, Management Officer.

[FR Doc. 01–25437 Filed 10–9–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

American Statistical Association Committee on Energy Statistics

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the American Statistical Association Committee on Energy Statistics, a utilized Federal Advisory Committee. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

Date and Time: Thursday, October 25, 2001 8:30 am–5 pm; Friday, October 26, 2001 8:30 am–11:30 a.m.

Place: U.S. Department of Energy, Room 6E–069, 1000 Independence Ave., SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Mr. William I. Weinig, EI–70, Committee Liaison, Energy Information Administration, U.S. Department of Energy, Washington, DC 20585, Telephone: (202) 287–1709. Alternately, Mr. Weinig may be contacted by email at william.weinig@eia.doe.gov or by FAX at (202) 287–1705.

Purpose of Committee: To advise the Department of Energy, Energy Information Administration (EIA), on EIA technical statistical issues and to enable the EIA to benefit from the Committee's expertise concerning other energy-related statistical matters.

Tentative Agenda

Thursday, October 25, 2001

A. Opening Remarks by the ASA Committee Chair, the EIA Acting Administrator and the Acting Director, Statistics and Methods Group, EIA. Room 6E–069

B. Major Topics (Room 6E–069 unless otherwise noted)
1. Results of the first EIA-Sponsored ASA Fellowship
2. A Briefing on two recent EIA studies provided the U.S. Senate: Analysis of Strategies for Reducing Multiple Emissions from Power Plants
3. Reestimation of Natural Gas Production Data: A General Presentation
4. Public Questions and Comments
5. Reestimation of Natural Gas Production Data: The Details (Room 5E–069)
6. Progress on the International (MARKAL) Model Development (Room 5E–081)
7. A Survey of Steam-Only Facilities Using Biomass Feedstocks
8. EIA Performance Measures
9. How to Implement Significant Survey Redesigns: Form EIA–176 (Room 5E–069)
10. New Modeling and Forecasting Approaches: An ASA Panel Discussion (Room 5E–081)
11. Public Questions and Comments

Friday, October 26, 2001, Room 6E–089

C. Major Topics
1. New Developments with the Alternative Fueled Vehicles Survey
2. Measuring Consumption by Energy-Use Sector: Options for Obtaining Data in the Future
3. Clarification of Small Area/ Imputation Technique, and Study of Resulting Bias
4. Information Quality Guidelines and the Standards Project
5. Public Questions and Comments

D. Closing Remarks by the Chair

Public Participation

The meeting is open to the public. The Chair of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the committee either before or after the meeting. If there are any questions, please contact Mr. William I. Weinig, EIA Committee Liaison, at the address or telephone number listed above.

Minutes

Available for public review and copying at the Public Reading Room, (Room 1E–190), 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–3142, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Issued at Washington, DC on October 4, 2001.

Rachel M. Samuel,

Deputy Advisory Committee, Management Officer.

[FR Doc. 01–25438 Filed 10–9–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL00–62–035]

ISO New England Inc.; Notice of Filing

October 3, 2001.

Take notice that on September 27, 2001, ISO New England Inc. (the ISO) submitted for filing amendments under Section 205 of the Federal Power Act to the Special Interim Market Rule originally filed with the Commission on November 1, 2000.

Copies of said filing have been served upon the Secretary of the NPC, the Participants in the New England Power Pool, and upon the New England State Governors and Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before October 29, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the "RIMS" link, select "Docket#" and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the "e-Filing" link.

David P. Boergers,

Secretary.

[FR Doc. 01–25362 Filed 10–9–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–172–000]

Mojave Pipeline Company; Notice of Informal Settlement Conference

October 3, 2001.

Take notice that an informal settlement conference in this proceeding will be convened on Friday, October 12, 2001 at 10:00 a.m. The settlement conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purpose of discussing the terms of a draft settlement agreement in the above referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Carmen Gastilo at 208–2182 or Dawn K. Martin at 208–0661.

David P. Boergers,

Secretary.

[FR Doc. 01–25367 Filed 10–9–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–116–000]

Montana-Dakota Utilities Co., a Division of MDU Resources Group Inc., Springfield, Illinois City Water, Light & Power, and Midwest Independent Transmission System Operator, Inc.; Notice of Filing

October 3, 2001.

Take notice that on September 18, 2001, Montana-Dakota Utilities Co., a Division of MDU Resources Group Inc. (MDU), Springfield, Illinois City Water, Light & Power (CWLP), and the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) filed their Motion for Inclusion in Super Regional Rate.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before October 18, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–25363 Filed 10–9–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3155–000]

New York Independent System Operator, Inc.; Notice of Filing

October 3, 2001.

Take notice that on September 28, 2001, the New York Independent System Operator, Inc. (NYISO), at the Direction of its independent Board of Directors, made a filing with the Federal Energy Regulatory Commission (Commission) under Section 205 of the Federal Power Act to extend the expiration date for its Automated Mitigation Procedure to October 31, 2002. The NYISO has requested that the Commission act on this filing in an expedited manner and that it shortens the usual period for comments. The NYISO has also requested that the Commission waive its usual 60-day notice requirement and make the filing effective no later than November 1, 2001.

The NYISO has served a copy of the filing on all parties in Docket No. ER01–2076. The NYISO has also emailed a copy of this filing to all of the subscribers to the NYISO's Technical Information Exchange list.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before October 19, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-filing'' link.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 01–25360 Filed 10–9–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. QF81–21–004 and EL01–121–000]

Wheelabrator Lassen Inc.; Notice of Petition for Temporary Waiver of Qualifying Cogeneration Facility Operating and Efficiency Standards

October 3, 2001.

Take notice that on September 26, 2001, Wheelabrator Lassen Inc. (Applicant) filed a petition with the Federal Energy Regulatory Commission (Commission) for a temporary waiver of the operating and efficiency standards for cogeneration facilities for calendar year 2002 for its facility in Shasta County, California, pursuant to section 292.205(c) of the Commission's regulations.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before October 26, 2001. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

David P. Boergers,

Secretary.

[FR Doc. 01–25366 Filed 10–9–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–3122–000, *et al.*]

Appalachian Power Company, *et al.;* Electric Rate and Corporate Regulation Filings

October 2, 2001.

Take notice that the following filings have been made with the Commission:

1. Appalachian Power Company

[Docket No. ER01–3122–000]

Take notice that on September 27, 2001, Appalachian Power Company (APCo) submitted for filing with the Federal Energy Regulatory Commission (FERC or Commission) an unexecuted Interconnection and operation Agreement between APCo and Duke Energy Wythe, LLC (Wythe). The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Revised Volume No. 6, effective June 15, 2000.

APCo requests an effective date of November 26, 2001. Copies of this filing has been served upon Wythe and the Virginia State Corporation Commission.

Comment date: October 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. American Electric Power Service Corporation

[Docket No. ER01–3123–000]

Take notice that on September 27, 2001, American Electric Power Service Corporation tendered for filing with the Federal Energy Regulatory Commission (Commission), on behalf of the operating companies of the American Electric Power System, proposed amendments to Attachment P of the Open Access Transmission Tariff.

AEP requests an effective date of November 26, 2001. Copies of AEP's filing have been served upon AEP's transmission customers and the public service commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Tennessee, Texas, Virginia and West Virginia and the Oklahoma Corporation Commission.

Comment date: October 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. PacifiCorp

[Docket No. ER01–3124–000]

Take notice that PacifiCorp on September 27, 2001, tendered for filing with the Federal Energy Regulatory Commission (Commission) in accordance with 18 CFR 35 of the Commission's Rules and Regulations, a Notice of Filing, and Mutual Netting/Settlement Agreements (Netting Agreements) with Allegheny Energy Supply Company, LLC (Allegheny), Black Hills Generation, Inc. (BHG), Metropolitan Water District of Southern California (MWD), Nevada Power Company (Nevada), Port of Oakland (Oakland), Public Utility District No. 1 of Benton County, Washington (Benton County), Public Utility District No. 1 of Franklin County, Washington (Franklin County), Public Utility District No. 1 of Grays Harbor County, Washington (Grays Harbor County), Sierra Pacific Power Company (Sierra).

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

Comment date: October 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Progress Energy, Inc., On behalf of Florida Power Corporation

[Docket No. ER01–3125–000]

Take notice that on September 27, 2001, Florida Power Corporation (FPC) filed with the Federal Energy Regulatory Commission (Commission), a Service Agreement with American Electric Power Service Corporation under FPC's Short-Form Market-Based Wholesale Power Sales Tariff (SM–1), FERC Electric Tariff No. 10.

FPC is requesting an effective date of September 1, 2001 for this Agreement.

A copy of this filing was served upon the Florida Public Service Commission and the North Carolina Utilities Commission.

Comment date: October 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. IDACORP Energy L.P.

[Docket No. ER01–3126–000]

Take notice that on September 27, 2001, IDACORP Energy L.P. (IDACORP Energy) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Transaction Confirmation Agreement under the Western Systems Power Pool Agreement, between IDACORP Energy and Deseret Generation & Transmission.

Comment date: October 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. San Diego Gas & Electric Company

[Docket No. ER01–3127–000]

Take notice that on September 27, 2001, San Diego Gas & Electric Company (SDG&E) tendered for filing with the Federal Energy Regulatory Commission (FERC or Commission) its Service Agreements numbers 11 and 12 to its FERC Electric Tariff, First Revised Volume No. 6, two interconnection agreements. Both agreements relate to the interconnection of a new generation plant to be owned by CalPeak Power—Border, LLC (CalPeak Border). The plant, with a capacity of 49 MW, is being constructed on an expedited basis to meet potential shortfalls in the Western states' electric supplies. It will be located in southern San Diego County, California, and is expected to begin service on or about September 30, 2001.

Service Agreement No. 11 is an Expedited Interconnection Facilities Agreement dated September 24, 2001 between SDG&E and CalPeak Border, under which SDG&E will construct, operate and maintain the proposed interconnection facilities. Service Agreement No. 12, the Interconnection Agreement between SDG&E and CalPeak Border dated September 24, 2001, establishes interconnection and operating responsibilities and associated communications procedures between the parties. SDG&E requests an effective date of September 24, 2001 for both agreements.

SDG&E states that copies of the amended filing have been served on CalPeak Border and on the California Public Utilities Commission.

Comment date: October 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Cinergy Services, Inc.

[Docket No. ER01–3128–000]

Take notice that on September 27, 2001, Cinergy Services, Inc. (Cinergy) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Confirmation Letter under Cinergy's Market-Based Power Sales Standard Tariff-MB (the Tariff) entered into between Cinergy and NewEnergy, Inc. (NewEnergy).

Cinergy and NewEnergy are requesting an effective date of August 31, 2001.

Comment date: October 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Cinergy Services, Inc.

[Docket No. ER01–3129–000]

Take notice that on September 26, 2001, Cinergy Services, Inc. (Cinergy) and Cleco Power LLC are requesting with the Federal Energy Regulatory Commission (Commission), a cancellation of Service Agreement No. 220, under Cinergy Operating Companies, Cost-Based Power Sales Tariff—CB, FERC Electric Tariff Original Volume No. 6.

Cinergy requests an effective date of October 8, 2001.

Comment date: October 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc.

[Docket No. ER01–3130–000]

Take notice that on September 27, 2001, Cinergy Services, Inc. (Cinergy) and Coastal Merchant Energy, L.P. are requesting with the Federal Energy Regulatory Commission (Commission) a cancellation of Service Agreement No. 51, under Cinergy Operating Companies, Resale of Transmission Rights and Ancillary Service Rights, FERC Electric Tariff Original Volume No. 8.

Cinergy requests an effective date of February 1, 2001.

Comment date: October 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER01–3131–000]

Take notice that on September 27, 2001, Cinergy Services, Inc. (Cinergy) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement under Cinergy's Resale, Assignment or Transfer of Transmission Rights and Ancillary Service Rights Tariff (the Tariff) entered into between Cinergy and Consumers Energy Company (Consumers). This Service Agreement has been executed by both parties and is to replace the existing unexecuted Service Agreement.

Comment date: October 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER01–3132–000]

Take notice that on September 27, 2001, Cinergy Services, Inc. (Cinergy) and Cleco Power LLC are requesting with the Federal Energy Regulatory Commission (Commission) a cancellation of Service Agreement No. 223, under Cinergy Operating Companies, Market-Based Power Sales Tariff—MB, FERC Electric Tariff Original Volume No. 7.

Cinergy requests an effective date of October 8, 2001.

Comment date: October 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Texas-New Mexico Power Company

[Docket No. ER01–3133–000]

Take notice that on September 27, 2001, Texas-New Mexico Power Company (TNMP) tendered for filing with the Federal Energy Regulatory Commission (Commission) a service agreement under its open access transmission tariff for firm Point-to-Point Transmission Service between TNMP and Tri-state Generation and Transmission Association, Inc.

Comment date: October 18, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Cinergy Services, Inc.

[Docket No. ER01–3134–000]

Take notice that on September 28, 2001, Cinergy Services, Inc. (Cinergy) tendered for filing with the Federal Energy Regulatory Commission (Commission) a First Revised Network Integration Service Agreement under Cinergy's Open Access Transmission Tariff (OATT).

A Copy of the filing was served upon The Village of Blanchester, Ohio.

Cinergy is requesting an effective date of September 1, 2001 and accordingly seeks a waiver of the Commission's notice requirement.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. MidAmerican Energy Company

[Docket No. ER01–3135–000]

Take notice that on September 28, 2001, MidAmerican Energy Company (MidAmerican), filed with the Federal Energy Regulatory Commission (Commission) an Electric Interchange and Interconnection Agreement dated January 24, 1994, modified by way of a Second Amendment to Electric Interchange and Interconnection Agreement dated August 9, 2001, entered into with Indianola Municipal Utilities, pursuant to MidAmerican's Rate Schedule for Power Sales, FERC Electric Tariff, Original Volume No. 8.

MidAmerican requests an effective date of August 9, 2001 for the Agreement. MidAmerican has served a copy of the filing on Indianola Municipal Utilities and the Iowa Utilities Board.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Southern California Edison Company

[Docket No. ER01–3136–000]

Notice is hereby given that on September 28, 2001, Southern California Edison Company tender for filing with the Federal Energy Regulatory Commission (FERC or Commission), FERC Electric Tariff Original Volume No. 5 Service Agreement No. 25, is to be canceled.

Notice of the proposed cancellation has been served upon the Public Utilities Commission of the State of California and AES Placerita, Inc.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Arizona Public Service Company

[Docket No. ER01–3137–000]

Take notice that on September 28, 2001, Arizona Public Service Company (APS) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement to provide Network Integration Transmission Service under APS' Open Access Transmission Tariff to Pinnacle West Capital Corp. Marketing and Trading (Pinnacle).

A copy of this filing has been served on Pinnacle and the Arizona Corporation Commission.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Boston Edison Company

[Docket No. ER01–3138–000]

Take notice that on September 28, 2001, Boston Edison Company (Boston Edison) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Related Facilities Agreement between Boston Edison and AES Londonderry, L.L.C. (AES). Boston Edison requests an effective date of November 27, 2001.

Boston Edison states that it has served a copy of the filing on AES and the Massachusetts Department of Telecommunications and Energy.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. CinCap VII, L.L.C.

[Docket No. ER01–3139–000]

Take notice that on September 28, 2001, CinCap VII, LLC (CinCap VII) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Master Power Sales Agreement under CinCap VII's Market-Based Rate Schedule FERC No. 1, entered into between CinCap VII and Cinergy Capital & Trading, Inc. (CCT).

CinCap VII and CCT are requesting an effective date of September 15, 2001.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. CinCap Madison, L.L.C.

[Docket No. ER01–3140–000]

Take notice that on September 28, 2001, CinCap Madison, LLC (CinCap Madison) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Master Power Sales Agreement under CinCap Madison's Market-Based Rate Schedule FERC No. 1, entered into between CinCap Madison and Cinergy Capital & Trading, Inc. (CCT).

CinCap Madison and CCT are requesting an effective date of September 15, 2001.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. American Electric Power Service Corporation

[Docket No. ER01–3141–000]

Take notice that on September 28, 2001, the American Electric Power Service Corporation (AEPSC), tendered for filing with the Federal Energy Regulatory Commission (Commission) eleven Long-Term Firm Point-to-Point Transmission Service Agreements and Specifications for Long-Term Firm Point-to-Point Transmission Service. That filing included 2 unexecuted agreements for Exelon Generating Company, LLC, six executed agreements for Duke Energy North America, LLC, two unexecuted agreements for Consumers Energy Company, and one executed agreement for American Electric Power Service Corporation—Wholesale Power Merchant Organization. All of these agreements are pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Second Revised Volume No. 6.

AEPSC requests waiver of notice to permit all of the Point-to-Point Service Agreements and Specifications filed herewith to be made effective for service billed on and after September 1, 2001.

A copy of the filing was served upon the Parties and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER01–3142–000]

Take notice that on September 28, 2001, the Midwest Independent Transmission System Operator, Inc. (the Midwest ISO) tendered for filing revisions to its Open Access Transmission Tariff (OATT), FERC Electric Tariff, First Revised Volume No. 1, which was previously accepted for filing in Docket No. ER98–1438–000, and which has been reformatted to conform to the requirements of Order No. 614.

The Midwest ISO seeks an effective date of November 27, 2001. The Midwest ISO also seeks waiver of the Commission's regulations, 18 CFR 385.2010 (2000) with respect to service on all parties on the official service list in Docket No. ER98–1438–007. The Midwest ISO has posted its reformatted OATT on its Internet site at www.midwestiso.org, and the Midwest ISO will provide hard copies to any interested parties upon request.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

22. Commonwealth Edison Company

[Docket No. ER01–3143–000]

Take notice that on September 28, 2001, Commonwealth Edison (ComEd) filed with the Federal Energy Regulatory Commission (Commission) an executed interconnection agreement enabling a new generation project near University Park, Illinois to connect to ComEd's transmission system. ComEd requested an effective date of September 29, 2001 for this agreement.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

23. Exelon Generation Company, LLC

[Docket No. ER–3144–000]

Take notice that on September 28, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing with the Federal Energy Regulatory Commission (Commission) a power sales service agreement between Exelon Generation and The Detroit Edison Company, under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of 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). 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.

David P. Boergers,

Secretary.

[FR Doc. 01–25358 Filed 10–9–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER01–1936–003, et al.]

PJM Interconnection, L.L.C., et al.; Electric Rate and Corporate Regulation Filings

October 3, 2001.

Take notice that the following filings have been made with the Commission:

1. PJM Interconnection, L.L.C.

[Docket No. ER01–1936–003]

Take notice that on September 28, 2001, PJM Interconnection, L.L.C. (PJM) tendered for filing with the Federal Energy Regulatory Commission (Commission) proposed amendments to the Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. PJM states that the proposed amendments are submitted to comply with the Commission's order in this proceeding dated June 28, 2001, but were inadvertently omitted from PJM's compliance filing in this proceeding of July 27, 2001.

Copies of this filing have been served on all parties, as well as on all PJM Members and the state electric regulatory commissions in the PJM control area.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Virginia Electric and Power Company

[Docket No. ER01–2452–001]

Take notice that on September 25, 2001, Virginia Electric and Power Company (Dominion Virginia Power or the Company) respectfully tendered for filing with the Federal Energy Regulatory Commission (Commission) a request that Service Agreement for Firm Point-to-Point Transmission Service by Virginia Electric and Power Company to Topaz Energy Associates, LLC be re-designated as Service Agreement No. 338 under the Company's FERC Electric Tariff, Second Revised Volume No. 5.

A copy of the filing was served upon Topaz Energy Associates, LLC, the Virginia State Corporation Commission, and the North Carolina Utilities Commission.

Comment date: October 16, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. California Electric Marketing, LLC

[Docket No. ER01–2690–001]

Take notice that on September 28, 2001, California Electric Marketing, LLC, (CalEM) submitted a filing with the Federal Energy Regulatory Commission (Commission) to comply with the Commission's September 21, 2001 Order issued in this proceeding in connection with CalEM's application to sell electric capacity and energy at market-based rates.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Jersey Central Power and Light Company

[Docket No. ER01–2888–001]

Take notice that on September 28, 2001, Jersey Central Power and Light Company (doing business and referred to as GPU Energy), at the direction of Commission Staff, submitted an amendment with the Federal Energy Regulatory Commission (Commission) to its August 20, 2001 filing in this docket. The August 20, 2001 filing concerned a Generation Facility Transmission Interconnection Agreement between GPU Energy and Ocean Peaking Power, L.P.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. FirstEnergy Solutions Corp.

[Docket No. ER01–2968–001]

Take notice that on September 28, 2001, FirstEnergy Solutions Corp. (Solutions) tendered for filing with the Federal Energy Regulatory Commission (FERC or Commission), the wholesale rate schedules. Market-Based Rate Power Sales Tariff, Solutions FERC Electric Tariff, Original Volume No. 1. Assignment and Assumption Agreement dated September 29, 2000 between Solutions and The Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company and The Toledo Edison Company (collectively, the FirstEnergy Operating Companies), Solutions Rate Schedule FERC No. 1. Joint Dispatch Agreement dated December 29, 2000 among Solutions, the FirstEnergy Operating Companies, and American Transmission Systems, Incorporated, Solutions Rate Schedule FERC No. 2. Tariff for Sales of Ancillary Services and Interconnected System Operations, Solutions FERC Electric Tariff, First Revised Volume No. 3.

Solutions states that these rate schedules are being filed to implement a change in its corporate name from FirstEnergy Services Corp. (Services) to Solutions that took effect on September 1, 2001, and supersede corresponding rate schedules of Services. Solutions has asked to make each of these rate schedules effective concurrently with the change of its corporate name.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. San Diego Gas & Electric Company

[Docket No. ER01–3074–001]

Take notice that on September 28, 2001, San Diego Gas & Electric Company (SDG&E) tendered for filing with the Federal Energy Regulatory Commission (Commission) a replacement proposed Original Sheet No. 79A for its Transmission Owner Tariff included in its application in the above docket. SDG&E states that this replacement sheet clarifies that SDG&E's proposed Supplemental Surcharge Transmission Rate will be billed per kilowatt hour, and not per kilowatt.

SDG&E requests a waiver of 18 CFR 35.3, in order to achieve an effective date of November 1, 2001 for the Supplemental Surcharge Rate. The rate and revenue impact of this rate will be passed on to California Independent System Operator (ISO) high voltage service and other Participating Transmission Owners based upon the Transmission Access Charges as described in Amendment 27 and 34 of the ISO Tariff. That is, on January 1, 2002 the ISO will incorporate the IV-La Rosita high voltage revenue requirement to adjust its High Voltage Wheeling Access Charge and its Transition Charges, which charges or credits each Participating Transmission Owner High Voltage Transmission revenues.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Arizona Public Service Company

[Docket No. ER01–3137–000]

Take notice that on September 28, 2001, Arizona Public Service Company (APS), tendered for filing with the Federal Energy Regulatory Commission (Commission) the Transmission Agreement under the Tariff with Pinnacle West Capital Corp. Marketing and trading (Pinnacle) pursuant to 18 CFR 35.13. Also enclosed is a list of all entities that have executed Network Service Agreements.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Progress Energy Inc. on behalf of Carolina Power & Light Company

[Docket No. ER01–3145–000]

Take notice that on September 28, 2001, Carolina Power & Light Company (CP&L) tendered for filing with the Federal Energy Regulatory Commission (Commission), an executed Service Agreement between CP&L and the following eligible buyer, Dominion Retail, Inc. Service to this eligible buyer will be in accordance with the terms and conditions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 5. CP&L requests an effective date of September 1, 2001 for this Service Agreement.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Exelon Generation Company, LLC

[Docket No. ER–3146–000]

Take notice that on September 28, 2001, Exelon Generation Company, LLC (Exelon Generation), submitted for filing with the Federal Energy Regulatory Commission (Commission) a power sales service agreement between Exelon Generation and DTE Energy Trading, Inc., under Exelon Generation's wholesale power sales tariff, FERC Electric Tariff Original Volume No. 2.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. New York Independent System Operator, Inc.

[Docket No. ER01–3147–000]

Take notice that on September 28, 2001, the New York Independent System Operator, Inc. (NYISO), filed with the Federal Energy Regulatory Commission (Commission) a proposed revisions to the NYISO's Open Access Transmission Tariff (OATT) and Market Administration and Control Area Services Tariff (Services Tariff). The proposed filing would implement multi-hour block transactions in the NYISO Day-Ahead Market. The NYISO has requested that the Commission make the filing effective on December 1, 2001.

A copy of this filing was served upon all signatories of the NYISO OATT and Services Tariff as well as the New York Public Service Commission and the electric utility regulatory agencies in New York, New Jersey and Pennsylvania.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. TransAlta Energy Marketing (US) Inc.

[Docket No. ER01–3148–000]

Take notice that on September 28, 2001, TransAlta Energy Marketing (US) Inc. (TEMUS) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notice of Succession pursuant to Section 35.16 of the Commission's Regulations, 18 CFR 35.16. TEMUS is succeeding to the rate schedule of Merchant Energy Group of the Americas, Inc., effective August 29, 2001.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Nevada Power Company

[Docket No. ER01–3149–000]

Take notice that on September 28, 2001, Nevada Power Company (Nevada Power) filed with the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act, an unexecuted Interconnection and Operation Agreement between Nevada Power and Mirant Las Vegas, LLC.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER01–3150–000]

Take notice that on September 28, 2001, Deseret Generation & Transmission Co-operative, Inc. (Deseret) tendered for filing with the Federal Energy Regulatory Commission (FERC or Commission) Amendments to First Revised Service Agreement Nos. 1 though 6 to its FERC Electric Tariff, Volume No. 1. The amendment provides for a one-time rate rebate for the year 2001 to each of Deseret's six Member Cooperatives. Deseret requests an effective date of December 1, 2001.

Copies of this filing were served upon Deseret's six Member Cooperatives.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. Deseret Generation & Transmission Co-operative, Inc.

[Docket No. ER01–3151–000]

Take notice that on September 28, 2001, Deseret Generation & Transmission Co-operative, Inc. (Deseret) tendered for filing with the Federal Energy Regulatory Commission (FERC or Commission), a long-term Service Agreement between Deseret and Overton Power District. Deseret requests that the Commission accept this filing as a service agreement under the Company's Market-Based Rate Tariff, designated Service Agreement No. 10 to FERC Electric Tariff, Original Volume No. 3.

Deseret requests an effective date of September 1, 2001.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Consolidated Edison Company of New York, Inc.

[Docket No. ER01–3152–000]

Take notice that on September 28, 2001, Consolidated Edison Company of New York, Inc. (Con Edison) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Continuing Site Agreement (Agreement) by and between Con Edison and Entergy Nuclear Indian Point 2, LLC, dated November 9, 2000 and amended on September 6, 2001.

Con Edison seeks an effective date for the Agreement of September 6, 2001, the commencement date of service under the Agreement.

Comment date: October 19, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. New York Independent System Operator, Inc.

[Docket No. ER01–3153–000]

Take notice that on September 28, 2001, the New York Independent System Operator, Inc. (NYISO), at the Direction of its independent Board of Directors, made a filing with the Federal Energy Regulatory Commission (Commission) under Section 205 of the Federal Power Act to propose changes to Attachment H of its Market Administration and Control Area Services Tariff (Services Tariff) designed implement market mitigation measures for virtual bidding. The NYISO has requested that the Commission act on this filing in an expedited manner and that it shorten the usual period for comments. The NYISO has also requested that the Commission waive its usual 60-day notice requirement and make the filing effective no later than November 1, 2001.

The NYISO has served a copy of the filing on all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, on the New York State Public Service Commission, on the electric utility regulatory agencies in New Jersey and Pennsylvania and on all parties in Docket Nos. ER01–3001–000 and ER01–3009–000. The NYISO has also emailed a copy of this filing to all of the subscribers to the NYISO's Technical Information Exchange list.

Comment date: October 11, 2001, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the *comment date*. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of 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). 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.

David P. Boergers,

Secretary.

[FR Doc. 01–25359 Filed 10–9–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–438–000]

Northwest Pipeline Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Rockies Expansion Project and Request for Comments on Environmental Issues

October 3, 2001.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Rockies Expansion Project involving construction and operation of facilities by Northwest Pipeline Corporation (Northwest) in various counties in Wyoming and Idaho.[1] Northwest would construct six loops totaling about 91.1 miles and would modify seven of its existing compressor stations, as described below. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need to Know?'' was attached to the project notice Northwest provided to landowners. This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Internet Web site (*www.ferc.gov*).

Summary of the Proposed Project

Northwest wants to expand its physical north flow capacity and seeks authority to construct and operate six loops totaling about 91.1 miles as follows:

- Muddy Creek Loop: 30.6 miles of 30-inch-diameter pipeline in Sweetwater and Lincoln Counties, Wyoming;
- Kemmerer Loop: 15.5 miles of 30-inch-diameter pipeline in Lincoln County;
- Pegram Loop: 11.2 miles of 24-inch-diameter pipeline in Lincoln County;
- Soda Springs Loop: 19.6 miles of 24-inch-diameter pipeline in Bear Lake County, Idaho;
- Lava Loop: 9.4 miles of 24-inch-diameter pipeline in Caribou County, Idaho; and
- Pocatello Loop: 4.8 miles of 24-inch-diameter pipeline in Bannock County, Idaho.

The majority (80.1 percent) of the proposed looping would be adjacent to Northwest's existing mainline. Exceptions, totaling 18.1 miles, would be in areas of difficult terrain, sensitive environmental resources, and heavy residential development. Of this distance, 4.7 miles would be constructed along other utility rights-of-way. Block valves would be installed on each loop. Project maps showing the proposed loops are in appendix 1.[2]

Northwest also proposes to modify seven existing compressor stations as follows:

- Green River Compressor Station: compressor uprating of 970 horsepower (hp);
- Muddy Creek Compressor Station: compressor uprating of 2,117 hp;
- Pegram Compressor Station: compressor reconfiguration with no change in horsepower;
- Lava Compressor Station: compressor uprating and installation of a new compressor to increase 5,077 hp;
- Pocatello Compressor Station: compressor reconfiguration with no change in horsepower;
- Burley Compressor Station: replacement of three compressors with two new units to increase 9,400 hp, and installation of two portable units to augment compression by 2,660 hp when needed; and
- Buhl Compressor Station: compressor reconfiguration and installation of a new compressor to increase 4,700 hp.

Compressor station modifications include cooling facilities, foundations, piping, electrical connections, valves, and other appurtenances, as well as the abandonment of certain compression facilities. With the exception of work at the Burley Compressor Station, all modifications, including temporary work areas, would take place within the existing fenced area. Compressor station locations are shown on the first map in appendix 1.

Northwest would use existing public and private access roads for all pipeline and aboveground construction. Maintenance may be required on some of the roads prior to use by construction equipment.

Land Requirements for Construction

Construction of the proposed pipeline facilities would affect about 1,340 acres of land, including temporary extra work spaces. An additional 274 acres would be used for nine pipe storage and contractor yards. These locations are generally on or adjacent to existing rights-of-way (pipeline and road) or compressor station yards. Minor modifications of Northwest's valve yards and meter station interconnections along the pipeline route would be constructed within the permanent right-of-way and would not require additional space. Of the 1,340 acres needed for pipeline construction, about 223 acres would be retained as permanent pipeline right-of-way.

A majority (1201 acres, or 89.7 percent) of the land crossed by the facilities would be either cropland, pasture, or rangeland. Residential construction would disturb about 6.9 acres, and would be limited to construction of the Pocatello Loop.

The only disturbance associated with the compressor station modifications that would occur outside of the existing fenced locations would be the expansion at the Burley Compressor Station site. At this location, Northwest would expand the permanent fenced station yard about 1.7 acres and use an additional 1.9 acres for temporary work space.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us[3] to discover and address concerns the public may have about proposals. We call this ''scoping.'' The main goal of the scoping process is to focus the analysis

[1] Northwest's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of the appendices were sent to all those receiving this notice in the mail. This filing may also be viewed on the web at *www.ferc.gov* using the ''RIMS'' link. For instructions on connecting to RIMS refer to the last page of this notice.

[3] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- geology and soils
- water resources, fisheries, and wetlands
- vegetation and wildlife
- cultural resources
- public safety
- land use
- endangered and threatened species
- air quality and noise
- residential construction

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

Currently Identified Environmental Issues

We have already identified several issues we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Northwest. This preliminary list of issues may be changed based on your comments and our analysis.

- Impact on residents within 50 feet of construction, and impacts to agricultural areas.
- Effects from the addition of 24,924 hp of compression.
- Possible impact on Federal, state, and BLM-listed species.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations/routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow these instructions carefully to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St. NE, Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas Group 1.
- Reference Docket No. CP01–438–000.
- Mail your comments so that they will be received in Washington, DC on or before November 9, 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.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2). Only intervenors have the right to seek rehearing of the Commission's decision.

You do not need intervenor status to have your environmental 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 Web site (*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.

David P. Boergers,

Secretary.

[FR Doc. 01–25361 Filed 10–9–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

October 3, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New Minor License.

b. *Project No.:* 2935–015.

c. *Date Filed:* September 24, 2001.

d. *Applicant:* Enterprise Mill, LLC.

e. *Name of Project:* Enterprise Mill Hydroelectric Project.

f. *Location:* On the Augusta Canal about 6 miles downstream of the Augusta Canal diversion dam, adjacent to the Savannah River, Richmond County, Augusta, GA. The project is one of three hydropower projects located in the Augusta Canal. The project does not affect Federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791 (a)–825(r).

h. *Applicant Contact:* Beth E. Harris, Project Engineer, CHI Energy, Inc., P.O. Box 8597, Greenville, SC 29604, (864) 281–9630.

i. *FERC Contact:* Monte TerHaar, (202) 219–2768 or *monte.terhaar@ferc.fed.us.*

j. Deadline for filing additional study requests: November 26, 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.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time. We are not requesting intervenors to this project at this time.

l. The existing Enterprise Mill Hydroelectric Project consists of: (1) There is no dam or impoundment, as approximately 580 cfs of water is withdrawn from the Augusta Canal when operating at full capacity; (2) two steel sliding, vertical lift intake gates; (3) primary and secondary steel trash racks; (4) two 300-foot-long, 8-foot diameter penstocks; (5) two vertical shaft turbine/generator units with an installed capacity of 1.2 megawatts: (6) an 850-foot-long tailrace returning flow to the Augusta Canal, and (7) appurtenant facilities. The applicant estimates that the annual generation would be between 5,000 and 8,000 megawatthours. Generated power is utilized within the applicant's Enterprise Mill which houses residential and commercial tenants, and excess power will be sold to Georgia Power Company. No new facilities are proposed.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2–A, Washington, DC 20426, or by calling (202) 208–1371. 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, selected ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. With this notice, we are initiating consultation with the *Georgia State Historic Preservation Officer (SHPO)*, as required by § 106, National Historic Preservation Act, and the regulations of the advisory Council on Historic Preservation, 36 CFR 800.4.

o. Procedural schedule and final amendments: The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Notice of application has been accepted for filing
Notice or NEPA Scoping
Notice of application is ready for environmental analysis
Notice soliciting final terms and conditions
Notice of the availability of the draft NEPA document (draft EA)
Notice of the availability of the final NEPA document (final EA)
Order issuing the Commission's decision on the application

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

David P. Boergers,
Secretary.
[FR Doc. 01–25364 Filed 10–9–01; 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

October 3, 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.*: 12115–000.

c. *Date filed*: September 4, 2001

d. *Applicant*: Symbiotics, LLC.

e. *Name of Project*: Wilson.

f. *Location*: On Bilk Creek in San Miguel County, Colorado. The project would occupy lands administered by the State of Colorado and the U.S. Forest Service.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r)

h. *Applicant Contact:* Dr. Vincent Lamarra, Director, Ecosystems Research Institute, Inc., 975 South State Highway, Logan, UT 84321, (435) 752–2580, fax (435) 752–2581.

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, N.E. Washington, D.C. 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 (12115–000) on any comments, protests, or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project*: The proposed project would operate in run-of-river mode and consist of: (1) a proposed concrete diversion dam 10-feet-high, and 75-feet-crest-length, (2) a proposed 60-inch steel penstock approximately 7,350 feet long, (3) a proposed powerhouse containing four turbines with a total installed capacity of 20 MW, (4) a proposed switchyard, (5) approximately three miles of proposed 25kV transmission line, and (6) appurtenant facilities.

The project would have an estimated annual generation of 100 GWH.

l. Copies of this filing are on file with the Commission and are available for public inspection. 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 ''Docketı'' and follow the instructions (call 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, N.E.,Washington, D.C. 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

s. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,
Secretary.

[FR Doc. 01–25365 Filed 10–9–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Meeting

October 4, 2001.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: October 11, 2001, 10:00 a.m.

PLACE: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*** Note:** ITEMS listed on the Agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone, (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This Is a List of Matters To Be Considered by the Commission. It Does Not Include a Listing of All Papers Relevant to the Items on the Agenda; However, All Public Documents May Be Examined in the Reference and Information Center.

776th—Meeting October 11, 2001, Regular Meeting, 10:00 a.m.

Markets, Tariffs and Rates—Gas

G–1.
Docket# GX01–1, 000, Discussion of Gas Pipeline Operational Flow Orders
G–2.
Docket# RP96–312, 057, Tennessee Gas Pipeline Company
Other#s GT01–34, 000, Tennessee Gas Pipeline Company
G–3.
Docket# PR01–15, 000, Green Canyon Pipe Line Company, L.P.
G–4.
Docket# PR01–10, 000, Bay Gas Storage Company, Ltd.
G–5.
Docket# RP00–479, 000, Trailblazer Pipeline Company
Other#s RP00–624, 000, Trailblazer Pipeline Company
G–6.
Docket# RP00–343, 000, Kinder Morgan Interstate Gas Transmission, LLC
Other#s RP00–343, 001, Kinder Morgan Interstate Gas Transmission, LLC
RP00–343, 003, Kinder Morgan Interstate Gas Transmission, LLC
RP00–629, 000, Kinder Morgan Interstate Gas Transmission, LLC
G–7.
Docket# RP01–445, 000, Trunkline LNG Company
Other#s RP01–445, 001, Trunkline LNG Company
G–8.
Docket# RP01–258, 000, Transcontinental Gas Pipe Line Corporation
Other#s RP01–258, 001, Transcontinental Gas Pipe Line Corporation
G–9.
Docket# RP01–387, 000, Texas Eastern Transmission, L.P.
G–10.
Docket# RP01–397, 000, Great Lakes Gas Transmission Limited Partnership
G–11.
Docket# RM01–9, 001, Report of Natural Gas Sales to the California Market
G–12.
Docket# RP01–458, 001, Tennessee Gas Pipeline Company
G–13.
Docket# RP01–477, 002, TransColorado Gas Transmission Company
Other#s RP01–477, 001, TransColorado Gas Transmission Company
G–14.
Docket# IS01–444, 002, Conoco Pipe Line Company
Other#s IS01–445, 002, Conoco Pipe Line Company
G–15.
Docket# RP01–382, 004, Northern Natural Gas Company
Other#s RP01–382, 005, Northern Natural Gas Company
RP01–382, 003, Northern Natural Gas Company
G–16
Docket# MG01–21, 001, National Fuel Gas Supply Corporation
G–17.
Docket# RP95–197, 037, Transcontinental Gas Pipe Line Corporation
Other#s RP97–71, 014, Transcontinental Gas Pipe Line Corporation
G–18.
Docket# RP00–395, 001, Panhandle Eastern Pipe Line Company

Other#s RP96–348, 000, Panhandle Eastern Pipe Line Company
RP00–395, 000, Panhandle Eastern Pipe Line Company
RP00–613, 000, Panhandle Eastern Pipe Line Company

G–19.
Docket# OR96–2 *et al.,* 000, ARCO Products Company, *et al.*

G–20.
Docket# OR01–8, 000, ARCO, a subsidiary of BP America, Inc. v. Calnev Pipe Line, L.L.C.

G–21.
Docket# RM96–1, 019, Standard for Business Practices of Interstate Natural Gas Pipelines
Other#s RM98–10, 008, Regulation of Short-Term Natural Gas Transportation Services
RM98–12, 008, Regulation of Interstate Natural Gas Transportation Services

G–22.
Docket# GX01–2, 000, Discussion of Efficient and Effective Collection of Data

Administrative Agenda

A–1.
Reserved

Miscellaneous Agenda

M–1.
Reserved

Markets, Tariffs and Rates—Electric

E–1.
Docket# EX01–5, 000, Discussion of Generation Interconnection

E–2.
Docket# EL01–118, 000, Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations

E–3.
Omitted

E–4.
Omitted

E–5.
Docket# ER01–1136, 002, Ameren Services Company
Other#s ER01–1136, 001, Ameren Services Company
ER01–1136, 000, Ameren Services Company

E–6.
Docket# ER01–2130, 000, Central Maine Power Company
Other#s ER01–2130, 001, Central Maine Power Company

E–7.
Docket# ER01–2584, 000, Northeast Utilities Service Company

E–8.
Omitted

E–9.
Docket# ER98–1438, 000, Midwest Independent Transmission System Operator, Inc.
Other#s EC98–24, 000, The Cincinnati Gas & Electric Company, Commonwealth Edison Company, Commonwealth Edison Company of Indiana, Illinois Power Company, PSI Energy, Inc., Wisconsin Electric Power Company, Union Electric Company, Central Illinois Public Service Company, Louisville Gas & Electric Company, Louisville Gas & Electric Company and Kentucky Utilities Company
ER98–1438, 006, Midwest Independent Transmission System Operator, Inc.
ER98–1438, 007, Midwest Independent Transmission System Operator, Inc.
ER01–479, 000, Midwest Independent Transmission System Operator, Inc.
ER01–479, 001, Midwest Independent Transmission System Operator, Inc.

E–10.
Docket# EC01–127, 000, Holyoke Water Power Company and Holyoke Power and Electric Company
Other#s ER01–2620, 000, Holyoke Water Power Company and Holyoke Power and Electric Company
ER01–2611, 000, Holyoke Water Power Company and Holyoke Power and Electric Company

E–11.
Docket# EC01–115, 000, E.ON AG and Powergen plc, LG&E Energy Corporation, Louisville Gas and Electric Company and Kentucky Utilities Company

E–12.
Docket# ER01–2189, 002, Mid-Continent Area Power Pool

E–13.
Docket# EL01–47, 006, Removing Obstacles to Increased Electric Generation and Natural Gas Supply in the Western United States

E–14.
Docket# ES01–40, 001, Golden Spread Electric Cooperative, Inc.

E–15.
Docket# ER01–1807, 002, Carolina Power & Light Company and Florida Power Corporation
Other#s ER01–2020, 001, Carolina Power & Light Company and Florida Power Corporation

E–16.
Docket# EL01–45, 004, Consolidated Edison Company of New York, Inc.
Other#s ER01–1385, 002, Consolidated Edison Company of New York, Inc.

E–17.
Docket# NJ01–5, 001, Southwest Transmission Cooperative, Inc.

E–18.
Docket# EL01–99, 000, Bangor Hydro-Electric Company

E–19.
Docket# EL00–89, 000, Southern California Edison Company

E–20.
Docket# EL99–65, 000, Sithe/Independence Power Partners v. Niagara Mohawk Power Corporation
Other#s EL99–65, 002, Sithe/Independence Power Partners v. Niagara Mohawk Power Corporation
EL99–65, 001, Sithe/Independence Power Partners v. Niagara Mohawk Power Corporation
EL95–38, 002, Sithe/Independence Power Partners v. Niagara Mohawk Power Corporation

E–21.
Omitted

E–22.
Omitted

E–23.
Omitted

E–24.
Docket# ER01–2903, 001, Tenaska Gateway Partners, Ltd.
Other#s ER00–2998, 001, Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.

Energy Projects—Hydro

H–1.
Docket# P–2188, 054, PP&L Montana, LLC

H–2.
Docket# P–710, 013, Wisconsin Power and Light Company and Wolf River Hydro Limited Partnership

H–3.
Docket# P–137, 027, Pacific Gas and Electric Company
Other#s P–137, 002, Pacific Gas and Electric Company

H–4.
Omitted

H–5.
Docket# P–2216, 046, New York Power Authority

Energy Projects—Certificates

C–1.
Docket# CP01–80, 000, East Tennessee Natural Gas Company

C–2.
Docket# CP01–358, 000, NUI Corporation/NUI Utilities, Inc. and C&T Enterprises, Inc/Valley Energy, Inc.

C–3.
Docket# CP01–76, 000, Cove Point LNG Limited Partnership
Other#s CP01–77, 000, Cove Point LNG Limited Partnership
CP01–156, 000, Cove Point LNG Limited Partnership
RP01–217, 000, Cove Point LNG Limited Partnership

C–4.
Docket# CP01–416, 000, Sierra Production Company

C–5.
Docket# CP93–253, 004, El Paso Natural Gas Company

C–6.
Docket# CP95–202, 001, Venice Gathering Company and Venice Energy Services
Other#s CP97–533, 001, Chevron U.S.A. Inc., Venice Gathering Company, Venice Energy Services Company and Venice Gathering System, L.L.C.
CP97–533, 002, Chevron U.S.A. Inc., Venice Gathering Company, Venice Energy Services Company and Venice Gathering System, L.L.C.
CP97–533, 003, Chevron U.S.A. Inc., Venice Gathering Company, Venice Energy Services Company and Venice Gathering System, L.L.C.
CP97–534, 001, Chevron U.S.A. Inc., Venice Gathering Company, Venice Energy Services Company and Venice Gathering System, L.L.C.
CP97–535, 001, Chevron U.S.A. Inc., Venice Gathering Company, Venice Energy Services Company and Venice Gathering System, L.L.C.

CP97–754, 001, Samedan Oil Corporation v. Venice Gathering System, L.L.C.

C–7.

Docket# CP96–711, 002, Discovery Producer Services LLC

Other#s CP96–712, 004, Discovery Gas Transmission LLC

CP96–719, 002 Discovery Gas Transmission LLC

C–8.

Docket# CP00–233, 005, Southern Natural Gas Company

C–9.

Docket# RM99–5, 004, Regulations Under the Outer Continental Shelf Lands Act Governing the Movement of Natural Gas and Facilities on the Outer Continental Shelf

David P. Boergers,

Secretary.

[FR Doc. 01–25481 Filed 10–5–01; 11:34 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7077–6]

EPA Science Advisory Board; Notice: Particulate Matter (PM) Centers Interim Assessment Panel; Request for Nominations

ACTION: Notice.

Request for nominations to serve on the Particulate Matter (PM) Centers Interim Assessment Panel of the U. S. Environmental Protection Agency's Science Advisory Board.

SUMMARY: The U.S. Environmental Protection Agency's (EPA) Science Advisory Board (SAB) is announcing the formation of a Particulate Matter (PM) Centers Interim Assessment Panel (PMCIAP) and is soliciting nominations of qualified individuals to serve on this Panel. The SAB was established to provide independent scientific and technical advice to the EPA Administrator on Agency positions; in this case. advice on the utility of the PM Research Centers as a mechanism for supporting scientific research in PM.

Any interested person or organization may nominate qualified individuals for membership on the PMCIAP. Nominations (preferably in electronic format) should include the individual's name, occupation, position, qualifications to address the issue, and contact information (*i.e.,* telephone number, mailing address, email, and/or Website). To be considered, all nominations must include a current resume (preferably electronic) providing information on the nominee's background, experience, and qualifications.

Background

In 1995 EPA introduced a research grants program (Science To Achieve Results (STAR)) focused on targeted, investigator-initiated, peer-review-competed grants. Subsequent experience suggested that there could be substantial benefits gained by investing some resources in larger, more coordinated grants to ''research centers'' that would focus the combined efforts of a group of researchers on closely related problems. The PM Centers were funded in 1999 for a five year period and thus, are in the middle of their grants. Although two and a half years of the PM Centers program is not sufficient time to evaluate fully its merits, the Agency is seeking an interim assessment of the PM centers concept that will help the Agency as it formulates its future research funding plans. It is for this purpose of providing interim advice on the effectiveness of the PM centers concept as a research mechanism that the SAB Panel is being convened.

The SAB is negotiating a specific Charge to guide the PM Centers assessment. The specific questions that constitute the Charge provide general guidance to the nominators about the technical qualifications of individuals who are being sought to carry out the work of the PMCIAP. We anticipate that the PMCIAP will contain experts who have proven knowledge of PM research issues and/or knowledge of various research mechanisms and methodologies that are relevant to the Agency's PM program. The current version of the Charge follows, although details of the Charge may change as a result of ongoing discussions between the Agency and the Panel. Updates will be posted on the SAB Website: *www.epa.gov/sab.*

Draft Charge

Overall Objective

To assess the value-added nature of a PM Centers research program.

Overall Charge Question

Based on progress to date, should a PM research program be undertaken beyond 2004? In which areas, to what extent, and for what reasons is a PM Centers program beneficial? Identify specific areas in which the program could be improved.

Specific Charge Questions

1. Recognizing the PM Centers program is barely at its halfway point, what important research findings (or promising investigations) have been made that would not have occurred otherwise? What unique aspect(s) of a Centers program enabled such actions to be taken?

2. To what extent has the direction or focus of research shifted as a result of the multi-disciplinary interactions within the Center (i.e., findings in one department influence researchers in another to change direction or emphasis)? To what extent have changes in research direction or emphasis been influenced by Science Advisory Committee reviews, interactions with other PM Centers, or interactions with the broader PM research community? Which factors have been most influential?

3. How successful are Centers in communicating their findings to the public and specifically, to those who directly use their research? Is it clear that the work has been supported by the PM Centers program?

4. How, if at all, does a PM research centers program facilitate agreement or consensus on protocols or procedures to enable more direct comparison of results among research institutions or centers?

5. How, if at all, does a PM research centers program leverage or maximize use of resources through sharing expensive equipment, samples, data, etc.?

6. How is the program perceived within and outside the research community? Does a research center have greater visibility, and if so, what is the impact?

Any interested person or organization may nominate qualified individuals for membership on the Panel. Nominations should include the individual's name, occupation, position, qualifications to address the issue, and contact information (i.e., telephone number, mailing address, and email and/or Website). To be considered, all nominations must include a current resume (preferably electronic), providing the nominee's background, experience, and qualifications.

Nominations should be submitted (preferably in electronic format) to Dr. Donald G. Barnes, Designated Federal Officer, EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, telephone (202) 564–4533; FAX (202) 501–0323; e-mail at *barnes.don@epa.gov* no later than October 19, 2001, 2001. The Agency will not necessarily formally acknowledge or respond to nominations.

The nominations received through this solicitation will be combined with nominations obtained through other sources; e.g., the Agency, SAB members, and particular organizations. From this larger group of nominees (termed the ''WIDECAST''), a smaller subset (the ''NARROWCAST'') will be identified for more detailed consideration. The names of the NARROWCAST individuals, along with a short biosketch of each, will be posted on the SAB Website (*www.epa.gov/sab*), and public comments requested on the individual's expertise, real and perceived conflict-of-interest, and the overall balance of possible biases represented on the PMCIAP. Public reaction to the NARROWCAST candidates will be considered in the selection of the PMCIAP. Other selection criteria include the following: recognized expertise to address the Charge, ability to participate in an impartial and objective manner; and the need for balance among the members of the panelists.

PMCIAP members will be asked to attend at least one public meeting, possibly followed by a public teleconference meeting over the anticipated 3-month course of the activity. The Executive Committee (EC) of the SAB will critically review the PMCIAP's report and reach a judgement about its transmittal to the Administrator.

General Information

Additional information concerning the Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in the Science Advisory Board FY2000 Annual Staff Report which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256.

Dated: September 26, 2001.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 01–25413 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7707–7]

Clean Air Act Advisory Committee; Notice of Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The Environmental Protection Agency (EPA) established the Clean Air Act Advisory Committee (CAAAC) on November 19, 1990, to provide independent advice and counsel to EPA on policy issues associated with implementation of the Clean Air Act of 1990. The Committee advises on economic, environmental, technical scientific, and enforcement policy issues.

Open Meeting Notice: Pursuant to 5 U.S.C. App.2 section 10 (a) (2), notice is hereby given that the Clean Air Act Advisory Committee will hold its next open meeting on Tuesday, November 6, 2001, from approximately 8:30 a.m. to 3:30 p.m. at the Renaissance Mayflower Hotel, 1127 Connecticut Avenue, N.W., Washington, D.C. Seating will be available on a first come, first served basis. Three of the CAAAC's four Subcommittees (the Linking Energy, Land Use, Transportation, and Air Quality Concerns Subcommittee; the Permits/NSR/Toxics Integration Subcommittee; and the Economics Incentives and Regulatory Innovations Subcommittee) will hold meetings on Monday, November 5, 2001 from approximately 10:00 a.m. to 5:00 p.m. at the Renaissance Mayflower Hotel, the same location as the full Committee. The Energy, Clean Air and Climate Change Subcommittee will not meet at this time. The Linking Energy, Land Use, and Transportation, and Air Quality Concerns Subcommittee is scheduled to meet from 10:00 a.m. to 12:00 noon; the Economic Incentives and Regulatory Innovations Subcommittee is scheduled to meet from 12:30 p.m. to 3:00 p.m.; and the Permits/NSR/Toxics Subcommittee is scheduled to meet from 3:00 p.m. to 5:00 p.m.

Inspection of Committee Documents: The Committee agenda and any documents prepared for the meeting will be publicly available at the meeting. Thereafter, these documents, together with CAAAC meeting minutes, will be available by contacting the Office of Air and Radiation Docket and requesting information under docket item A–94–34 (CAAAC). The Docket office can be reached by telephoning 202–260–7548; FAX 202–260–4400.

FOR FURTHER INFORMATION: concerning this meeting of the full CAAAC, please contact Paul Rasmussen, Office of Air and Radiation, US EPA (202) 564–1306, FAX (202) 564–1352 or by mail at US EPA, Office of Air and Radiation (Mail code 6102 A), 1200 Pennsylvania Avenue, N.W. Washington, D.C. 20004. For information on the Subcommittee meetings, please contact the following individuals: (1) Permits/NSR/Toxics Integration—Debbie Stackhouse, 919–541–5354; and (2) Linking Transportation, Land Use and Air Quality Concerns—Robert Larson, 734–214–4277; and (3) Economic Incentives and Regulatory Innovations—Carey Fitzmaurice, 202–564–1667.

Additional information on these meetings and the CAAAC and its Subcommittees can be found on the CAAAC Web Site: *www.epa.gov/oar/caaac/.*

Dated: October 2, 2001.

Robert D. Brenner,

Principal Deputy Assistant Administrator for Air and Radiation.

[FR Doc. 01–25414 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7076–9]

Notice of Open Meeting, Environmental Financial Advisory Board Workshop on Environmental Management Systems, November 8, 2001

The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold an open meeting of its Cost-Effective Environmental Management Workgroup on November 8, 2001. The meeting will be held at EPA's Historic Great Hall at the Ariel Rios Building North, 3rd Floor, 12th Street & Pennsylvania Avenue, NW in Washington, DC. The meeting will begin at 9 in the morning and end at approximately 3 in the afternoon.

The purpose of the meeting is for the EFAB to collect information and ideas with respect to the linkage—both real and potential—between the implementation of Environmental Management Systems (EMS) and EMS certification and financial performance. Information from this meeting will help the Board develop a report with advice and recommendations to EPA.

The meeting will consist of a group of informed panelists from private industry, public utilities, municipalities, as well as the financial services industry, who will share their experience with EMS implementation and improved financial performance.

Please confirm your attendance because of increased security into the building and limited seating. Contact Vanessa Bowie, U.S. EPA, at 202 564–5186 or *bowie.vanessa@epa.gov.*

Dated: October 2, 2001.

Joseph Dillon,

Comptroller.

[FR Doc. 01–25409 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34238; FRL–6775–8]

Organophosphate Pesticides; Availability of Risk Management Decision Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the risk management decision documents for four organophosphate pesticides, ethyl parathion, phorate, phosalone, and temephos . These decision documents have been developed as part of the public participation process that EPA and U.S. Department of Agriculture (USDA) are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Carol Stangel, Special Review and Reregistration Division (7508W), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8007; e-mail address: stangel.carol@epa.gov.

For technical information contact: For questions on the REDs, IREDs or TREDs in this document, contact the appropriate Chemical Review Manager listed in the table in Unit I. of the **SUPPLEMENTARY INFORMATION**.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the risk management decision documents for ethyl parathion, phorate, phosalone, and temephos , including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'', ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**— Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/. In addition, copies of the pesticide risk management decision documents released to the public may also be accessed at http://www.epa.gov/pesticides/reregistration/status.htm .

2. *In person*. The Agency has established an official record for this action under OPP docket control numbers OPP–34171C for ethyl parathion, OPP–34137C for phorate, OPP–34216B for phosalone, and OPP–34147C for temephos. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

For questions on the REDs, IREDs or TREDs in this document, contact the appropriate Chemical Review Manager listed in this table:

Chemical name	Case No.	Chemical Review Manager	Telephone no.	E-mail address
Ethyl Parathion	0155	Laura Parsons	(703) 305–5776	parsons.laura@epa.gov
Phorate	0103	Ben Chambliss	(703) 308–8174	chambliss.ben@epa.gov
Phosalone	0027	John Pates	(703) 308–8195	pates.john@epa.gov
Temephos	0006	Dirk Helder	(703) 305–4610	helder.dirk@epa.gov

II. What Action is the Agency Taking?

EPA has assessed the risks of Ethyl Parathion, Phorate, Phosalone, and Temephos and reached a Reregistration Eligibility Decision (RED), an Interim Reregistration Eligibility Decision (IRED), or a Report on FQPA Tolerance Reassessment Progress and Interim Risk Management Decision (TRED) for each of these organophosphate pesticides.

1. *Ethyl Parathion RED.* All remaining uses of Ethyl Parathion are being voluntarily canceled and phased out during the next few years. Because no uses will remain, Ethyl Parathion will not be included in the cumulative assessment of the organophosphate pesticides.

2. *Phorate IRED.* With the adoption of additional risk mitigation measures, Phorate fits into its own risk cup; its individual, aggregate risks are within acceptable levels.

3. *Phosalone TRED.* With no U.S. registrations and import tolerances only, Phosalone fits into its own risk cup without additional risk mitigation.

4. *Temephos RED.* With risk mitigation measures adopted, Temephos is eligible for reregistration. Because it has no food uses or other uses that result in exposure to children, Temephos will not be included in the cumulative assessment of the organophosphate pesticides.

The risk management decision documents for ethyl parathion, phorate, phosalone, and temephos were made through the organophosphate pesticide pilot public participation process, which increases transparency and maximizes stakeholder involvement in EPA's development of risk assessments and risk management decisions. The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory

Committee (TRAC), which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate pesticide risk assessments and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency and opportunities for stakeholder consultation.

EPA worked extensively with affected parties to reach the decisions presented in the risk management decision documents, which conclude the pilot public participation process for ethyl parathion, phorate, phosalone, and temephos . As part of the pilot public participation process, numerous opportunities for public comment were offered as these risk management decision documents were being developed. The ethyl parathion, phorate, phosalone, and temephos risk management decision documents therefore are issued in final, without a formal public comment period. The docket remains open, however, and any comments submitted in the future will be placed in the public docket.

The risk assessments for ethyl parathion, phorate, phosalone, and temephos were released to the public through the following notices published in the **Federal Register**:

1. Notices for ethyl parathion were published on January 15, 1999 (64 FR 2644) (FRL–6056–9) and March 1, 2000 (65 FR 11050) (FRL–6494–8).
2. Notices for phorate were published on August 12, 1998 (63 FR 43175) (FRL–6024–3) and September 1, 1999 (64 FR 47784) (FRL–6099–9).
3. Notices for phosalone were published on January 12, 2000 (65 FR 1867) (FRL–6486–9) and July 26, 2000 (65 FR 45982) (FRL–6737–3).
4. Notices for temephos were published on September 9, 1998 (63 FR 48213) (FRL–6030–2), December 18, 1998 (63 FR 70126) (FRL–6052–6), and October 6, 1999 (64 FR 54298) (FRL–6387–6).

EPA's next step under FQPA is to complete a cumulative risk assessment and risk management decision for the organophosphate pesticides, which share a common mechanism of toxicity. The interim risk management decision documents on phorate and phosalone cannot be considered final until this cumulative assessment is complete. The ethyl parathion and temephos REDs represent the Agency's final decisions for these pesticides under the organophosphate pesticide review process.

When the cumulative risk assessment for the organophosphate pesticides has been completed, EPA will issue its final tolerance reassessment decision for phorate and phosalone, and further risk mitigation measures may be needed.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: September 26, 2001.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–25264 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34202D; FRL–6779–8]

Organophosphate Pesticides; Availability of Risk Management Decision Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the availability of the risk management decision documents for two organophosphate pesticides, chlorpyrifos-methyl and ethion. These decision documents have been developed as part of the public participation process that EPA and the United States Department of Agriculture (USDA) are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

DATES: The risk management decision documents are available in the OPP docket under docket control number OPP–34202D.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I.C. of **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–34202D for chlorpyrifos-methyl and ethion.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Carol Stangel, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8007; e-mail address: *stangel.carol@epa.gov.*

For technical information contact: For questions on the REDs, IREDs or TREDs in this document, contact the appropriate chemical review manager listed in the table in Unit I. of the **SUPPLEMENTARY INFORMATION.**

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, nevertheless, a wide range of stakeholders will be interested in obtaining the risk management decision documents for chlorpyrifos-methyl and ethion, including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the use of pesticides on food. Since other entities also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet homepage at *http://www.epa.gov/.* On the homepage select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register—**Environmental Documents.'' You can also go directly to the **Federal Register** listings at *http://www.epa.gov/fedrgstr/.* In addition, copies of the pesticide risk management decision documents released to the public may also be accessed at *http://www.epa.gov/pesticides/reregistration/status.htm.*

2. *In person*. The Agency has established an official record for this action under docket control numbers OPP–34202D. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the

documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

For questions on the REDs, IREDs or TREDs in this document, contact the appropriate Chemical Review Manager listed the following table:

Chemical Name	Case No.	Chemical Review Manager	Telephone No.	E-mail Address
Chlorpyrifos-methyl TRED	(None)	Stephanie Nguyen	(703) 605–0702	nguyen.stephanie@epa.gov
Ethion RED	0090	Jill Bloom	(703) 308–8019	bloom.jill@epa.gov

II. What Action is the Agency Taking?

EPA has assessed the risks of chlorpyrifos-methyl and ethion, and reached a Report on FQPA Tolerance Reassessment Progress and Interim Risk Management Decision (TRED) and a Reregistration Eligibility Decision (RED) for these two organophosphate pesticides, respectively.

1. *Chlorpyrifos-methyl TRED.* Initially registered in 1985, chlorpyrifos-methyl is not subject to reregistration but is being evaluated with other organophosphate pesticides under FQPA. An insecticide used on stored grain, chlorpyrifos-methyl has significant data gaps including developmental neurotoxicity studies required for all organophosphate pesticides under FQPA to evaluate their safety to children, and chemical-specific occupational exposure studies. Registrants of chlorpyrifos-methyl have requested voluntary cancellation of their products rather than develop the additional data requested by EPA to complete the toxicology data base. The chlorpyrifos-methyl TRED summarizes EPA's assessment of dietary and occupational risk from exposure to this pesticide, and identifies mitigation measures necessary to address these risks until all uses and registrations are phased out.

2. *Ethion RED.* An organophosphate insecticide, ethion is used primarily to control insects on citrus, mainly oranges and grapefruit in Florida, and also to control flies and ticks on cattle. Ethion has no residential uses, and residues in food are not of concern; however, EPA has risk concerns for workers handling this pesticide, as well as ecological risk concerns. Registrants of ethion have requested voluntary cancellation of their products, rather than committing to develop the additional data requested by EPA to assess risks for reregistration. The ethion RED summarizes EPA's worker and ecological risk conclusions, and identifies mitigation measures necessary to address these risks until all uses and registrations are phased out.

The risk management decisions for chlorpyrifos-methyl and ethion were made through the organophosphate pesticide pilot public participation process, which increases transparency and maximizes stakeholder involvement in EPA's development of risk assessments and risk management decisions. The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998, as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate pesticide risk assessments and risk management decisions. EPA and USDA began implementing this pilot process in August 1998, to increase transparency and opportunities for stakeholder consultation.

EPA worked extensively with affected parties to reach the decisions presented in the risk management decision documents, which conclude the pilot public participation process for chlorpyrifos-methyl and ethion. As part of the pilot public participation process, numerous opportunities for public comment were offered as these risk management decision documents were being developed. The chlorpyrifos-methyl and ethion risk management decision documents therefore are issued in final, without a formal public comment period. The docket remains open, however, and any comments submitted in the future will be placed in the public docket.

The risk assessments for chlorpyrifos-methyl and ethion, were released to the public through the following notices published in the **Federal Register.**

1. Notices for chlorpyrifos-methyl were published on October 6, 1999 (64 FR 54296) (FRL–6387–9), and April 28, 2000 (65 FR 24954) (FRL–6557–2).

2. Notices for ethion were published on August 12, 1998 (63 FR 43175) (FRL–6024–3), and July 14, 1999 (64 FR 37967) (FRL–6091–9).

EPA's next step under FQPA is to complete a cumulative risk assessment and risk management decision for the organophosphate pesticides, which share a common mechanism of toxicity. The risk management decision documents on chlorpyrifos-methyl and ethion, however, represent the Agency's final registration and reregistration eligibility decisions for these pesticides under the organophosphate pesticide review process.

When the cumulative risk assessment for the organophosphate pesticides has been completed, EPA will issue its final tolerance reassessment decision for chlorpyrifos-methyl. Tolerance revocations for ethion will be finalized when the cancellations become effective.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: September 26, 2001.

Lois A. Rossi,

Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 01–25265 Filed 10–9–01; 8:45 a.m.]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7077–3]

Nutrient Criteria Development; Notice of Nutrient Criteria Technical Guidance Manual: Estuarine and Coastal Marine Waters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Nutrient Criteria Technical Guidance Manual: Estuarine and Coastal Marine Waters.

SUMMARY: The Environmental Protection Agency announces the availability of a nutrient criteria technical guidance manual for estuaries and coastal marine waters. This document provides State and Tribal water quality managers and others with guidance on how to develop numeric nutrient criteria for estuaries and coastal marine waters. This document does not contain site-specific numeric nutrient criteria for any estuary or coastal marine water. This guidance was principally developed to assist States and Tribes in their efforts to establish nutrient criteria. States and Tribes are clearly in the best position to consider site-specific conditions in developing nutrient criteria. While this guidance contains EPA's scientific recommendations regarding defensible approaches for developing regional nutrient criteria, this guidance is not regulation; thus it does not impose legally binding requirements on EPA, States, Territories, Tribes, or the public, and might not apply to a particular situation based upon the circumstances. States, Territories, and authorized Tribes retain the discretion to adopt, where appropriate, other scientifically defensible approaches to developing regional or local nutrient criteria that differ from these recommendations.

We have decided to issue technical guidance in a manner similar to that which we are using to issue new and revised criteria (see **Federal Register,** December 10, 1998, 63 FR 68354 and in the EPA document titled, National Recommended Water Quality–Correction EPA 822–Z–99–001, April 1999). Therefore, we invite the public to provide scientific views on this guidance. We will review and consider information submitted by the public on significant scientific issues that might not have otherwise been identified by the Agency during development of this guidance. This guidance has been through external peer review, and a summary of these comments will be available on the Nutrient website within 30 days of this notice (http://www.EPA.gov/OST/standards/nutrient.html). After review of the submitted significant scientific information, we may publish a revised document, or publish a notice indicating its decision not to revise the document.

This document has been prepared for publication by the Office of Science and Technology, Office of Water, U.S. Environmental Protection Agency. Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

DATES: All significant scientific information must be submitted to the Agency by December 10, 2001. Any scientific information submitted should be adequately documented and contain enough supporting information to indicate that acceptable and scientifically defensible procedures were used and that the results are likely reliable.

ADDRESSES: This document contains a summary of the Nutrient Criteria Technical Guidance Manual: Estuarine and Coastal Marine Waters. Copies of the complete document may be obtained from EPA's National Service Center for Environmental Publications (NSCEP) by phone at (513) 489–8190 or toll free (800) 490–9198, or by e-mail to: ncepiwo@one.net, or by conventional mail to 11029 Kenwood Road, Cincinnati, OH 45242. The document is also available electronically at *http://www.epa.gov/OST/standards/nutrient.html.* An original and two copies of written significant scientific information should sent to Robert Cantilli (MC–4304), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Ave., NW , Washington, DC 20460. Written significant scientific information may be submitted electronically in ASCII or Word Perfect 5.1, 5.2, 6.1, 8.0 or 9.0 formats to *OW–General@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. David Flemer, USEPA, Health and Ecological Criteria Division (4304), Office of Science and Technology, Ariel Rios Building, 1200 Pennsylvania Ave., NW, Washington, DC 20460; or call (202) 260–0619; fax (202) 260–1036; or e-mail flemer.david@epa.gov.

SUPPLEMENTARY INFORMATION:

Introduction

On June 25, 1998, the U.S. Environmental Protection Agency presented a National Strategy for the Development of Regional Nutrient Criteria that described the approach the Agency would follow in developing nutrient information and working with States and Tribes to adopt nutrient criteria as part of State/Tribal water quality standards. The stated goal of the strategy was the development of waterbody-type technical guidance and recommended ecoregion-specific nutrient criteria by the year 2000. Once EPA developed waterbody-type guidance and recommended nutrient criteria, EPA would assist States and Tribes in adopting numeric nutrient criteria into water quality standards.

Overview of the Problem

Cultural eutrophication (*i.e.,* that associated with humans) of United States surface waters is a long-standing problem; approximately half of the reported impairments in National waters are attributable to excess nutrients. Nitrogen and phosphorus are the primary cause of eutrophication, and algal blooms are often a response to enrichment. Within estuaries and potentially some coastal marine waters, chronic symptoms of overenrichment include low dissolved oxygen, fish kills, increased sediment accumulation, and species and abundance shifts of flora and fauna. The problem is National in scope, but varies in nature from one region of the country to another due to geographical variations in geology and soil types. For these reasons, EPA has decided to develop its recommend nutrient criteria on a regional basis for use by States and Tribes.

Summary of Nutrient Criteria Technical Guidance Manual for Estuarine and Coastal Marine Waters

EPA initiated the National Strategy to Develop Regional Nutrient Criteria to address enrichment problems. The Nutrient Criteria Technical Guidance Manual: Lakes and Reservoirs, First Edition was the first of a series of waterbody-type specific manuals produced to assist EPA Regions, States, and Tribes in establishing ecoregionally appropriate nutrient criteria. EPA also developed a manual for rivers and streams, and, in addition to today's manual for estuarine and coastal marine waters, is developing a manual for wetlands. EPA expects States and Tribes to use these manuals as the basis for developing State water quality standards for nutrients, to help identify water quality impairments, and to evaluate the relative success in reducing cultural eutrophication. In addition to developing these waterbody-type specific manuals, EPA is developing nutrient criteria guidance under section 304(a) for each of the 14 ecoregions it has identified in the continental United States. EPA expects States and Tribes to use the manuals, other information and local expertise to refine EPA's 304(a) nutrient criteria guidance so that the nutrient water quality criteria eventually adopted by States and Tribes are tailored to more localized conditions. In order to assist States and Tribes in this undertaking, as well as to verify section 304 (a) nutrient criteria guidance, and to provide national consistency wherever possible, EPA has established Regional Technical Assistance Groups (RTAGs). RTAGs are a collection of EPA, State, Tribal representatives who are working together to take EPA's forthcoming section 304(a) nutrient criteria guidance as a starting point to develop more refined ecoregional nutrient criteria. (EPA is also using data and expertise provided by the RTAGs in the development of its section 304(a) nutrient criteria guidance for the 14 ecoregions it has identified.) EPA expects the RTAGs to use the processes set forth in the waterbody-type specific manuals to develop recommended nutrient criteria on an ecoregional basis or a more refined basis (such as subecoregion, coastal province, State or Tribe-level, more defined class of estuary/coastal marine water). Today's manual for estuarine and coastal marine waters also explains how States or Tribes can adopt nutrient water quality standards based on the criteria values recommended by the EPA and/or RTAGs.

The key parameters addressed in Nutrient Criteria Technical Guidance Manual: Estuarine and Coastal Marine Waters are total phosphorus, total nitrogen, algal biomass, and a measure of water clarity, such as Secchi depth. EPA encourages states and tribes to include additional response variables which they consider necessary to protect water quality. These variables may include (but are not limited to) dissolved oxygen, submerged aquatic vegetation, and macrobenthos. As set forth in the manual, the elements that EPA expects States and Tribes to consider in developing a nutrient criterion are:

(1) historical data and other information to establish perspective;

(2) current or historical reference site information;

(3) models used to simulate or validate the empirical relationships established between causal (nutrients) and response (biological indicators) variables; and

(4) evaluation of downstream consequences before finalizing criteria values.

EPA also expects the States or Tribes (or the RTAG when developing criteria guidance) to use their best professional judgement when examining the information and establishing criteria.

EPA expects the criteria development and implementation process (undertaken by EPA, the RTAGs and others) to proceed as follows:

- Data acquisition and review, as well as additional data gathering and processing methods.
- Classification of the estuarine and coastal waters by physical characteristics.
- Reference site selection and data reduction to identify current or historical reference conditions.
- Development of defensible nutrient criteria, verified by an RTAG and evaluated for potential downstream effects.
- Adoption of nutrient criteria by States and Tribes into their water quality standards, ideally taking into account the reference condition data and designated uses.
- Implementation of EPA-approved nutrient criteria by EPA, States, and Tribes to identify areas of water quality impairment due to nutrients and to respond appropriately.

These subjects are described in detail in the Nutrient Criteria Technical Guidance Manual: Estuarine and Coastal Marine Waters.

The manual concludes with chapters describing data models and management options that actively protect or restore estuarine and coastal marine waters. Case histories illustrating nutrient criteria development experiences are appended with the names of individual specialists to contact for more information.

The Nutrient Criteria Technical Guidance Document: Estuarine and Coastal Marine Waters that is being announced in this Notice was developed after consideration of peer review comments provided by a panel of five external reviewers.

Dated: September 18, 2001.

Geoffrey H. Grubbs,

Director, Office of Science and Technology.

[FR Doc. 01–25415 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7076–8; CWA–HQ–2001–6022; RCRA–HQ–2001–6022; CAA–HQ–6022]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding Standard Steel, a Division of Freedom Forge Corporation; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: On September 27, 2001, EPA published in the **Federal Register**, (66 FR 49379) information concerning a proposed settlement with Standard Steel, a Division of Freedom Forge Corporation (''Standard Steel'.) The purpose of this correction is to provide additional information about this settlement and to offer interested parties the opportunity to comment on all aspects of this consent agreement and proposed final order. This correction does not extend the public comment period beyond the date included in the original notice.

EPA has entered into a consent agreement with Standard Steel, a Division of Freedom Forge Corporation, to resolve violations of the Clean Water Act (''CWA''), Resource Conservation and Recovery Act (''RCRA''), Clean Air Act (''CAA''), and their implementing regulations. Standard Steel failed to prepare a complete Spill Prevention Control and Countermeasure (''SPCC'') plan, failed to provide secondary containment, and failed to complete and maintain certification forms for two facilities where it stored oil or oil products in above ground tanks. Standard Steel failed to meet all requirements of its General Permit as required by its National Pollutant Discharge Elimination System (NPDES) permit for one facility. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), and CWA section 309(g), 33 U.S.C. 1319(g), has assessed a civil penalty for these violations. The Administrator, as required by CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C), and CWA section 309(g)(4)(A), 33 U.S.C. 1319(g)(4)(A), is hereby providing public notice of, and an opportunity for interested persons to comment on, this consent agreement and proposed final order. EPA is also providing public notice of, and opportunity for interested parties to comment on, the CAA and RCRA portions of this consent agreement.

Standard Steel failed to meet all requirements of its Title V Operating Permit at one facility by (1) Failing to timely submit its first semi-annual monitoring report; (2) failing to conduct weekly inspections for fugitive emissions and odors; (3) failing to monitor and record the pressure drop at particulate matter control devices on a weekly basis; (4) failing to maintain a log of odorous air contaminants, visible emissions and fugitive visible emission exceedances; and (5) failing to maintain a monthly record of emissions of nitrogen oxides and volatile organic compounds. EPA, as authorized by CAA section 113(d)(1), 42 U.S.C. 7413(d)(1), has assessed a civil penalty for these violations.

Standard Steel failed to conduct weekly inspections of its Electric Arc Furnace (''EAF'') dust storage area, and failed to conduct annual hazardous waste training and maintain records of such training. Standard Steel failed to develop and implement a universal waste management program. EPA, as authorized by RCRA section 3008(a)(3), 42 U.S.C. 6928(a)(3), has assessed a civil penalty for these violations.

DATES: Comments are due on or before October 29, 2001.

ADDRESSES: Mail written comments to the Enforcement & Compliance Docket and Information Center (2201A), Docket Number EC–2001–006, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Mail Code 2201A, Washington, DC 20460. (Comments may be submitted on disk in WordPerfect 8.0 or earlier versions.) Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW., Washington, DC. Submit comments electronically to *docket.oeca@epa.gov.* Electronic comments may be filed online at many Federal Depository Libraries.

The consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. 4033, Ariel Rios Bldg., 1200 Pennsylvania Avenue, NW., Washington, DC. Persons interested in reviewing these materials must make arrangements in advance by calling the docket clerk at 202–564–2614. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Beth Cavalier, Multimedia Enforcement Division (2248–A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone (202) 564–3271; fax: (202) 564–9001; e-mail: cavalier.beth@epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Copies

Electronic copies of this document are available from the EPA Home Page under the link ''Laws and Regulations'' at the **Federal Register**—Environmental Documents entry (http://www.epa.gov/fedrgstr).

I. Background

Standard Steel, a Division of Freedom Forge Corporation, is an iron and steel minimill incorporated in the State of Delaware and located at 500 North Walnut Street, Burnham, Pennsylvania 17009, and at 107 Gertrude Street, Latrobe, Pennsylvania 15650. Standard Steel disclosed, pursuant to the EPA ''Incentives for Self-Policing: Discovery, Disclosures, Correction and Prevention of Violations'' (''Audit Policy''), 65 FR 19618 (April 11, 2000), that it failed to prepare complete SPCC plans for two facilities where it stored oil and oil products in above ground storage tanks, in violation of the CWA section 311(b)(3) and 40 CFR part 112. Standard Steel disclosed that it had not completed and maintained at the facility the certification form contained in appendix C to 40 CFR 112.20(e) in violation of the CWA section 311(b)(3) and 40 CFR part 112. Standard Steel disclosed that it had failed to meet all requirements of its NPDES General Permit. Standard Steel failed to conduct an annual site storm water compliance evaluation and failed to update documents relating to the facility's method to control storm water discharges, failed to update the emergency coordinator list, and failed to maintain a discharge certification and authorization to commit resources at one facility in violation of CWA sections 1311(a), and 402(a) and (p) and 40 CFR part 122. Standard Steel disclosed that it had failed to meet all requirements of its Title V permit by failing to (1) Timely submit its first semi-annual monitoring report; (2) monitor and record the pressure drop at particulate matter control devices on a weekly basis; (3) maintain a monthly record of emissions of nitrogen oxides and volatile organic compounds, based on a twelve month rolling total; (4) conduct weekly inspections for fugitive emissions and odors; and (5) maintain a log of odorous air contaminants, visible emissions, and fugitive visible emissions, in violation of 25 Pa. Code sections 127.511 and 127.441 and 40 CFR 70.4(b)(3)(ii). Standard Steel disclosed that it had failed to conduct weekly inspections of its EAF dust storage area, as required by 25 Pa. Code section 265(a).174 and 40 CFR 265.174, (referencing 25 Pa. Code section 262a.34a, and 40 CFR 262.34a). Standard Steel disclosed that it had failed to conduct annual hazardous waste training, and maintain records of such training, as required by 25 Pa. Code section 265a.16 and 40 CFR 265.16, (referencing 25 Pa. Code 262a.34a, and 40 CFR 262.34a.). Standard Steel disclosed that it had failed to develop and implement a universal waste management program, in accordance with the requirements found at 25 Pa. Code section 266b, and 40 CFR part 273.

EPA determined that Standard Steel met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty. As a result, EPA waived the gravity based penalty ($275,136) and proposed a settlement penalty amount of fourteen thousand, three hundred and fifty dollars ($14,350.00). This is the amount of the economic benefit gained by Standard Steel, attributable to its delayed compliance with the SPCC regulations and General Permit conditions, Title V permit conditions, and RCRA hazardous waste regulations. Standard Steel has agreed to pay this amount in civil penalties. EPA and Standard Steel negotiated and signed an administrative consent agreement, following the Consolidated Rules of Procedure, 40 CFR 22.13, on September 12, 2001 *(In Re: Standard Steel, a Division of Freedom Forge*, Docket No. CWA–HQ–2001–6022). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. 1321(b)(6) and CWA section 309(g)(4)(A), 33 U.S.C. 1319(g)(4)(A). EPA is expanding this opportunity for public comment to all other aspects of this consent agreement.

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321 (b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311 (b)(3), 33 U.S.C. 1321 (b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311 (j), 33 U.S.C. 1321(j), may be assessed an administrative civil penalty of up to $137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR part 22.

Under CWA section 309(g)(1)(A), 33 U.S.C. 1319 (g)(1)(A), any person found in violation of any permit condition or limitation implementing any of such sections in a permit issued under the CWA section 402(a), 33 U.S.C. 1342, or the CWA section 301(a), 33 U.S.C. 1311(a), may be assessed an administrative civil penalty of up to $125,000 by EPA. Class II proceedings under CWA section 309(g)(1)(A) are conducted in accordance with 40 CFR part 22.

Under RCRA section 3008(a), 42 U.S.C. 6928(a), any person found in violation of any requirement of this subchapter may be issued an order assessing a civil penalty for any past or current violation, and/or requiring compliance immediately or within a specified time period. Proceedings under RCRA section 3008(a) are conducted in accordance with 40 CFR part 22.

Under CAA section 113(d), the Administrator may issue an administrative order assessing a civil penalty against any person who has violated an applicable implementation plan or any other requirement of the Act, including any rule, order, waiver, permit or plan. Proceedings under CAA section 113(d) are conducted in accordance with 40 CFR part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is October 29, 2001. All comments will be transferred to the Environmental Appeals Board (''EAB'') of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.04(a).

Pursuant to CWA section 311(b)(6)(C) and CWA section 309(g)(4)(A), EPA will not issue an order in this proceeding prior to the close of the public comment period.

Dated: October 1, 2001.

David A. Nielsen,

Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 01–25412 Filed 10–9–01; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on October 11, 2001, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

1. September 13, 2001 (Open)
2. September 27, 2001 (Open)

B. Report

—Corporate Approvals Report

C. New Business—Regulation

—National Charters—12 CFR parts 611, 618, and 620 (Final)

Dated: October 5, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01–25539 Filed 10–5–01; 2:20 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA–01–2112]

Public Safety 700 MHz Band—Changes to Regional Planning Boundaries

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document, released by the Commission's Wireless Telecommunications Bureau (''WTB''), accepts and approves the decisions of Connecticut and Michigan to ''opt out'' of their assigned planning regions for purposes of the regional planning process established by the Commission for the General Use channels in the 700 MHz public safety band. The intended effect of this document is to provide interested persons with notice of the WTB's actions and the specific ''opt out'' decisions made by Connecticut and Michigan.

ADDRESSES: The complete text of this Public Notice, including the attachment, is available for inspection and copying during regular business hours at the FCC Reference Center, Portals II, 445—12th Street, S.W., Room CY–A257, Washington, D.C., 20554. It also may be purchased from the Commission's duplicating copy contractor, Qualex International, Portals II, 445—12th Street, S.W., Room CY–B402, Washington, D.C. 20554. The full text of the Public Notice including the attachment is available online at www.fcc.gov/Bureaus/Wireless/Public_Notices/2001/da012112.doc.

FOR FURTHER INFORMATION CONTACT: Bert Weintraub, Public Safety and Private Wireless Division, WTB, at (202) 418–0680 or by e-mail: *publicsafety@fcc.gov*. Alternative formats of this Public Notice are available to persons with disabilities by contacting Martha Contee at (202) 418–0260 or TTY (202) 418–2555.

SUPPLEMENTARY INFORMATION: Following is a summary of Public Notice, DA 01–2112 (rel. Sept. 10, 2001). In 1998, the FCC decided that the 700 MHz regional planning committees would be based on the same fifty-five planning regions used in the 800 MHz band. The FCC, however, also decided to allow states or territories not in regions defined by state boundaries to ''opt out'' of their existing regions to form or join a planning region that corresponds with their state's boundaries. *See* First Report and Order and Third Notice of Proposed Rulemaking, WT Docket No. 96–86, 63 FR 58645 (Nov. 2, 1998). The deadline date for reporting ''opt out'' decisions was July 2, 2001. *See* Public Notice, 66 FR 13739 (Mar. 7, 2001), and Second Memorandum Opinion and Order, WT Docket No. 96–86, 65 FR 53641 (Sept. 5, 2000). (Pursuant to timely filed requests, however, the deadline date was extended until November 2, 2001, and January 2, 2002, for the 700 MHz Public Safety Band Region 42 RPC and the 700 MHz Public Safety Band Region 8 RPC, respectively.)

Connecticut was eligible to ''opt out'' because it was part of Region 8 and Region 19; Michigan was eligible to ''opt out'' because it comprised Region 21 and part of Region 54. The Public Notice announces the WTB's acceptance and approval of the Connecticut and Michigan decisions and it includes an attachment setting forth the 700 MHz planning regions as modified as a result of these ''opt out'' decisions. The attachment also corrects several typographical errors/omissions that appeared on earlier versions of the list of planning regions.

Federal Communications Commission.

D'wana R. Terry,

Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 01–25306 Filed 10–9–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Network Reliability and Interoperability Council

AGENCY: Federal Communications Commission.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice advises interested persons of the fifth meeting of the Network Reliability and Interoperability Council (Council) under its charter renewed as of January 6, 2000.

DATES: Tuesday, October 30, 2001 at 10:00 a.m. to 1:00 p.m.

ADDRESSES: Federal Communications Commission, 445 12th St. S.W. Room TW–C305, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Kent R. Nilsson at 202–418–0845 or TTY 202–418–2989.

SUPPLEMENTARY INFORMATION: The Council was established by the Federal Communications Commission to bring together leaders of the telecommunications industry and telecommunications experts from academic, consumer and other organizations to identify and recommend measures that would enhance network reliability.

At the October 30, 2001 meeting, the Council will receive reports on, and discuss, the progress of its focus groups: Network Reliability, Wireline Spectrum Management and Integrity, and Interoperability. The Council will also discuss actions that were taken to restore communications in the aftermath of the terrorist attacks on the World Trade Center and the Pentagon on September 11, 2001. The Council may also discuss such other matters as come before it at this meeting. Members of the general public may attend the meeting. The Federal Communications Commission will attempt to accommodate as many people as possible. Admittance, however, will be limited to the seating available. The public may submit written comments before the meeting to Kent Nilsson, the Commission's Designated Federal Officer for the Network Reliability and Interoperability Council, by email (*knilsson@fcc.gov*) or U.S. mail (7–B452, 445 12th St. S.W., Washington, D.C. 20554). Real Audio and streaming video access to the meeting will be available at *http://www.fcc.gov/*.

Federal Communications Commission.

Kent Nilsson,

Acting Chief, Network Technology Division, Office of Engineering and Technology.

[FR Doc. 01–25357 Filed 10–9–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

October 4, 2001.

Open Commission Meeting, Thursday, October 11, 2001

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, October 11, 2001, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street SW., Washington, DC.

Item No.	Bureau	Subject
1	Common Carrier	Title: Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers (CC Docket No. 00–256); Federal-State Joint Board on Universal Service (CC Docket No. 96–45); Access Charge Reform for Incumbent Local Exchange Carriers Subject to Rate-of-Return Regulation (CC Docket No. 98–77); and Prescribing the Authorized Rate of Return for Interstate Services of Local Exchange Carriers (CC Docket No. 98–166). Summary: The Commission will consider a Second Report and Order and Further Notice of Rule Making in CC Docket No. 00–256, a Fifteenth Report and Order in CC Docket No. 96–45, and a Report and Order in CC Docket Nos. 98–77 and 98–166 concerning interstate access charge and universal service reform for incumbent local exchange carriers subject to rate-of-return regulation, alternative forms of regulation for such carriers, pricing flexibility, and the ''all-or-nothing'' rule.
2	Common Carrier	Title: 2000 Biennial Regulatory Review—Comprehensive Review of the Accounting Requirements and ARMIS Reporting Requirements for Incumbent Local Exchange Carriers: Phase 2 (CC Docket No. 00–199); Amendment to the Uniform System of Accounts for Interconnection (CC Docket No. 97–212); Jurisdictional Separations Reform and Referral to the Federal-State Joint Board (CC Docket No. 80–286); and Local Competition and Broadband Reporting (CC Docket No. 99–301). Summary: The Commission will consider a Report and Order in CC Docket Nos. 00–199, 97–212, and 80–286 and a Further Notice of Proposed Rulemaking in CC Docket Nos. 00–199, 99–301 and 80–286 concerning streamlining and modifying the accounting rules and reporting requirements for incumbent local exchange carriers.
3	Mass Media	Title: Ancillary or Supplementary Use of Digital Television Capacity by Noncommercial Licensees (MM Docket No. 98–203). Summary: The Commission will consider a Report and Order concerning issues related to the ability of noncommercial educational (NCE) television stations to use excess capacity on their digital television (DTV) channels for commercial purposes.
4	Cable Services	Title: Implementation of the Cable Television Consumer Protection and Competition Act of 1992; Development of Competition and Diversity in Video Programming Distribution: Section 628(c)(5) of the Communications Act: Sunset of Exclusive Contract Prohibition. Summary: The Commission will consider a Notice of Proposed Rule Making concerning the exclusivity provisions of the program access rules.
5	International and Consumer Information Common Carrier.	Title: International Calling Plans. Summary: The International and Consumer Information Bureaus will make a joint presentation on the status of international calling prices and an initiative to educate consumers about lower-priced international calling options.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Media Relations, telephone number (202) 418–0500; TTY 1–888–835–5322.

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Qualex International at (202) 863–2893; fax (202) 863–2898; or TTY (202) 863–2897.

These copies are available in paper format and alternative media, including large print/type; digital disk; and audio tape. Qualex International may be reached by e-mail at qualexint@aol.com

This meeting can be viewed over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. For information on these services call (703) 993–3100. The audio portion of the meeting will be broadcast live on the Internet via the FCC's Internet audio broadcast page at <http://www.fcc.gov/realaudio/>. The meeting can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770. Audio and video tapes of this meeting can be purchased from Infocus, 341 Victory Drive, Herndon, VA 20170, telephone (703) 834–0100; fax number (703) 834–0111.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–25571 Filed 10–5–01; 2:19 pm]

BILLING CODE 6712–01–M

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 web site at *www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 2, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Manito Bank Services, Inc., Manito, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Peoples State Bank, Manito, Illinois.

Board of Governors of the Federal Reserve System, October 3, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–25338 Filed 10–9–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center web site at *www.ffiec.gov/nic/.*

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 2, 2001.

A. Federal Reserve Bank of Atlanta (Cynthia C. Goodwin, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. Trustmark Corporation, Jackson, Mississippi; to merge with Nashoba Bancshares, Inc., Germantown, Tennessee, and thereby indirectly acquire Nashoba Bank, Germantown, Tennessee.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Dunlap Iowa Holding Co., Dunlap, Iowa; to merge with EWN Investments, Inc., Ute, Iowa, and thereby indirectly acquire Ute State Bank, Ute, Iowa.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Lima Bancshares, Inc., Lima, Illinois; to acquire 100 percent of the voting shares of The White Hall National Bank, White Hall, Illinois.

D. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. Lindoe, Inc., Ordway, Colorado; to acquire 10 percent of the voting shares of Southern Colorado National Bancorp, Inc., Pueblo, Colorado, and thereby indirectly acquire voting shares of Southern Colorado National Bank, Pueblo, Colorado.

E. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. Texas Peoples National Bancshares, Inc., Paris, Texas; to acquire 100 percent of the voting shares of Western Dakota Holding Company, Timber Lake, South Dakota, and thereby indirectly acquire voting shares of Western Dakota Bank, Timber Lake, South Dakota.

Board of Governors of the Federal Reserve System, October 3, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–25339 Filed 10–9–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, October 15, 2001.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: October 5, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–25540 Filed 10–5–01; 2:20 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60-Day–01–65]

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. NCID is requesting an emergency clearance from the Office of Management and Budget (OMB) to collect data under the Paperwork Reduction Act. Send comments to Seleda M. Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 14 days of this notice. We are requesting that OMB respond to CDC within 21 days after receipt of the package.

Proposed Project: Questionnaires for State Epidemiologists Reporting Q Fever (Coxiella burnetti) and for State Laboratories Testing for Q Fever to Collect Retrospective Information on Numbers of Q fever Cases Reported between 1978–2000—New—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC). Q fever, caused by the rickettsial agent Coxiella burnetii, is considered a potential agent of bioterrorism. Q fever in humans was made nationally notifiable in the United States in 1999, and data are collected passively by CDC through the National Electronic Telecommunications System for Surveillance (NETSS). At the time Q fever was made nationally notifiable, approximately half of states already considered it a reportable disease. However, current information on how many states have changed their reporting criteria since 1999 or what reporting methods are used are not available, making it difficult to interpret data reported to NETSS. Q fever reporting data is available by state for the years 1948–1977, and complete annual NETSS data is available beginning in the year 2000. However, data for the years 1978–1999 have never been collected. These data are vitally important to establish baseline rates of infection, providing immediate benefits in understanding the geographic distribution of Q fever in the United States. Without these data, it will take several years to acquire useful NETSS data to make the same assessments.

The purpose of this study is to assess reporting practices for Q fever in each state, and to collect retrospective information on numbers of Q fever cases reported between 1978–2000. Respondents include an epidemiologist and laboratorian in every state. The results will be used to evaluate Q fever reporting practices in each state, in order to better assess the usefulness of NETSS-reported data. Data will also be used to examine the epidemiology of cases reported between 1978–2000, including estimated incidence rates, geographic distribution maps, and demographic risk factors. There is no cost to the respondent other than their time. Time burden for response to Form A may vary, depending on whether there are cases of Q fever the state plans to report, but the average time to respond is 1 hour.

Respondents	Number of respondents	Number of responses per respondent	Avg. burden per respondent (in hrs.)	Total burden in hours
Part A: Epidemiologist	50	1	1	50
Part B: State Laboratorians	50	1	15/60	12.5
Total				62.5

Dated: September 28, 2001.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 01–25071 Filed 10–9–01; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–R–215]

Agency Information Collection Activities: Submission For OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Note: For this submission, CMS is requesting public comments on the information requirements in the Final Rule published October 11, 2000 for ''Additional DMEPOS Supplier Standards'' only. CMS made an error in the last PRA submission whereas the ''Surety Bond'' requirements were referenced. Please be advised that all Surety Bond requirements have been removed and are not to be commented on at this time.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Information Collection Requirements Referenced in 42 CFR 424.57: Additional DMEPOS Supplier Standards; *Form No.:* CMS-R–215 (OMB# 0938–0717); *Use:* The respondents for these information collection requirements are suppliers of durable medical equipment, prosthetics, orthotics and supplies (DMEPOS). CMS requires, upon request, documentation that the DMEPOS supplier has both advised beneficiaries that they may either rent or purchase inexpensive or routinely purchased equipment and discussed the purchase option for capped rental equipment. This criteria is necessary to determine if the supplier has met the supplier standards.; *Frequency:* Annually, On occasion; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 65,400; *Total Annual Responses:* 35,000; *Total Annual Hours:* 280,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access CMS's web site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 18, 2001.

John P. Burke III,

CMS Reports Clearance Officer, CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards.

[FR Doc. 01–25388 Filed 10–9–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity: Comment Request

Proposed Projects

Title: Annual Statistical Report on Children in Foster Homes and Children in Families Receiving Payments in Excess of the Poverty Income Level from a State Program Funded Under Part A of Title IV of the Social Security Act.

OMB No.: 0970–0040.

Description: This information is collected to meet the statutory requirements of section 1124 of the Elementary and Secondary Education Act (as amended by PL 103–382). It is collected by DHHS from State public welfare agencies and turned over to the Department of Education which uses it to arrive at the formula for allocating Title I grant funds to State and local elementary and secondary schools for the purpose of providing assistance to disadvantaged children.

Respondents: State, Local, or Tribal Governments.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–4125	52	1	264	13,746
Estimated Total Annual Burden Hours				13,746

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW, Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 3, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–25419 Filed 10–9–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information collection Activity; Comment Request

Proposed Projects

Title: Application and Program Reporting Requirements for children's Justice Act Grants.

OMB No.: 0980–0196 Expired (5/31/01).

Description: The Program Instruction, prepared in response to the Children's Justice Act and authorized by Title I of the Child Abuse Prevention and Treatment Act (CAPTA) (as amended) and in the process of reauthorization, provides direction to States and Territories to accomplish the purposes of assisting States in developing, establishing, and operating programs designed to improve: (1) The handling of child abuse and neglect cases, particularly child sexual abuse and exploitation, in a manner which limits additional trauma to the child victim; (2) the handling of cases of suspected child abuse or neglect related fatalities; and (3) the investigation and prosecution of cases of child abuse and neglect, particularly child sexual abuse and exploitation.

This Program Instruction contains information collection requirements that are found in P.L. 104–235 at Sections 107(b), 107(d), and pursuant to receiving a grant award. The information being collected is required by statute to be submitted pursuant to receiving a grant award. The information submitted will be used by the agency to ensure compliance with the statute; to monitor, evaluate, and measure grantee achievements in addressing the investigation and prosecution of child abuse and neglect; and to report to Congress.

Respondents: State Governments.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application	52	1	40	2080
Annual Performance Report	52	1	20	1040
Estimated Total Annual Burden Hours				3,120

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, SW, Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 3, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–25420 Filed 10–9–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Community-Based Family Resource and Support Program.

OMB No.: 0970–0155 expired 05/31/2001.

Description: The Program Instruction, prepared in response to the enactment of the Community-Based Family Resource and Support Grants (CBFRS), as set forth in Title II of Pub. L. 104–235, Child Abuse Prevention and Treatment Act Amendments of 1996, and in the process of reauthorization, provides direction to the States and Territories to accomplish the purposes of (1) supporting State efforts to develop, operate, expand and enhance a network of community-based, prevention focused, family resource and support programs that coordinate resources among existing human service organizations within the State; and (2) fostering an understanding, appreciation, and knowledge of diverse populations in order to be effective in preventing and treating child abuse and neglect. This Program Instruction contains information collection requirements that are found in Pub. L. 104–235 at Sections 202(1)(A); 202(1)(B); 203(b)(1)(B); 205; 207; and pursuant to receiving a grant award. The information submitted will be used by the agency to ensure compliance with the statute, complete the calculation of the grant award entitlement, and provide training and technical assistance to the grantee.

Respondents: State Government.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Application	52	1	40	2080
Annual Report	52	1	24	1248
Estimated Total Annual Burden Hours				3328

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 2, 2001.

Bob Sargis,

Reports Clearance Officer.

[FR Doc. 01–25421 Filed 10–9–01; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Science Board to the Food and Drug Administration Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Science Board to the Food and Drug Administration.

General Function of the Committee: The board shall provide advice primarily to the agency's Senior Advisor for Science, and as needed, to the Commissioner of Food and Drugs and other appropriate officials on specific complex and technical issues as well as emerging issues within the scientific community in industry and academia. Additionally, the board will provide advice to the agency on keeping pace with technical and scientific evolutions in the fields of regulatory science, formulating an appropriate research agenda, and upgrading its scientific and research facilities to keep pace with these changes. It will also provide the means for critical review of agency sponsored intramural and extramural scientific research programs.

Date and Time: The meeting will be held on November 16, 2001, from 9 a.m. to 4:30 p.m.

Location: 5630 Fishers Lane, rm. 1066, Rockville, MD.

Contact: Susan Mackie Bond, Office of Science Coordination and Communication (HF–33), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6687, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12603. Please call the Information Line for up-to-date information on this meeting.

Agenda: The board will hear and discuss external science review for FDA's Center for Devices and Radiological Health, emerging issues in FDA's oversight of clinical research, and emerging issues in pharmaceutical manufacturing.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by November 1, 2001. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before November 1, 2001, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: October 1, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–25370 Filed 10–9–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

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.

Proposed Project: Native Hawaiian Health Scholarship Program.

Evaluation: Surveys of Current Scholars, Alumni Scholars, and Site Administrators (NEW).

The Bureau of Primary Health Care (BPHC), Health Resources and Services Administration (HRSA), is planning to conduct mail surveys of the Native Hawaiian Health Scholarship Program (NHHSP). The NHHSP provides Federal financial support for Native Hawaiian students of health professions who are needed to serve Native Hawaiian people in the State of Hawaii. The purpose of the program is to increase the supply of health professionals serving Native Hawaiian people in Hawaii. The program provides assistance to Native Hawaiians for training in health professions in exchange for service in a federally designated health professional shortage area in Hawaii.

The purpose of these surveys is to determine the effectiveness of the NHHSP in various phases of operation: placement, service, and retention. The project also aims to evaluate the impact of the NHHSP providers on the site they serve and evaluate the NHHSP scholars' career trajectories. Data from these surveys will provide information about the sociodemographic characteristics of the scholars, health care services provided, reasons for seeking scholarship, and satisfaction with experience. Survey questions include professional employment history, site characteristics, practice setting, compensation and benefits, as well as student and mentor experiences. These data will be useful to the program and will enable HRSA to provide data required by Congress under the Government Performance and Results Act of 1993.

The estimated burden is as follows:

Survey	Number of respondents	Respondents per respondent	Hours per response	Total burden hours
Current scholars	73	1	1	73
Alumni scholars	25	1	1	25
Site administrators	40	1	1	40
Total	138			138

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–22, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: October 3, 2001.

Jane M. Harrison,

Director, Division of Policy Review and Coordination.

[FR Doc. 01–25356 Filed 10–9–01; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4649–N–20]

Notice of Proposed Information Collection: Comment Request; HOME Investment Partnership Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* December 10, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Ms. Shelia Jones, Reports Liaison Officer, Office of the Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development, 451-7th Street, SW, Room 7230, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Virginia Sardone, at (202) 708–2470 (This is not a toll-free number). A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 1–800–977–8229 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The Department of Housing and Urban Development (HUD) will submit to OMB the information collection requirements for the HOME Program, previously approved under OMB Control Numbers 2506–0171.

The HOME Investment Partnerships Act (Title II of the Cranston-Gonzalez National Affordable Housing Act) was signed into law on November 28, 1990 (Pub. L. 101–625) and created the HOME Program to expand the supply of affordable housing. Interim regulations were first published for the program on December 16, 1991 and this and subsequent interim rules were codified at 24 CFR part 92. Paperwork requirements for these rules were approved under OMB Control Number 2501–0013. On September 16, 1996, HUD published a final rule for the HOME Program. On November 25, 1998, previous paperwork approvals for the HOME Program were combined under OMB Control Number 2506–0171.

Title of proposal: HOME Investment Partnerships Program.

OMB Control Number, if applicable: 2506–0171.

Description of the need for the information and proposed use: The HOME statute and related authorities impose a significant number of data collection and reporting requirements on the Department and on HOME participating jurisdictions. This information is collected: (1) To assist HOME participating jurisdictions in managing their programs; (2) to track performance of participating jurisdictions in meeting fund commitment and expenditure deadlines; (3) to permit HUD to determine whether each PJ meets the HOME statutory income targeting and affordability requirements; and (4) to permit HUD to determine compliance with other statutory and regulatory program requirements, e.g., requirements relating to match, affirmative marketing, lead-based paint, and displacement and relocation.

The recordkeeping and reporting burden hours for each individual respondent contained herein are largely unchanged from the previous approvals. The most significant change is in the total number of burden hours for both recordkeeping and reporting, brought about by the substantial increase in the number of program participants since the last HOME paperwork submission in 1998. The number of participating jurisdictions has increased from 576 in 1998 to 594 in 2001. During this period, the number of Community Housing Development Organizations increased from 2,732 to 4,171 and the number of State recipients increased from 1,555 to 1,902. Because so many more organizations are currently participating in the HOME Program than were participating in the first years of the program, the total number of burden hours has increased substantially despite the fact that the burden per respondent has dropped slightly.

Another change in the earlier paperwork approval includes the elimination of the HOME Cash and Management Information System (CMIS), replaced by the paperless Integrated Disbursement and Information System (IDIS). Some of the hours of response formerly required by CMIS were transferred into IDIS.

Agency form numbers: HUD–40093; 40107, and 40107–A.

Members of affected public: States, units of general local government, nonprofit organizations.

Estimation of the total annual number of hours to prepare the information collection including number of respondents, frequency of response, and hours of response:

Section affected	Paperwork requirement	Number of respondents	Frequency of response	Hours of response	Annual total
§ 92.61	Insular Areas Program Description	4	1	10	40
§ 92.66	Insular Areas Reallocation	4	1	3	12
§ 92.101	Consortia Designation	36	1	5	180
§ 92.200	Public-Private Partnership	594	1	2	1,188
§ 92.201	State Designation of Local Recipients	51	1	1.5	76.5
§ 92.201	Distribution of Assistance	594	1	2	1,188
§ 92.202	Site and Neighborhood Standards	594	1	2	1,188
§ 92.203	Income Determination	6,667	1	2	13,334
§ 92.206, 92.216, 92.217, 92.218, 92.250, 92.252, 92.254.	Documentation required by HUD to be included in project file to determine project eligibility.	6,667	1	5	33,335
§ 92.206	Refinancing	100	1	4	400
§ 92.251	Written Property Standards	6,667	1	1	6,667
§ 92.253	Tenant Protections	6,667	1	5	33,335
§ 92.254	Median Purchase price	80	1	5	400
§ 92.254	Alternative to Resale/Recapture Provisions.	100	1	5	500
§ 92.300	CHDO Identification	594	1	2	1,188
§ 92.300	Designation of CHDOs	480	1	1.5	720
§ 92.300	CHDO Project Assistance	594	1	2	1,188
§ 92.303	Tenant Participation Plan	4,171	1	10	41,710
§ 92.350	Equal Opportunity	6,667	1	5	33,335
§ 92.351	Affirmative Marketing	6,667	1	10	66,670
§ 92.353	Displacement, relocation and acquisition	6,667	1	5	33,335
§ 92.354	Labor	6,667	1	2.5	16,667.5
§ 92.355	Lead-Based Paint	6,667	1	1	6,667
§ 92.357	Debarment and Suspension	6,667	1	1	6,667
§ 92.501	Investment Partnership Agreement	598	1	1	598
§ 92.502	Homeownership/Rental Set-Up and Completion (IDIS).	594	1	16	9,504
§ 92.502	Tenant-Based Rental Assistance Set-Up (IDIS).	225	1	5.5	1,237.5
§ 92.504	Written Agreements	6,667	1	10	66,670
§ 92.509	Management Reports—Annual Performance Report.	598	1	2.5	1,495
§ 92.509	Management Reports—FY Match Report	594	1	0.75	445.5

The total annual estimate of burden hours is 379,941.

Status of the proposed information collection: Public Comment requested by HUD.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: September 28, 2001.

Roy A. Bernardi,

Assistant Secretary for Community Planning and Development.

[FR Doc. 01–25332 Filed 10–9–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–72]

Notice of Submission of Proposed Information Collection to OMB; Admission to, and Occupancy of Public Housing: Admission and Tenant Selection Policies, Verification, Notification, Preference, Waiting List, Exemption of Police Officers

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 9, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2577–0220) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequently of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Admission to, and Occupancy of Public Housing: Admission and Tenant Selection Policies, Verification, Notification, Preference, Waiting List, Exemption of Police Officers.

OMB Approval Number: 2577–0220.

Numbers: Form: None.

Description of the Need for the Information and Its Proposed Use: The Statue requires HUD to ensure the low-income character of public housing projects and to assure that sound management practices will be followed in the operation of the project. Public Housing Agencies (PHAs) enter into an Annual Contribution Contract (ACC) with HUD to assist low-income tenants. HUD regulations, Part 960, provide policies and procedures for PHAs to administer the low-income public housing program for admission and occupancy. PHAs must develop and keep on file the admission and occupancy policies including the plan for eligibility of police officers, which is approved by HUD. PHA compliance will support the stature; HUD can ensure that the low-income character of the project and that sound management practices will be followed.

Respondents: Individuals or households, State, Local or Tribal Government.

Frequency of Submission: Other for duration of PHA operations.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	3200		1		8		25,600

Total Estimated Burden Hours: 25,600.

Status: Reinstatement, without change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 2, 2001.

Donna L. Eden,

Director, Office of Investment Strategies, Policy and Management.

[FR Doc. 01–25333 Filed 10–9–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–73]

Notice of Submission of Proposed Information Collection to OMB; Indian Housing Development Plan (IHBG) Annual Performance Report (APR); Income Verification

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 9, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2577–0218) and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management

Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne__Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) the title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Indian Housing Development Plan (IHBG); Annual Performance Report (APR); Income Verification.

OMB Approval Number: 2577–0218.

Form Numbers: HUD–52735 HUD–52735–AS.

Description of the Need for the Information and Its Proposed Use: Indian Housing Block Grant recipients (both tribes & tribally designated housing entities) must submit specific information necessary to implement low-income housing programs.

Respondents: Not-for-Profit Institutions, State, Local or Tribal Government.

Frequency of Submission: Annually.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	366		1		362		132,492

Total Estimated Burden Hours: 132,492.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 2, 2001.

Donna L. Eden,

Director, Office of Investment Strategies, Policy and Management.

[FR Doc. 01–25334 Filed 10–9–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–74]

Notice of Submission of Proposed Information Collection to OMB; Data Collection for the Congregate Housing Services Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 9, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval (2502–0485) number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Oficer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Data Collection for the Congregate Housing Services Program.

OMB Approval Number: 2502–0485.

Form Numbers: SF–269, HUD–90006, HUD–90198, HUD–91180–A.

Description of the Need for the Information and Its Proposed Use: The Department monitors the proper use of Congregate Housing Services Program grant funds according to statutory, regulatory, and administrative requirements. The reports required under this information collection are used to ensure proper use of funds and to draw down program funds.

Respondents: Not-for-Profit Institutions.

Frequency of Submission: Quarterly.

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Reporting Burden	81		4		3.13		1,013

Total Estimated Burden Hours: 1,013.

Status: Reinstatement, of previously approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 2, 2001.

Donna L. Eden,

Director, Office of Investment Strategies, Policy and Management.

[FR Doc. 01–25335 Filed 10–9–01; 8:45 am]

BILLING CODE 4120–72–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4650–N–75]

Notice of Submission of Proposed Information Collection to OMB; American Housing Survey (AHS)—2002 Metropolitan Sample

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* November 9, 2001.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval (2528–0016) number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: American Housing Survey (AHS)—2002 Metropolitan Sample.

OMB Approval Number: 2528–0016.

Form Numbers: AHS–66, AHS–68.

Description of the Need for the Information and Its Proposed Use: The 2002 AHS–MS is a longitudinal study that provides a periodic measure on the quality, availability, and cost of housing for the nation. The study also provides information on demographic and other characteristics of the occupants. Federal and local agencies use AHS data to evaluate housing issues.

Respondents: Individuals or households.

Frequency of Submission: Every other 6 years.

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Reporting Burden	60,427		.9		.6		33,527

Total Estimated Burden Hours: 33,527.

Status: Reinstatement, with change.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 2, 2001.

Donna L. Eden,

Director, Office of Investment Strategies, Policy and Management.

[FR Doc. 01–25336 Filed 10–9–01; 8:45 am]

BILLING CODE 4210–72–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection To Be Submitted to the Office of Management and Budget (OMB) for Approval under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service will submit a request for approval of a collection of information to OMB under the provisions of the Paperwork Reduction Act of 1995. Copies of specific information collection requirements, related forms and explanatory material may be obtained by contacting the Information Collection Clearance Officer of the U.S. Fish and Wildlife Service at the address and/or phone numbers listed below.

DATES: Consideration will be given to all comments received on or before December 10, 2001.

ADDRESSES: Comments on specific requirements should be sent to Rebecca A. Mullin, Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Suite 222, Arlington, VA 22203, (703) 358–2287 or electronically at *Rebecca_Mullin@fws.gov.*

FOR FURTHER INFORMATION CONTACT: To receive a copy of the information collection approval request, explanatory information and related forms, contact Rebecca Mullin (see **ADDRESSES**). Questions related to the Endangered Species Act requirements for monitoring of recovered species may be directed to Renne Lohoefener, Chief, Division of Consultation, Habitat Conservation Plans, Recovery, and State Grants, 703/358–2171 or *Renne_Lohoefener@fws.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). OMB regulations at 5 CFR 1320.3(c) define the collection of information as the obtaining of information by or for an agency by means of identical questions posed to, or identical reporting, record-keeping, or disclosure requirements imposed on 10 or more persons. Furthermore, 5 CFR 1320.3(c)(4) specifies that ''10 or more persons'' refers to the persons to whom a collection of information is addressed by the agency within any 12-month period. For the purposes of this definition, employees of the Federal government are not included in the definition of ''persons.'' Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The U.S. Fish and Wildlife Service (Service) plans to submit the following information collection requirements to the Office of Management and Budget (OMB) for review and approval. A three-year term of approval, from approximately January 1, 2002, to December 31, 2004, will be requested for this information collection activity.

Section 4(g) of the Endangered Species Act (ESA) requires that all species that are recovered and removed from the lists of endangered and threatened species (delisted) be monitored for a period of not less than 5 years. The purpose of this requirement is to detect any failure of a recovered species to sustain itself without the protections of the ESA. The Service works with relevant State agencies and other species experts to develop appropriate plans and procedures for systematically monitoring recovered wildlife and plants. In many cases, collections of information from monitoring of recovered species will not require approval by OMB under the Paperwork Reduction Act because monitoring will require collection of information from less than 10 non-Federal persons per 12-month period.

On October 17, 1998, OMB approved information collection relative to monitoring of the American peregrine falcon. OMB control number 1018–0101, Information Collection Requirements for Monitoring Peregrine Falcons Once the Species is Delisted, estimated that the Service would request 20 responses per year, requiring 12 annual burden hours on the part of respondents. The American peregrine falcon was removed from the list of Endangered and Threatened Wildlife on August 25, 1999, but formal collection of monitoring data under section 4(g) of the ESA has not yet commenced. OMB approval under control number 1018–0101 will expire on October 31, 2001.

The Service plans to consolidate its information collection requirements pursuant to the monitoring of all recovered species, including the American peregrine falcon, that will require identical questions posed to 10 or more non-Federal persons per 12-month period, and thereby streamlining fulfillment of monitoring requirements for recovered species. Information collection meeting these criteria will usually be limited to species with large geographic ranges that include substantial amounts of non-Federal land. Although the ESA requires that monitoring of recovered species be conducted for not less than 5 years, the life history of some species will make it appropriate to monitor the species for a longer period of time in order to meaningfully evaluate whether the recovered species continues to maintain its recovered status. In such cases, collection of monitoring data may occur on a multi-year interval (for example, data may be collected every second year, totaling eight information collections over a 15-year period). Information collection will commonly include data on species abundance, reproduction rates, and, in some cases, impacts of potential threats to the species. Data compilation and preparation of responses will generally be performed by professional biologists employed by Federal and State agencies and other organizations that have been involved in past species conservation efforts. Information requests may vary by respondent, and both requests and responses will primarily be in written format. Forms are not appropriate for this type of information collection, as effective requests and responses must accommodate variability in species across their geographic range and allow respondents latitude for full and accurate communication of the data.

On July 31, 2001, the Service announced availability for review and comment of a Proposed Monitoring Plan for the American Peregrine Falcon (*Falco peregrinus anatum*) (66 FR 39523). Proposed monitoring for this recovered species consists of information on population trends and nesting success. Starting in the spring of 2002, surveys will be conducted every 3 years for a total of five surveys over 13 years. Surveys will be spread over five geographic regions within the falcon's range.

The bald eagle in the lower 48 states was proposed for delisting on July 6, 1999 (64 FR 36453). At that time, the Service proposed to collect information for at least 5 years, including the number of occupied breeding areas and the number of young produced per nesting pair across the species' range. Monitoring plans for the bald eagle are currently under revision, but the Service anticipates that the types of information that will be collected will be the number of occupied breeding areas and the number of young produced per nesting pair across the species' range.

The Service expects that, in addition to the peregrine falcon and bald eagle, two to three other species may be removed from the list of threatened and endangered species due to recovery and will require collection of post-delisting monitoring information from 10 or more persons within a 12-month period before the end of 2004.

Annual burden estimates for collection of monitoring data for all recovered species pursuant to section 4(g) of the ESA, between January 1, 2002, and December 31, 2004, and requiring OMB approvals under the Paperwork Reduction Act are summarized below. Annual variation reflects monitoring of the American peregrine falcon in 2002 only (the next monitoring period for this species will occur in 2005) and anticipated increases in the number of other recovered species:

Year	Estimated number of respondents per year	Estimated average time required per report (in hours)	Average total annual burden (in hours)
2002	95	2	190
2003	110	2	220
2004	135	2	270

Comments are invited on (1) whether the collection of information described in this notice is necessary for the proper performance of monitoring of recovered species as prescribed in section 4(g) of the ESA, including whether the information will have practical utility; (2) the accuracy of our estimate of burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; (4) ways to minimize the burden of the collection of information on respondents. The information collections in this program will be part of a system of records covered by the Privacy Act (5 U.S.C. 552(a)).

Dated: September 24, 2001.

Rebecca A. Mullin,

U.S. Fish and Wildlife Service, Information Collection Office.

[FR Doc. 01–25391 Filed 10–9–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: The U.S. Fish and Wildlife Service has submitted the collection of information listed below to OMB for approval under the provisions of the Paperwork Reduction Act. A copy of the information collection requirement is included in this notice. If you wish to obtain copies of the proposed information collection requirement, related forms, and explanatory material, contact the Service Information Collection Clearance Officer at the address listed below.

DATES: OMB has up to 60 days to approve or disapprove information collection but may respond after 30 days. Therefore, to ensure maximum consideration, you must submit comments on or before the above referenced date.

ADDRESSES: Send your comments on the requirement to the Office of Management and Budget, Attention: Department of the Interior Desk Officer, 725 17th Street, NW., Washington, DC 20503, and to Rebecca Mullin, Information Collection Officer, U.S. Fish and Wildlife Service, MS 222–ARLSQ, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact Rebecca A. Mullin at (703) 358–2287, or electronically to *rmullin@fws.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). The U.S. Fish and Wildlife Service (We) has submitted a request to OMB for its approval of the collection of information for the U.S. Fish and Wildlife Employee Exist Survey. We are requesting a 3-year term of approval for this information collection activity. A previous 60-day notice on this information collection requirement was published in the October 24, 2000 (65 FR 63617) **Federal Register** inviting public comment. No comments on the previous notice were received. This notice provides an additional 30 days in which to comment on the following information.

Federal agencies may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The U.S. Fish and Wildlife form number for this collection of information is FWS 3–2186.

The U.S. Fish and Wildlife Service in the Department of the Interior is the agency primarily responsible for fish, wildlife, and plant conservation. The Service helps protect a healthy environment for people, fish and wildlife, and helps Americans conserve and enjoy the outdoors and our living treasures. To accomplish its mission, the Service employs around 7,500 of the country's best biologists, wildlife managers, engineers, realty specialists, educators, law enforcement agents, and others who work to save endangered and threatened species; conserve migratory birds and inland fisheries; restore habitats; provide expert conservation advice to other Federal agencies, industry, private citizens, and foreign governments; and manage millions of acres of wildlife lands. The Service Directorate has made it a high priority to recruit and retain these valued employees. As part of an active career development program, the Service has decided to institute an Employee Exit Survey to collect feedback from former Service employees so that we may discover relevant issues that impact retention. If this survey were not used, there would be no way the Service could analyze the reasons for employee separation.

Title: U.S. Fish and Wildlife Service Employee Exit Survey.

Service Form Number: 3–2186.

Frequency of Collection: Annually.

Description of Respondents: Former U.S. Fish and Wildlife Employees.

Total Annual Burden Hours: The reporting burden is estimated to average 15 minutes per respondent. The Total Annual Burden hours is 100 hours.

Total Annual Responses: About 400 individuals are expected to participate in the survey. We invite comments concerning this submission on: (1) Whether the collection of information is necessary for the proper performance of our career development functions, including whether the information will have practical utility; (2) the accuracy of our estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents. The information collections in this program are part of a system of record covered by the Privacy Act (5 U.S.C. 552(a)).

Dated: October 3, 2001.

Rebecca A. Mullin,

Fish & Wildlife Service Collection Officer.

[FR Doc. 01–25331 Filed 10–9–01; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Reopening the Comment Period for the Draft Southwestern Willow Flycatcher Recovery Plan for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and reopening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service announces the reopening of the comment period for the draft Recovery Plan for the southwestern willow flycatcher (*Empidonax traillii extimus*). Reopening the comment period will allow all interested parties an additional opportunity to submit written comments on the draft plan, will allow further meetings with the six Implementation Subgroups associated with the recovery planning effort, and will allow the Service to schedule public meetings where needed.

The breeding range of this bird includes southern California, southern Nevada, southern Utah, Arizona, New Mexico, western Texas, southwestern Colorado, and possibly extreme northern portions of the Mexican states of Baja, California del Norte, Sonora, and Chihuahua. Within this region, the species breeds in dense riparian tree and shrub communities associated with rivers, swamps, and other wetlands including lakes (e.g., reservoirs). Most of these habitats are classified as forested wetlands or scrub-shrub wetlands. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft Recovery Plan must be received on or before December 10, 2001 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft Recovery Plan may obtain a copy by contacting Greg Beatty, Arizona Ecological Services Field Office, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona, 85021–4951 (602/242–0210). Written comments and materials regarding the plan should be addressed to the Field Supervisor at this same address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Greg Beatty (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Background

On June 6, 2001, the Service published the initial Notice of Availability of the Draft Southwestern Willow Flycatcher Recovery Plan for review and comment (66 FR 30477). The comment period encompassed by the initial Notice of Availability closed on October 4, 2001.

Restoring an endangered or threatened animal or plant species to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

The Draft Southwestern Willow Flycatcher Recovery Plan describes the status, current management, recovery objectives and criteria, and specific actions needed to reclassify the southwestern willow flycatcher from endangered to threatened, and to ultimately delist it. The draft Plan was developed by the Recovery Team. The team is comprised of technical specialists from the U.S. Forest Service, Rocky Mountain Research Station, Albuquerque, New Mexico; the University of California, Santa Barbara, California; New Mexico State University, Las Cruces, New Mexico; USGS Western Ecological Research Center, San Diego State University, San Diego, California; The Nature Conservancy, Tucson, Arizona; U.S. Bureau of Reclamation, Phoenix, Arizona; USGS Forest and Rangeland Ecosystem Science Center, Colorado Plateau Field Station, Flagstaff, Arizona; Arizona State University, Tempe, Arizona; California Department of Fish and Game, Santa Rosa, California; Southern Sierra Research Center, Weldon, California; New Mexico Department of Game and Fish, Santa Fe, New Mexico; and geographically-based teams of stakeholders (Implementation Subgroups), which include representatives of Native American Tribes, State and local governments, ranchers, private land owners and managers, agency representatives, and others.

The southwestern willow flycatcher is known to currently breed in dense riparian vegetation in southern California, southern Nevada, southern Utah, Arizona, New Mexico, and southwestern Colorado. Although extreme northwestern Mexico and western Texas are considered part of its breeding range, no nesting birds are presently known to occur in these areas. The dense riparian vegetation that is needed for breeding was historically rare and sparsely distributed, and is now more rare. Destruction and modification of riparian habitats have been caused mainly by: reduction or elimination of surface and subsurface water due to diversion and groundwater pumping; changes in flood and fire regimes due to dams and stream channelization; clearing and controlling vegetation, livestock grazing; changes in water and soil chemistry due to disruption of natural hydrologic cycles; and establishment of non-native plants. Concurrent with habitat loss have been increases in brood parasitism by the brown-headed cowbird (*Molothrus ater*) and the presence of nest predation which inhibits reproductive success and further reduces population levels. Actions needed to recover the southwestern willow flycatcher are those that would increase and improve breeding habitat by restoring and/or re-creating natural physical and biotic processes that influence riparian ecosystems, and reducing other stresses on the flycatcher. Specific actions include: changing management of surface and groundwater, including fundamental changes in dam operations, and restoring flood cycles; reducing impacts of domestic livestock, wild burros, and native ungulates; improving metapopulation stability; securing long-term protection of breeding habitat; managing exotic plant species; reducing brood parasitism by brown-headed cowbirds; conducting research to refine management practices and knowledge of ecology. The draft Plan will be revised and finalized based on comments received during meetings with the Implementation Subgroups, as well as comments received from the public.

Public Comments Solicited

The Service solicits written comments on the Draft Southwestern Willow Flycatcher Recovery Plan. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: October 1, 2001.

Stephen C. Helfert,

Regional Director.

[FR Doc. 01–25350 Filed 10–9–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Intent To Prepare an Amendment to the California Desert Conservation Area Plan and Environmental Impact Statement for the Imperial Sand Dunes Recreation Area in Imperial County, CA

AGENCY: Bureau of Land Management, USDI.

ACTION: Notice of Intent to Prepare an amendment to the California Desert Conservation Area Plan and an Environmental Impact Statement (EIS) for the Imperial Sand Dunes Recreation Area in Imperial County, California.

SUMMARY: In accordance with the Federal Land Policy Act (FLPMA) and the National Environmental Policy Act of 1969 (NEPA), the Bureau of Land Management, California Desert District, El Centro Field Office, will prepare a management plan for the Imperial Sand Dunes Recreation Area (ISDRA). The management plan will amend the CDCA plan. The management plan is needed to replace the existing management plan which has been in place since 1987 and has become outdated as a result of the federal listing of Peirson's milk-vetch as a threatened species, designation of the North Algodones Dunes as wilderness, and substantial changes in visitor use.

DATES: The public is invited to submit comments on the scope of the plan amendment and EIS. Written comments will be accepted for 30 days after publication of this notice. Three (3) public meetings will be held in El Centro, California; San Diego, California; and Phoenix, Arizona. The time and place for these meetings will be published in the San Diego Union Tribune, Arizona Republic , Imperial Valley Press, Yuma Daily Sun. BLM intends to complete the management plan under an accelerated schedule by the Fall of 2002. This schedule will allow BLM to replace the proposed temporary closures of five areas within the Imperial Sand Dunes **Federal Register:** November 16, 2000 (Volume 65, Number 222) with a long term management plan prior to the beginning of the peak recreation use period next year. The proposed temporary closure is to be implemented to protect the Peirson's milk-vetch from potential impact by OHV use while consultation occurs with the U.S. Fish and Wildlife Service in accordance with Section 7 of the Endangered Species Act. To achieve this accelerated schedule, no extensions of the scoping period or the subsequent public review period for the draft management plan and draft EIS are contemplated.

SUPPLEMENTARY INFORMATION: On March 16, 2000, the Center for Biological Diversity, and others (Center) filed for injunctive relief in U.S. District Court, Northern District of California (Court) against BLM alleging that BLM was in violation of Section 7 of the Endangered Species Act (ESA), 16 U.S.C § 1536, by failing to enter into formal consultation with the U.S. Fish and Wildlife Service (FWS) on the effects of adoption of the CDCA Plan, as amended, upon threatened and endangered species. On August 25, 2000, BLM acknowledged through a Court stipulation that activities authorized, permitted, or allowed under the CDCA Plan may adversely affect threatened and endangered species, and that BLM is required to consult with the FWS to insure that adoption and implementation of the CDCA Plan is not likely to jeopardize the continued existence of threatened and endangered species or to result in the destruction or adverse modification of critical habitat of listed species.

Although BLM has received biological opinions on selected activities, consultation on the overall CDCA Plan is necessary to address the cumulative effects of all the activities authorized by the CDCA Plan. Consultation on the overall CDCA Plan is complex and the completion date is uncertain. Absent consultation on the entire CDCA Plan, the impacts of individual activities, when added together with the impacts of other activities in the desert, are not known. The BLM entered into negotiations with plaintiffs regarding interim actions to be taken to provide protection for endangered and threatened species pending completion of the consultation on the CDCA Plan. Agreement on these interim actions avoided litigation of plaintiffs' request for injunctive relief and the threat of an injunction prohibiting all activities authorized under the Plan. These interim agreements have allowed BLM to continue to authorize appropriate levels of activities throughout the ISDRA planning area during the lengthy consultation process while providing appropriate protection to listed species in the short term. By taking interim actions as allowed under Part 43 of the Code of Federal Regulations (43 CFR Subpart 8364), BLM contributes to the conservation of endangered and threatened species in accordance with Section 7(a)(1) of the ESA. BLM also avoids making any irreversible or irretrievable commitment of resources which would foreclose any reasonable and prudent alternative measures which might be required as a result of the consultation on the CDCA plan in accordance with Section 7(d) of the ESA.

The ISDRA project area, trending generally for 40 miles from the southeast to northwest, comprises approximately 150,000 acres of public lands bounded approximately to the west by the Old Coachella Canal, to the east by the Union Pacific Railroad, to the North by Mammoth Wash, and to the south by Interstate 8 and the California/Mexico border. The primary activities conducted in the ISDRA include recreational camping and use of OHVs. Technical issues to be addressed in the RMP/EIS will include: biological resources (wildlife and botany); cultural resources and paleontology; water resources; noise; land use; geology and soils; mineral resources; socioeconomics; hazardous materials and solid waste; public health; visual resources; and traffic and transportation.

The El Centro Field Office originally started public scoping for this project with a series of seven (7) public scoping meetings conducted in January/February 2000. Comments received during the initial scoping have been retained and will be carried forward through the planning process.

The Tentative Project Schedule is as follows:

—File Draft EIS—February 2002
—File Final EIS—July 2002
—Record of Decision—October 2002

• Public participation will be especially important at several points during the analysis and planning process. The scoping process (40 CFR 1501.7) for this analysis will include:

—Identification of the issues to be addressed;
—Identification of viable alternatives; and
—Identification and notification of interested groups, individuals and agencies to determine level of participation and obtain additional information concerning issues to be addressed in the RMP/EIS.

Comments, including names and addresses of respondents, will be available for public review at the El Centro Field Office during normal working hours (7:45 AM to 4:15 PM, except holidays), and may be published as part of the EIS or other related documents. Individuals may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under the Freedom of Information Act, you must state this promptly at the beginning of your comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses will be made available for public inspection in their entirety. The planning documents and direct supporting record for the analysis and RMP will be available for inspection at the El Centro Field Office during normal working hours. Historical records may also be posted on the BLM internet site to facilitate public access.

ADDRESSES: Comments should be sent to Greg Thomsen, Field Manager, El Centro Field Office, California Desert District, Bureau of Land Management, 1661 South 4th Street, El Centro, CA 92243.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Roxie Trost, Bureau of Land Management, 1661 South 4th Street, El Centro, CA 92243, (760) 337–4400.

Greg Thomsen,

Field Manager, El Centro Field Office.

[FR Doc. 01–25605 Filed 10–9–01; 8:45 am]

BILLING CODE 4310–40–P

INTERNATIONAL TRADE COMMISSION

Request for Comments Concerning the Institution of a Section 751(b) Review Investigation; Gray Portland Cement and Cement Clinker From Mexico

AGENCY: United States International Trade Commission.

ACTION: Request for comments regarding the institution of a section 751(b) review investigation concerning the Commission's affirmative determination in investigation No. 731–TA–451 (Final), Gray Portland Cement and Cement Clinker from Mexico.

SUMMARY: The Commission invites comments from the public on whether changed circumstances exist sufficient to warrant the institution of an investigation pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) (the Act) to review the Commission's affirmative determination in investigation No. 731–TA–451 (Final). The purpose of the proposed review investigation is to determine whether revocation of the existing antidumping duty order on imports of gray portland cement and cement clinker from Mexico is likely to lead to continuation or recurrence of material injury (19 U.S.C. 1675(b)(2)(A)). Gray portland cement and cement clinker is provided for in subheadings 2523.10.00, 2523.29.00, and 2523.90.00 of the Harmonized Tariff Schedule of the United States.

EFFECTIVE DATE: October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter (202–205–3172), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for this matter may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public*.

SUPPLEMENTARY INFORMATION:

Background

On July 10, 1990, the Department of Commerce determined that imports of gray portland cement and cement clinker from Mexico are being sold in the United States at less than fair value (LTFV) within the meaning of section 731 of the Act (19 U.S.C. 1673) (55 FR 29244, July 18, 1990); and on August 23, 1990, the Commission determined, pursuant to section 735(b)(1) of the Act (19 U.S.C. 1673d(b)(1)), that an industry in the United States was materially injured by reason of imports of such LTFV merchandise. Accordingly, Commerce ordered that dumping duties be imposed on such imports (55 FR 35443, August 30, 1990). On February 28, 2000, Commerce determined that revocation of the antidumping duty order on gray portland cement and cement clinker from Mexico would be likely to lead to continuation or recurrence of dumping (65 FR 11549, March 3, 2000), and on October 20, 2000, the Commission determined that revocation of the order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (65 FR 65327, November 1, 2000). Accordingly, Commerce ordered that the antidumping duty order be continued (65 FR 68979, November 15, 2000).

On September 19, 2001, the Commission received a request to review its affirmative determination in investigation No. 731–TA–451 (Final) pursuant to section 751(b) of the Act (19 U.S.C. 1675(b)). The request was filed by CEMEX, S.A. de C.V., Monterrey, Mexico. CEMEX alleges that its acquisition of U.S. cement producer, Southdown, Inc., which was finalized on November 16, 2000, is a fundamental change that constitutes changed circumstances sufficient to warrant review of the continuation of the antidumping duty order. Specifically, CEMEX alleges that its ''interest in the Southern Tier eliminates any perceived incentive for CEMEX to import cement from Mexico into the Southern Tier in quantities or at prices that would cause material injury to all or almost all Southern Tier cement producers in the reasonably foreseeable future.''

Written Comments Requested

Pursuant to section 207.45(b) of the Commission's Rules of Practice and Procedure, the Commission requests comments concerning whether the alleged changed circumstances, brought about by CEMEX's acquisition of Southdown, are sufficient to warrant institution of a review investigation.

Written Submissions

Comments must be filed with the Secretary to the Commission no later than 30 days after the date of publication of this notice in the **Federal Register**. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain business proprietary information must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

Authority: This notice is published pursuant to section 207.45 of the Commission's rules.

Issued: October 3, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–25340 Filed 10–9–01; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Criminal Procedure

AGENCY: Judicial Conference of the United States, Advisory Committee on Rules of Criminal Procedure.

ACTION: Notice of cancellation of open meeting.

SUMMARY: The meeting of the Advisory Committee on Rules of Criminal Procedure, which was scheduled for October 29–30, 2001, in Santa Fe, New Mexico, has been canceled. [Original notice of the meeting appeared in the **Federal Register** of August 29, 2001.]

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: October 4, 2001.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 01–25434 Filed 10–9–01; 8:45 am]

BILLING CODE 2210–55–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Meeting of the Compact Council for the National Crime Prevention and Privacy Compact

AGENCY: Federal Bureau of Investigation, Justice.

ACTION: Meeting Notice.

SUMMARY: The purpose of this notice is to announce a meeting of the Compact Council for the National Crime Prevention and Privacy Compact Act of 1998 (Compact). Thus far, the federal government and 13 states are parties to the Compact which governs the exchange of criminal history records for licensing, employment, and similar purposes. The Compact also provides a legal framework for the establishment of a cooperative Federal-state system to exchange such records.

An election for the Compact Council Chair and Vice-Chair positions will be conducted at the meeting as the first order of business. General discussion and information presented will be restricted to the following agenda items:

(1.) The Rule Making Process.

(2.) Applicability of Council Rules, Procedures, or Standards.

(3.) Proposed Changes to Code of Federal Regulations Title 28, Part 20.

(4.) Emergency Responses to Natural Disasters.

(5.) Council Goals/Objectives and Work Plan.

(6) Status Report on Legislative *Amendments* to the Volunteers for Children's Act.

(7.) FBI Status Report on Name Checks for Applicant Fingerprints Rejected due to Illegibility.

(8.) FBI Status Report on Readiness to Respond to National Fingerprint File Participation.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public wishing to file a written statement with the Compact Council or wishing to address the agenda items listed above at this session of the Compact Council should notify Ms. Cathy L. Morrison at (304) 625–2736, at least 24 hours prior to the start of the session. The notification should contain the requestor's name and corporate designation, consumer affiliation, or government designation, along with a short statement describing the topic to be addressed, and the time needed for the presentation. Requestors will ordinarily be allowed up to 15 minutes to present a topic. The Council chairman, at his discretion may grant such request.

DATES AND TIMES: The Compact Council will meet in open session from 9 a.m. until 5 p.m. on November 14, 2001.

ADDRESSES: The meeting will take place at the Grand Hyatt Washington, 1000 H Street, NW, Washington, DC, telephone (202) 582–1234.

FOR FURTHER INFORMATION CONTACT: Inquiries may be addressed to Ms. Cathy L. Morrison, Interim Compact Officer, Programs Development Section, CJIS Division, FBI, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306–0147, telephone (304) 625–2736, facsimile (304) 625–5388.

Dated: October 3, 2001.

Thomas E. Bush, III,

Section Chief, Program Development Section, Federal Bureau of Investigation.

[FR Doc. 01–25349 Filed 10–9–01; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-day notice of information collection under review: Revision of a currently approved collection; Firearms Addendum to the Arrestee Drug Abuse Monitoring Program (ADAM).

The Department of Justice (DOJ), Office of Justice Programs (OJP) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** (Volume 66, Number 47, page 14216) on March 9, 2001, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until November 9, 2001. This process is conducted in accordance with 5 CFR 1320.10. Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202)–395–7285.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a currently approved collection.

(2) *Title of the Form/Collection:* Firearms Addendum to the Arrestee Drug Abuse Monitoring (ADAM) Program Instrument.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* The form number is AD–1. The sponsoring component of the Department of Justice is the Office of Research and Evaluation, National Institute of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Misdemeanor and felony arrestees in city and county jails. The ADAM program monitors the extent and types of drug use among arrestees. Currently the program operates in 38 counties. Data are collected in each county every three months from a new, county-based representative sample of arrestees. Participation is voluntary and confidential and data collected include a personal interview and urine specimen.

In the next 6 months, OJP proposes to introduce a supplemental instrument to the currently approved ADAM instrument (OMB No. 1121–0137). This supplemental instrument is termed the Firearms Addendum and is intended to collect information from ADAM, program arrestees about their participation in legal and illegal firearms markets. The respondents to the firearms questionnaire will be arrestees selected for the ADAM study, who are asked to participate in a supplemental interview immediately following the ADAM interview. The firearms instrument initially will be implemented in 2 ADAM sites for testing, and subsequently finalized and made available to all ADAM sites for their use.

(5) *An estimate of the total number of respondents and amount of time estimated for an average respondent to respond/reply:* The total number of respondents is estimated to be a maximum of 70,000 (revised from current inventory of 100,000 respondents). Each response for the core instrument averages 30 minutes. The Firearms Addendum questionnaire will be administered to a maximum of 52,550 respondents at full implementation, taking 10 minutes a response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 43,750 hours (for core questionnaire and Firearms Addendum together).

If additional information is required contact: (name), Department Clearance Officer, Information Management and Security Staff, Justice Management Division, United States Department of Justice, 601 D Street NW, Patrick Henry Building, Suite 1600, NW, Washington, DC 20530.

Dated: October 3, 2001.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 01–25330 Filed 10–09–01; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 13, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Mowze at (202) 693–4158 or e-mail *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Agency: Bureau of Labor Statistics (BLS).

Title: National Longitudinal Survey of Youth 1979.

OMB Number: 1220–0109.

Affected Public: Individuals or households.

Number of Respondents: 16,280.

Number of Annual Responses: 19,350.

Estimated Time Per Response and Total Burden Hours:

Form	Total respondents	Frequency	Total responses	Average minutes	Estimated total burden hours
NLSY79 Round 20 Main Survey	8,200	Biennially	8,200	60	8,200
Main NLSY79 Validation Re-interview	400	Biennially	400	6	40
Mother Supplement	2,300	Biennially	3,260	21	1,141
Child Supplement	3,260	Biennially	3,260	31	1,684
Child Self-Administered Questionnaire	1,710	Biennially	1,710	12	342
Young Adult Survey	2,520	Biennially	2,520	45	1,890
Totals			19,350		13,297

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: The National Longitudinal Survey of Youth 1979 represents the 20th wave of data collection. The information obtained in this survey will be used by the Department of Labor (DOL), other government agencies, academic researchers, the news media, and the general public to understand the employment experiences and life-cycle transitions of men and women born in the years 1957 to 1964 and living in the United States when the survey began in 1979. Among the objectives of the DOL are to promote the development of the U.S. labor force and the efficiency of the U.S. labor market.

Ira L. Mills,

DOL Clearance Officer.

[FR Doc. 01–25345 Filed 10–9–01; 8:45 am]

BILLING CODE 4510–24–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 28, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail: King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

*evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility, and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: Reporting and Performance Standards System for Migrant and Seasonal Farmworker Programs Under Title I, Section 167 of the Workforce Investment Act (WIA).

OMB Number: 1205–0425.

Affected Public: State, Local, or Tribal Government and Not-for-profit institutions.

Reporting and recordkeeping requirements	Number of respondents	Number of annual responses	Frequency	Estimated time per response (hours)	Burden hours
Plan Narrative	53	53	Annually	20	1,060
Data Record	53	42,250	On occasion	2	84,500
Report from Data Record	53	212	Quarterly	1	212
Form ETA 9093, Budget Information Summary	53	53	Annually	15	795
Form ETA 9094, Program Planning Summary	53	53	Annually	16	848
Form ETA 9095, Program Status Summary	53	212	Quarterly	7	1,484
Totals		42,833			88,899

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services: $0.

Description: This collection of information relates to the planning and operation of employment and training programs for Migrant and Seasonal Farmworkers under Title I, Section 167 of the Workforce Investment Act (WIA). It also contains the basis of the performance standards system for Workforce Investment Act section 167 grantees. This collection of information is authorized by 20 CFR 667.300.

Agency: Employment and Training Administration (ETA).

Type of Review: Extension of a currently approved collection.

Title: Re-employment Services Plan Narrative and Progress Report.

OMB Number: 1205–0424.

Affected Public: State, Local, or Tribal Government.

Reporting requirements	Number of respondents	Number of annual responses	Frequency	Estimated time per response (hours)	Burden hours
Annual Plan	54	54	Annually	40	2,160
Progress Report	54	54	Annually	16	864
Totals:		108			3,024

Total Annualized Capital/Startup Costs (operating/maintaining systems or purchasing services): $0.

Description: ETA seeks to extend OMB approval of an annual plan narrative and one annual progress report as requirements for re-employment services allotments. The annual plan and progress report will provide necessary information to assist the Secretary in determining if proposed State Employment Security Agencies re-employment services are acceptable and whether or not the purpose of the funds was achieved. Sections 136 and 185 of the Workforce Investment Act authorize this collection of information.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–25346 Filed 10–9–01; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 18, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail: king-darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Office for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Agency (ESA).

Type of Review: Revision of a currently approved collection.

Title: Applications to Employ Special Industrial Homeworkers and Workers with Disabilities.

OMB Number: 1215–0005.

Affected Public: Business or other for-profit; Individuals or households; Not-for-profit institutions; Farms; State, Local, or Tribal Government.

Type of Response: Reporting.

Frequency: Annually and Biennially.

Form	Number of respondents	Annual responses	Average time per response (hours)	Burden hours
WH–2	50	50	.5	25
WH–226	4,500	4,500	.75	3,375
WH–226A	4,500	12,000	.75	9,000
Total	*4,550	16,550		12,400

*Respondents for the WH–226 and WH–226A are the same respondent group.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $1,683.

Description: The information collected on these forms is authorized by 26 CFR Section 530, and is necessary to determine whether respondents will be authorized to pay wages to handicap individuals and employ homeworkers in the restricted industries under the provisions of section 11(d) and 14(c) of the Fair Labor Standards Act.

Agency: Employment Standards Agency (ESA).

Type of Review: Extension of a currently approved collection.

Title: OFCCP Complaint Form.

OMB Number: 1215–0131.

Affected Public: Individuals or households.

Type of Response: Reporting.

Frequency: On occasion.

Number of Respondents: 1,046.

Annual Responses: 1,046.

Average Time per Response: 1.28 hours.

Burden Hours: 1,339.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $387.

Description: The information collected on the form CC–4 is authorized by 41 CFR 60–1.23, 60–250.26(c), and 60–741.61. This form is submitted by individuals who allege illegal discrimination by Federal contractors under programs administered by OFCCP.

Agency: Employment Standards Agency (ESA).

Type of Review: Extension of a currently approved collection.

Title: Application for Approval of a Representative's Fee in a Black Lung Claim Proceeding Conducted by the U.S. Department of Labor.

OMB Number: 1215–0171.

Affected Public: Business or other for-profit.

Type of Responses: Reporting.

Frequency: On occasion.

Number of Respondents: 500.

Annual Responses: 500.

Average Time per Response: 42 minutes.

Burden Hours: 350.

Total Annualized Capital/Startup Costs: $0.

Total Annualized costs (operating/ maintaining systems or purchasing services): $0.

Description: The purpose of the CM–972 is to collect data to determine if a representative's services and the amounts charged can be paid under the Black Lung Benefits Act (30 U.S.C. 901) and 20 CFR 725.365–6. 20 CFR 725.366 sets forth the specific information required on the CM–972.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 01–25347 Filed 10–9–01; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

October 1, 2001.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Darrin King at (202) 693–4129 or E-Mail: King-Darrin@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: Stuart Shapiro, OMB Desk Officer for MSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

* evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility, and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration (MSHA).

Type of Review: Extension of a currently approved collection.

Title: Record of Results of Examinations of Self-Rescuers, Underground Coal Mines—30 CFR 75.1714–3(e).

OMB Number: 1219–0044.

Affected Public: Business or other for-profit.

Type of Response: Recordkeeping.

Frequency: Quarterly.

Number of Respondents: 887.

Number of Annual Responses: 236,632.

Estimated Time Per Response: 30 minutes to certify an examination and 1 minute to document why a devise is taken out of service.

Total Burden Hours: 118,268.

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/ maintaining systems or purchasing services): $0.

Description: 30 CFR 75.1714–3(e) requires underground coal mine operators to keep records of the corrective actions taken as a result of required examinations of self-rescue devices. The information is used to insure that the examinations are conducted and that the devises are in operable and usable condition in the event of an emergency.

Ira Mills,

Departmental Clearance Officer.

[FR Doc. 01–25348 Filed 10–9–01; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Council; Notice of Meeting and Agenda

The regular Fall meetings of the Business Research Advisory Council and its committees will be held on October 24 and 25, 2001. All of the meetings will be held in the Conference Center of the Postal Square Building, 2 Massachusetts Avenue, N.E., Washington, D.C.

The Business Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's Programs. Membership consists of technical officials from American business and industry.

The Schedule and agenda for the meeting are as follows:

Wednesday—October 24, 2001—Meeting Rooms 7 & 8

10:00–11:30 a.m.—Committee on Employment and Unemployment Statistics

1. American Time Use Survey (ATUS) update.
2. Current Employment Statistics (CES) update.
   a. North American Industry Classification System (NAICS) conversion.
   b. Options for collecting hours and earnings for all employees.
   c. Discussion of whether to move the earnings concept toward total earnings for the month.
3. Large scale layoffs, employment dynamics, and firm survival: report on BLS research using data from the Mass Layoff Statistics (MLS) program.
4. Discussion of agenda items for the Spring 2002 meeting.

1:00–2:30 p.m.—Committee on Price Indexes

1. Consumer Price Index.
2. Producer Price Index.
3. Import and Export Price Indexes.
4. Discussion of agenda items for the Spring 2002 meeting.

3:00–4:30 p.m.—Committee on Employment Projections

1. Reorganization of the Employment Projections program.
2. Status of the 2000–2010 Projections program.
3. North American Industry Classification System (NAICS) issues.
4. Project plans for Fiscal Year 2002.
5. Discussion of agenda items for the Spring 2002 meeting.

Thursday—October 25, 2001—Meeting Rooms 7 & 8

8:30–10:00 a.m.—Committee on Productivity and Foreign Labor Statistics

1. Capital measurement project for residential housing.
2. Service sector expansion plans.
3. Country expansion possibilities for comparative hourly compensation data.
4. Discussion of agenda items for the Spring 2002 meeting.

8:30–10:00 a.m.—Committee on Occupational Safety and Health Statistics (Concurrent Session, Meeting Room 9)

1. Report on the 2000 Census of Fatal Occupational Injuries (CFOI).
2. Status of the 2001 Census of Fatal Occupational Injuries.

8:30–10:00 a.m.—Committee on Occupational Safety and Health Statistics (Concurrent Session, Meeting Room 9) (Continued)

3. Demonstration of the CFOI profiles system.
4. Status report on the Survey of Respirator Use and Practices.
5. Changes to the Survey of Occupational Injuries and Illness in response to the OSHA recordkeeping changes.
6. FY2002 Budget.
7. Discussion of agenda items for the Spring 2002 meeting.

10:30 a.m.–12:00 p.m.—Council

1:30–3:00 p.m.—Committee on Compensation and Working Conditions

1. Wage query system with regressions.
2. Equity-based compensation.
3. Discussion of agenda items for Spring 2002 meeting.

The meetings are open to the public. Persons with disabilities wishing to attend these meeting as observers should contact Tracy A. Jack, Liaison, Business Research Advisory Council, at (202) 691–5869, for appropriate accommodations.

Signed at Washington, D.C. the 3rd day of October 1, 2001.

Katharine G. Abraham,

Commissioner.

[FR Doc. 01–25387 Filed 10–9–01; 8:45 am]

BILLING CODE 4510–24–M

MARINE MAMMAL COMMISSION

Sunshine Act Meeting

TIME AND DATE: The Marine Mammal Commission and its Committee of Scientific Advisors on Marine Mammals will meet in executive session on Wednesday, November 14, 2001, from 8 a.m. to 10:45 a.m. The public sessions of the Commission and the Committee meeting will be held on Wednesday, November 14, from 11 a.m. to 5:45 p.m., on Thursday, November 15, from 8:30 a.m. to 5:45 p.m., and on Friday, November 16, from 8:30 a.m. to 3:30 p.m.

PLACE: Anchorage Marriott Downtown, 820 West 7th Avenue, Anchorage, Alaska 99501; Phone: 907–279–8000; Fax 907–279–8005.

STATUS: The executive session will be closed to the public. At it, matters relating to international negotiations in process, personnel, and the budget of the Commission will be discussed. All other portions of the meeting will be open to public observation. Public participation will be allowed as time permits and as determined to be desirable by the Chairman.

MATTERS TO BE CONSIDERED: The Commission and Committee will meet in public session to discuss a broad range of marine mammal matters. The meeting will focus primarily on marine mammal species and issues related to Alaska. While subject to change, major issues that the Commission plans to consider at the meeting include the status of the Bering Sea ecosystem; co-management of marine mammal populations; Pacific walruses; polar bears; sea otters in Alaska; ice seals; harbor seals; Steller sea lions; and large cetaceans in the North Pacific Ocean.

CONTACT PERSON FOR MORE INFORMATION: Robert H. Mattlin, Executive Director, Marine Mammal Commission, 4340 East-West Highway, Room 905, Bethesda, MD 20814, 301–504–0087.

Dated: October 5, 2001.

Robert H. Mattlin,

Executive Director.

[FR Doc. 01–25538 Filed 10–5–01; 2:21 pm]

BILLING CODE 6820–31–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (01–118)]

NASA Advisory Council; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council.

DATES: Tuesday, October 16, 2001, 8:30 a.m. to 5:00 p.m.; and Wednesday, October 17, 2001, 8:30 a.m. to 2:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Room 9H40, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Kathy Dakon, Code IC, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0732.

SUPPLEMENTARY INFORMATION: The meeting will be closed to the public in accordance with 5 U.S.C. 552b(c)9(B), to hear briefings on NASA's Strategic Resource Review. The agenda for the meeting is as follows:

—Agency Strategic Resource Review Plans

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–25321 Filed 10–9–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–119]

NASA Advisory Council (NAC), Aerospace Technology Advisory Committee (ATAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aero-space Technology Advisory Committee.

DATES: Tuesday, October 30, 2001, 8:30 a.m. to 5:30 p.m.; and Wednesday, October 31, 2001, 9:00 a.m. to 5:00 p.m.

ADDRESSES: Channel Inn Hotel, 650 Water Street SW, Washington, DC 20024 and Holiday Inn, Rosslyn Westpark Hotel, 1900 North Fort Myer Drive, Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Ms. Mary-Ellen McGrath, Office of Aerospace Technology, National Aeronautics and Space Administration, Washington, DC 20546 (202/358–4729).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

Tuesday, October 30—Channel Inn Hotel, 8:30 a.m. to 5:30 p.m.

—ATAC Restructuring
—Space Launch Initiative (SLI)
—Enterprise State of Affairs
—FY 2001Government Performance Results Act (GPRA) Report
—Subcommittee Reports
—NASA's University Research Engineering Technology Institute

Wednesday, October 31—Channel Inn Hotel 9:00 a.m. to 11:30 a.m. and

Holiday Inn, Rosslyn Westpark Hotel, 1:00 p.m. to 5:00 p.m.

—Opening Comments for Joint Aerospace Technology Advisory Committee (ATAC) and Research, Engineering and Development Advisory Committee (REDAC)
—Commission on the Future of the U.S. Aerospace Industry

—Budget Synopsis: Enacted FY 2002 and FY 2003 Outlook

—Vehicle Noise and Emissions Reduction Technology

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–25322 Filed 10–9–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 01–120]

NASA Advisory Council (NAC), Earth Systems Science and Applications Advisory Committee (ESSAAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting change.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Earth Systems Science and Applications Advisory Committee.

DATES: Tuesday, October 16, 2001, 8:30 a.m. to 5:30 p.m.; and Wednesday, October 17, 2001, 8:30 a.m. to 5:30 p.m.

Previously Announced Location: NASA Headquarters, 300 E Street SW, Room 9H40, Washington, DC, 20546.

Change in the Meeting: The meeting will now be held at the Holiday Inn Capitol, Discovery II Room, 500 C Street SW., Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Schiffer, Code YS, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–1876.

Beth M. McCormick,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 01–25323 Filed 10–9–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office; National Industrial Security Program Policy Advisory Committee: Notice of Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App.2) and implementing regulation 41 CFR 101.6, announcement is made for the following committee meeting:

Name of Committee: National Industrial Security Program Policy Advisory Committee (NISPPAC).

Date of Meeting: November 7, 2001.

Time of Meeting: 10 a.m. to 12 p.m.

Place of Meeting: National Archives and Records Administration, 700 Pennsylvania Avenue, NW, Room 105, Washington, DC 20408.

Purpose: To discuss National Industrial Security Program policy matters.

This meeting will be open to the public. However, due to space limitations and access procedures, the name and telephone number of individuals planning to attend must be submitted to the Information Security Oversight Office (ISOO) no later than October 26, 2001. ISOO will provide additional instructions for gaining access to the location of the meeting.

FOR FURTHER INFORMATION CONTACT: Steven Garfinkel, Director, Information Security Oversight Office, National Archives Building, 700 Pennsylvania Avenue, NW., Room 100, Washington, DC 20408, telephone (202) 219–5250.

Dated: October 3, 2001.

Mary Ann Hadyka,

Committee Management Officer.

[FR Doc. 01–25368 Filed 10–9–01; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–325 and 50–324]

Carolina Power & Light Company; Brunswick Steam Electric Plant, Units 1 and 2; Exemption

1.0 Background

The Carolina Power & Light Company (CP&L, the licensee) is the holder of Facility Operating License Nos. DPR–71 and DPR–62, which authorize operation of the Brunswick Steam Electric Plant, Units 1 and 2 (BSEP). The licenses provide, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect.

The facility consists of two boiling-water reactors located in Brunswick County in North Carolina.

2.0 Request/Action

Title 10 of the Code of Federal Regulations (10 CFR), part 50, appendix G, requires that pressure-temperature (P-T) limit curves for BSEP be developed in accordance with the methods invoked by Appendix G to Section XI of the ASME Code.

In summary, by letter dated May 1, 2001, the licensee submitted a request to use an exemption method that would allow CP&L to deviate from complying with the requirements in 10 CFR part 50, appendix G, for generating the P-T limit curves for BSEP.

3.0 Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when (1) the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security; and (2) when special circumstances are present. These circumstances include the special circumstances that 10 CFR 50.60 requires that all light-water nuclear power reactors must meet the fracture toughness requirements of appendix G of 10 CFR 50. 10 CFR part 50, appendix G requires P-T limit curves to be at least as conservative as limits obtained by following the methods of analysis and the margins of safety of Appendix G of Section XI of the ASME Code. Requests for exemptions to the requirements of 10 CFR part 50, appendices G and H, may be submitted pursuant to 10 CFR 50.60(b), which allows licensees to use alternatives to the respective fracture toughness and reactor vessel material surveillance program requirements of the appendices, if an exemption to use the alternatives is granted by the Commission pursuant to 10 CFR 50.12. According to 10 CFR 50.12(a)(1), the Commission may grant exemptions to the requirements of 10 CFR part 50 if the exemptions are authorized by law, and will not present an undue risk to the public health and safety, and are consistent with the common defense and security.

Based upon a consideration of the licensee's information and the NRC's Safety Evaluation, the staff concludes that granting an exemption under the requirements of 10 CFR 50.12(a)(1) is appropriate.

The Safety Evaluation 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 ADAMS Public Library component on the NRC Web site, http://www.nrc.gov (the Public Electronic Reading Room).

4.0 Conclusion

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption is authorized by law, will not endanger life or property or common defense and security, and is, otherwise, in the public interest. Also, special circumstances are present. Therefore, the Commission hereby grants CP&L an exemption from the requirements of 10 CFR 50, appendix G, for generating the P-T limit curves for BSEP.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment (66 FR 50458).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 3rd day of October 2001.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–25418 Filed 10–9–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Plant License Renewal; Notice of Meeting

The ACRS Subcommittee on Plant License Renewal will hold a meeting on October 25, 2001, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, October 25, 2001—8:30 a.m. until 12:00 Noon

The Subcommittee will discuss the Safety Evaluation Report for the Southern Nuclear Operating Company, Inc., license renewal application for Hatch Units 1 and 2, and the NRC license renewal appeals process. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: October 2, 2001.

Sher Bahadur,

Associate Director for Technical Support ACRS/ACNW.

[FR Doc. 01–25417 Filed 10–9–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATES: Weeks of October 8, 15, 22, 29, November 5, 12, 2001.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 8, 2001

There are no meetings scheduled for the week of October 8, 2001.

Week of October 15, 2001—Tentative

Thursday, October 18, 2001

9:00 a.m.—Meeting with NRC Stakeholders—Progress of Regulatory Reform (Public Meeting) (Location—Two White Flint North Auditorium).

Week of October 22, 2001—Tentative

There are no meetings scheduled for the week of October 22, 2001.

Week of October 29, 2001—Tentative

There are no meetings scheduled for the week of October 29, 2001.

Week of November 5, 2001—Tentative

There are no meetings scheduled for the week of November 5, 2001.

Week of November 12, 2001—Tentative

Thursday, November 15, 2001

2:00 p.m.—Discussion of Intragovernmental Issues (Closed-Ex. 1).

*The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: David Louis Gamberoni (301) 415–1651

Additional Information

By a vote of 4–0 on September 26 and 27, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Final Rulemaking to Amend 10 CFR Part 55, 'Operators' Licenses,' Regarding Operator License Eligibility and the Use of Simulator Facilities in Operator Licensing; and, Revision 3 of Regulatory Guide 1.149, ''Nuclear Power Plant Simulation Facilities for Use in Operator Training and License Examinations'' be held on September 28, and on less than one week's notice to the public

By a vote of 4–0 on October 3, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of Duke Energy Corporation License Renewal Application for Catawba, Units 1 and 2, and McGuire, Units 1 and 2; Licensing Board Referral and Scheduling Order'' be held on October 4, and on less than one week's notice to the public.

The NRC Commission Meeting Schedule can be found on the Internet at: http://www.nrc.gov/SECY/smj/schedule.htm

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, D.C. 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to dkw@nrc.gov.

Dated: October 4, 2001.

David Louis Gamberoni,

Technical Coordinator, Office of the Secretary.

[FR Doc. 01–25544 Filed 10–5–01; 2:19 pm]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the American Stock Exchange LLC (Media General, Inc., Class A Common Stock, $5.00 par value) File No. 1–6383

October 3, 2001.

Media General, Inc., a Virginia Corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Class A Common Stock, $5.00 par value (''Security''), from listing and registration on the American Stock Exchange LLC (''Amex'').

The Issuer stated in its application that it has met the requirements of Amex Rule 18 by complying with all applicable laws in effect in the Commonwealth of Virginia, in which it is incorporated, and with the Amex's rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Issuer's application relates solely to the Security's withdrawal from listing on the Amex and registration under Section 12(b) of the Act [3] and shall not affect its obligation to be registered under Section 12(g) the Act.[4]

On August 15, 2001, the Board of Directors of the Issuer approved resolutions to withdraw the Issuer's Security from listing on the Amex and list it on the New York Stock Exchange, Inc. (''NYSE''). In its application, the Issuer states that trading in the Security on the Amex will cease on September 18, 2001, and trading in the Security is expected to begin on the NYSE at the opening of business on September 19, 2001. In making the decision to withdraw the Security from listing on the Exchange, the Issuer considered the potential of increased liquidity for its Security by listing on the NYSE.

Any interested person may, on or before November 5, 2001, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Amex and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 01–25378 Filed 10–9–01; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–44900; File No. SR–CHX–2001–08)

Self-Regulatory Organizations; Notice of Filing of Proposed Rules Change by the Chicago Stock Exchange, Inc., To Amend Its Minor Rule Violation Plan

October 2, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 23, 2001, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CHX Article XII, Rule 9(h) (Minor Rule Violations) to include CHX Article XX, Rule 43(d) (Training in Nasdaq/NM Securities/Manual Executions) into the Exchange's Minor Rule Violation Plan (''Plan''). The text of the proposed rule change is below. Proposed additions are in italic.

ARTICLE XII, Rule 9

Minor Rule Violations

Rule 9(h) Exchange Rules and Policies subject to the Minor Rule Violation Plan:

(i) no change in text

(ii) Floor Decorum and Minor Trading Rule Violations

(1)–(18) no change in text

(19) Failure to manually execute a Nasdaq/NM market or marketable limit order at the NBBO or better at the time of its receipt or at the best available price in another marketplace (Article XX, Rule 43(b)).

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Section A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add Article XX, Rule 43(d) to the Plan under Article XII, Rule 9. Under CHX Rule 43(d), CHX Nasdaq specialists, if they are not quoting at the national best bid and offer (''NBBO'') at the time a market or marketable limit order is received over the Exchange's Midwest Automated Execution System (the ''MAX'' system), are permitted to remove such orders that would otherwise receive an automatic execution at the NBBO and to manually execute them. The resulting manual execution must occur at the NBBO existence at the time the order was

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

received, or better, or at the best available price in another marketplace. The Exchange believes that violations of this rule are objective in nature and easily verifiable. Therefore, the Exchange believes that violations of this rule in inadvertent or isolated circumstances should be handled under the Plan and not pursuant to the Exchange's formal disciplinary procedures. The Exchange proposes that the recommended fines for the above violations be $100, $500 and $1,000 for first, second and third and subsequent violations, respectively.[3]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange. In particular, the Exchange believes the proposed rule is consistent with Sections 6(b)(1),[4] 6(b)(6),[5] 6(b)(7),[6] and 19(d)[7] of the Act. The CHX believes the proposal is consistent with the Section 6(b)(6)[8] requirement that the rules of an Exchange provide that its members and persons associated with its members shall be disciplined appropriately for violations of the rules of the exchange. The CHX believes the proposal provides an efficient procedure for the appropriate disciplining of members for a rule violation that is objective in nature. In addition, because CHX Article XII, Rule 9 provides procedural rights to a person fined under the Plan to contest the fine and permit a hearing on the matter, the Exchange believes the proposal provides a fair procedure for the disciplining of members and persons associated with members, consistent with Sections 6(b)(7) and 6(d)(1) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

[3] The Exchange staff would not recommend that a violation of this rule proceed under the Plan if a specialist had not already adjusted the execution price of an order that was the basis of the rule violation.

[4] 15 U.S.C. 78f(b)(1).

[5] 15 U.S.C. 78f(b)(6).

[6] 15 U.S.C. 78f(b)(7).

[7] 15 U.S.C. 78s(d).

[8] 15 U.S.C. 78f(b)(6).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the CHX consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No. SR–CHX–2001–08 and should be submitted by October 31, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–25381 Filed 10–9–01; 8:45 am]

BILLING CODE 8010–01–M

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44896; File No. SR–EMCC–2001–03]

Self-Regulatory Organizations; Emerging Markets Clearing Corporation; Notice of Proposed Rule Change Relating to Arrangements To Integrate Emerging Markets Clearing Corporation and The Depository Trust & Clearing Corporation

October 2, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act (''Act''),[1] notice is hereby given that on August 22, 2001, the Emerging Markets Clearing Corporation (''EMCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by EMCC. 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 proposed rule change involves the initial arrangements for the integration of EMCC with The Depository Trust & Clearing Corporation (''DTCC'').[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, EMCC 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 the statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[3]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change is the first formal regulatory step to effect the integration of EMCC with DTCC. Specifically, the rule change would implement certain changes in EMCC's organizational documents to facilitate

[1] 15 U.S.C. 78s(b)(1).

[2] DTCC is a holding company for The Depository Trust Company and the National Securities Clearing Corporation, which are registered clearing agencies.

[3] The Commission has modified the text of the summaries prepared by EMCC.

the integration with DTCC and the subsequent exchange offer.

1. Background

At its meeting on July 25, 2001, EMCC's Board of Directors voted to proceed with a plan for the integration of EMCC with DTCC (''Plan''). Such integration is expected to take place concurrently with the integration of the Government Securities Clearing Corporation (''GSCC'') and MBS Clearing Corporation (''MBSCC'') with DTCC.[4] EMCC has been advised that the Board of Directors of DTCC has also agreed to proceed with the Plan.

A principal goal of the Plan is to facilitate the development and timely execution of a strategy to harmonize the processing streams at EMCC, MBSCC, GSCC, The Depository Trust Company (''DTC'') and the National Securities Clearing Corporation (''NSCC'') (collectively, the ''Operating Subsidiaries'') for the clearance and settlement of both institutional and broker transactions. Harmonized processing should help to accommodate shortened settlement cycles, address increasing volumes, improve risk management, and lower transaction processing costs.

2. The Plan

a. Exchange Offer and Valuation

Under the Plan, DTCC will form a wholly-owned subsidiary (''Acquisition Company'') for the purpose of making an exchange offer (''Exchange Offer'') for EMCC shares. After receiving all regulatory approvals, Acquisition Company will conduct the Exchange Offer where eligible EMCC Class A shareholders will have the opportunity to exchange their EMCC shares for DTCC common stock.[5] Concurrent with and subject to the effectiveness of the Exchange Offer, EMCC will repurchase the Class A and Class B common shares held by its trade association shareholders. Subject to the effectiveness of the Exchange Offer, EMCC's trade association shareholders will receive from EMCC in exchange for their Class A and Class B common shares cash in an amount equal to the lesser of (a) their acquisition cost or (b) the adjusted book value of their shares. EMCC's Class B shareholders will retain their Class B shares (other than the trade association shareholders who will be paid out as provided above) with the same rights to have their shares repurchased for cash as currently provided in EMCC's Amended and Restated Shareholder Agreement (''EMCC Shareholder Agreement'').[6]

The EMCC–DTCC share exchange will be valued on the basis of the adjusted book value of such EMCC and DTCC shares. Adjusted book value of the EMCC shares will equal book values less the retained earnings of EMCC at the time of (or as of the end of the last full calendar month preceding) the integration of EMCC with DTCC. Adjusted book value of the DTCC shares will equal book value less the smaller of (i) the retained earnings of DTCC attributable to NSCC's retained earnings at the time of the integration of NSCC and DTC with DTCC in 1999 or (ii) the retained earnings of DTCC attributable to the retained earnings of NSCC at the time of (or as of the last full calendar month preceding) the integration of EMCC with DTCC.[7]

Following a successful Exchange Offer, Acquisition Company will be the majority shareholder of EMCC and the Class B and any non-eligible and/or non-tendering Class A EMCC shareholders will remain as minority shareholders in EMCC.

b. Changes to EMCC's Shareholder Agreement

EMCC's Shareholder Agreement will be amended in connection with the Exchange Offer in order to eliminate any restrictions on transferring EMCC shares to Acquisition Company. Following a successful Exchange Offer, the EMCC Shareholder Agreement will be terminated.

c. Selection of EMCC's Directors and EMCC Activities

DTCC, through its wholly-owned subsidiary, Acquisition Company, will elect as directors of EMCC the persons elected by the shareholders of DTCC to be the directors of DTCC.[8] EMCC will continue to exist as a separate registered clearing agency and will operate essentially as it currently does by offering its own services to its own members pursuant to separate legal arrangements and separate risk management procedures. As a matter of DTCC policy, EMCC's retained earnings at the time of (or as of the end of the last full calendar month preceding) the integration of EMCC with DTCC will be dedicated to supporting EMCC's business. EMCC will be sufficiently capitalized for its activities as a clearing agency.

d. DTCC's Role

Neither Acquisition Company nor DTCC will engage in clearing agency activities. Certain support functions, including human resources, finances, audit, general administration, and corporate communications will continue to be centralized in DTCC and be provided by DTCC through NSCC to EMCC pursuant to service contracts.

e. Fair Representation

As part of the proposed integrations, a structure will be implemented in order that the Operating Subsidiaries will satisfy their fair representation requirement of Section 17A of the Act. Specifically, the DTCC shareholders, consisting of the current shareholders of DTCC and the shareholders of EMCC, MBSCC, and GSCC, which become shareholders of DTCC as a result of the Plan, will elect the persons to serve on DTCC's Board of Directors. These individuals will, in turn, be selected by DTCC to serve as the directors of each of the Operating Subsidiaries. On a periodic basis to be determined by the DTCC Board, rights to purchase DTCC common stock will be reallocated to shareholders using the services of any one or more of the Operating Subsidiaries based upon their usage. Shareholders may, but will not be obligated to, purchase some or all of the DTCC common stock to which they are entitled. Holders of DTCC common stock will be entitled to cumulative voting in the election of directors.

f. Committees

In addition, DTCC's existing International Operations and Planning Committee will include representatives of members of EMCC. The International Operations and Planning Committee will advise the DTCC Board and management on its policies and procedures with respect to the

[4] Pursuant to separate plans for the integration of GSCC and MBSCC with DTCC, it is contemplated that GSCC and MBSCC will become operating subsidiaries of DTCC at the same time that EMCC becomes an operating subsidiary of DTCC. However, the integration of EMCC with DTCC is not contingent on the integration of GSCC and MBSCC with DTCC and vice versa. Securities and Exchange Act Release Nos. 44985 (Oct. 2, 2001) [File No. SR–GSCC–2001–11] and 44838 (Sept. 24, 2001) [File No. SR–MBSCC–2001–01].

[5] EMCC Class A shareholders eligible to participate in the Exchange Offer include EMCC Class A shareholders that are members or affiliates of members of EMCC, MBSCC, DTC, or NSCC.

[6] In addition and subject to the effectiveness of the Exchange Offer, holders of Class B shares will be provided with the limited right to vote for the election of EMCC Directors.

[7] Such retained earnings are dedicated to NSCC's business.

[8] Given that EMCC's initial post-integration board would be elected upon the effectiveness of the integration plan, EMCC has determined to postpone its 2001 annual election of directors, which would normally occur near calendar year-end, with the current Board remaining in office until the Plan is effectuated. Should the Plan not become effective by March 31, 2002, then EMCC will call an annual meeting for the election of directors pursuant to its current procedures.

international products and/or services of the Operating Subsidiaries, including EMCC, and will have certain other responsibilities to be assigned to the Committee.

Furthermore, EMCC will continue to have a Membership and Risk Committee that will include representatives of EMCC's members. The EMCC Membership and Risk Committee will advise EMCC's Board of Directors and management with respect to membership, credit matters, and risk matters and will have certain other responsibilities to be assigned to it.

g. Changes to DTCC's and EMCC's Governing Documents

DTCC's Certificate of Incorporation, By-Laws and Shareholders Agreement (''Basic Documents'') will be amended to extend to the shareholders of EMCC, MBSCC, and GSCC that become shareholders of DTCC as a result of the Exchange Offer the rights that the shareholders of DTCC currently have and, in particular, to satisfy the Fair Representation Requirement of the Exchange Act. The Basic Documents will provide the following:

- The persons elected as directors to the DTCC Board will also serve as the directors of each of the Operating Subsidiaries, including EMCC.
- Other than, as is currently the case, one director appointed to the DTCC Board by the New York Stock Exchange, Inc., as the owner of DTCC preferred stock, and one director appointed to the DTCC Board by the National Association of Securities Dealers, Inc., as an owner of DTCC preferred stock, all directors will be elected annually by the owners of DTCC common stock.
- The rights to purchase DTCC common stock will be reallocated to the users of each of the Operating Subsidiaries based upon their usage. Under the Basic Documents, these rights will be reallocated on a periodic basis to be determined by DTCC's Board and in accordance with the DTCC Shareholders Agreement.
- DTCC common stock owners will be able to exercise voting in the election of DTCC's directors.
- Each year the DTCC Board will appoint a nominating committee that may include both members and non-members of the DTCC Board. After soliciting suggestions from all users of each of the Operating Subsidiaries of possible nominees to fill vacancies on the DTCC Board, the nominating committee will recommend a slate of nominees for the full DTCC Board. The DTCC Board may make changes in that slate before submitting nominations to the holders of DTCC common stock for election. The election ballot included in the proxy materials will provide an opportunity for stockholders to cast their votes for a person not listed as a nominee. Because the Basic Documents will provide for cumulative voting, certain large holders of DTCC common stock may have a sufficient number of shares to elect a person not on the slate nominated for election by the DTCC Board.

In addition, EMCC's Certificate of Incorporation and By-Laws will be revised to reflect the changes in EMCC's corporate governance structure and to include certain other changes so that these documents conform to the Certificates of Incorporation and By-Laws of GSCC and MBSCC, so as to promote efficiency in the governance of the Operating Subsidiaries upon completion of the Plan.[9] EMCC's Certificate of Incorporation shall be amended as follows:

- Its operative provision, which currently is contained in the original Certificate and several amendments, will be restated into a single composite Amended and Restated Certificate of Incorporation and recorded and renumbered as appropriate.
- In Article 3 (as renumbered), the provisions relating to the Class B common shares will be modified to provide such shares with limited voting rights. These shares will have the right to vote, with the Class A common shares voting together as a single Class, for the election of directors.
- A new Article 4 will be inserted to provide that, in accordance with New York Business Corporation Law, EMCC shareholders may take action by written consent without a meeting and without unanimity as long as such consent is signed by the holders of outstanding shares having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.
- The supermajority voting provisions currently contained in Article 6 will be deleted since they will be unnecessary because DTCC, through its wholly-owned subsidiary, Acquisition Company, will be the controlling shareholder of EMCC.
- A new Article 6 will be added to limit the liability of the directors to EMCC and its shareholders for any breach of duty provided such limitation is consistent with the provisions of the New York Business Corporation Law.
- Since after the proposed integration DTCC through its wholly-owned subsidiary, Acquisition Company, will be the majority shareholder of EMCC, the current By-Laws of EMCC will be replaced with a set of By-Laws that generally conform to NSCC's By-Laws.[10]

EMCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Exchange Act and the rules and regulations thereunder applicable to EMCC because it is designed to coordinate further the activities of each of the Operating Subsidiaries in order to help assure the continued prompt and accurate clearance and settlement of securities transactions in the face of changing business and regulatory requirements for the securities industry. The proposed rule change will not affect and is therefore consistent with EMCC's duty to safeguard securities and funds in its custody or control or for which it is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

EMCC does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. EMCC, as well as each of the other Operating Subsidiaries, is a utility created to serve members of the securities industry by providing certain complementary services that are ancillary to the businesses in which industry members compete with one another.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or

[9] The full text of the proposed changes to the Certificate of Incorporation and to the By-Laws is set forth in Exhibit A of EMCC's rule filing.

[10] EMCC's By-Laws will differ from NSCC's By-Laws in that (i) all references will be gender-neutral, (ii) the requirement in Section 3.3 that the President shall be the Chief Executive Officer will be deleted, (iii) the number of directors shall be between fifteen and twenty-five as determined by the Board, and (iv) Sections 1.2 and Article VIII will provide that a majority of the outstanding shares may call a special shareholders meeting and may amend EMCC's By-Laws.

(ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 EMCC's principal office. All submissions should refer to File Number SR–EMCC–2001–03 and should be submitted by October 31, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–25380 Filed 10–1–01; 8:45 am]

BILLING CODE 8010–01–M

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44895; File No. SR–GSCC–2001–11]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Proposed Rule Change Relating to Arrangements To Integrate Government Securities Clearing Corporation and The Depository Trust & Clearing Corporation

October 2, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act ("Act"),[1] notice is hereby given that on August 22, 2001, the Government Securities Clearing Corporation ("GSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by GSCC. 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 proposed rule change involves the initial arrangements for the integration of GSCC with The Depository Trust & Clearing Corporation ("DTCC").[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of the statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[3]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change is the first formal regulatory step to effect the integration of GSCC with DTCC. Specifically, the rule change would implement certain changes in GSCC's organizational documents to facilitate the integration with DTCC and the subsequent exchange offer.

1. Background

At its meeting on July 24, 2001, GSCC's Board of Directors voted to proceed with a plan for the integration of GSCC and MBS Clearing Corporation ("MBSCC") with DTCC ("Plan").[4] Such integration is expected to take place concurrently with the integration of Emerging Markets Clearing Corporation ("EMCC") with DTCC.[5] GSCC has been advised that the Board of Directors of DTCC has also agreed to proceed with the Plan.

A principal goal of the Plan is to facilitate the development and timely execution of a strategy to harmonize the processing streams at GSCC, MBSCC, EMCC, The Depository Trust Company ("DTC") and the National Securities Clearing Corporation ("NSCC") (collectively, the "Operating Subsidiaries") for the clearance and settlement of both institutional and broker transactions. Harmonized processing should help to accommodate shortened settlement cycles, address increasing volumes, improve risk management, and lower transaction processing costs.

2. The Plan

a. Exchange Offer and Valuation

Under the Plan, DTCC will form a wholly-owned subsidiary ("Acquisition Company") for the purpose of making an exchange offer ("Exchange Offer") for GSCC shares. After receiving all regulatory approvals, Acquisition Company will conduct the Exchange Offer where GSCC shareholders will have the opportunity to exchange their GSCC common stock for DTCC common stock on the basis of the adjusted book value of such GSCC and DTCC shares. Adjusted book value of the GSCC shares will equal book value less the retained earnings of GSCC at the time of (or as of the end of the last full calendar month preceding) the integration of GSCC with DTCC.[6] Adjusted book value of the DTCC shares will equal book value less the smaller of (i) the retained earnings of DTCC attributable to NSCC's retained earnings at the time of the integration of NSCC and DTC with DTCC in 1999 or (ii) the retained earnings of DTCC attributable to the retained earnings of NSCC at the time of (or as of the last full calendar month preceding) the integration of GSCC with DTCC.[7] Following a successful Exchange Offer, the GSCC Shareholder Agreement will be terminated. Acquisition Company will be the majority or sole (depending on whether all GSCC shareholders agree to tender

[1] 15 U.S.C. 78s(b)(1).

[2] DTCC is a holding company for The Depository Trust Company and the National Securities Clearing Corporation, which are registered clearing agencies.

[3] The Commission has modified the text of the summaries prepared by GSCC.

[4] Because of the current functional integration of operations of GSCC and MBSCC, the integration of GSCC with DTCC is contingent upon the successful integration of MBSCC with DTCC and vice versa. Securities Exchange Act Release No. 44838 (Sept. 24. 2001) [File No. SR–MBSCC–2001–01].

[5] Pursuant to a separate plan for the integration of EMCC with DTCC, it is contemplated that EMCC will become an operating subsidiary of DTCC at the same time that GSCC and MBSCC become operating subsidiaries of DTCC. However, the integration of GSCC and MBSCC with DTCC is not contingent on the integration of EMCC with DTCC and vice versa. Securities Exchange Act Release No. 44896 (Oct. 2, 2001) [File No. SR–EMCC–2001–03].

[6] Such retained earnings are dedicated to GSCC's business.

[7] Such retained earnings are dedicated to NSCC's business.

their shares) shareholder of GSCC and any non-tendering GSCC shareholders will remain as minority shareholders of GSCC.

b. Changes to GSCC's Shareholder Agreement

GSCC's Shareholder Agreement will be amended in connection with the Exchange Offer in order to eliminate any restrictions on transferring GSCC shares to Acquisition Company.

c. Selection of GSCC's Directors and GSCC Activities

DTCC, through its wholly-owned subsidiary, Acquisition Company, will elect as directors of GSCC the persons elected by the shareholders of DTCC to be the directors of DTCC.[8] GSCC will continue to exist as a separate registered clearing agency and will operate essentially as it currently does by offering its own services to its own members pursuant to separate legal arrangements and separate risk management procedures. As a matter of DTCC policy, GSCC's retained earnings at the time of (or as of the end of the last full calendar month preceding) the integration of GSCC with DTCC will be dedicated to supporting GSCC's business. GSCC will be sufficiently capitalized for its activities as a clearing agency.

d. DTCC's Role

Neither Acquisition Company nor DTCC will engage in clearing agency activities. Certain support functions, including human resources, finances, audit, general administration, and corporate communications will continue to be centralized in DTCC and be provided by DTCC to GSCC pursuant to service contracts.

e. Fair Representation

As a part of the proposed integration, a structure will be implemented in order that the Operating Subsidiaries will satisfy the fair representation requirement of Section 17A of the Act. Specifically, the DTCC shareholders, consisting of the current shareholders of DTCC and the shareholders of GSCC, MBSCC, and EMCC, which become shareholders of DTCC as a result of the Plan, will elect the persons to serve on DTCC's Board of Directors. These individuals will, in turn, be selected by DTCC to serve as the directors of each of the Operating Subsidiaries. On a periodic basis to be determined by the DTCC Board, rights to purchase DTCC common stock will be relocated to shareholders using the services of any one or more of the Operating Subsidiaries based upon their usage. Shareholders may, but will not be obligated to, purchase some or all of the DTCC common stock to which they are entitled. Holders of DTCC common stock will be entitled to cumulative voting in the election of directors.

f. Committees

In addition, DTCC will create a Fixed Income Operations and Planning Committee that will include representatives of members of GSCC and MBSCC. The Fixed Income Operations and Planning Committee will advise the DTCC Board and management on its policies and procedures with respect to fixed income products and/or services of the Operating Subsidiaries and will have certain other responsibilities to be assigned to the Committee.

Furthermore, GSCC and MBSCC will establish a joint GSCC/MBSCC Membership and Risk Management Committee that will include representatives of participants of GSCC and MBSCC. The joint GSCC/MBSCC Membership and Risk Management Committee will advise GSCC's and MBSCC's Board of Directors and management with respect to membership, credit, and risk matters, and will have certain other responsibilities to be assigned to the Committee.

g. Changes to DTCC's and GSCC's Governing Documents

DTCC's Certificate of Incorporation, By-Laws and Shareholders Agreement (''Basic Documents'') will be amended to extend to the shareholders of GSCC, MBSCC, and EMCC that become shareholders of DTCC as a result of the Exchange Offer the rights that the shareholders of DTCC currently have and, in particular, to satisfy the Fair Representation Requirement of the Exchange Act. The Basic Documents will provide the following:

- The persons elected as directors to the DTCC Board will also serve as the directors of each of the Operating Subsidiaries, including EMCC.
- Other than, as is currently the case, one director appointed to the DTCC Board by the New York Stock Exchange, Inc., as an owner of DTCC preferred stock, and one director appointed to the DTCC Board by the National Association of Securities Dealers, Inc., as the owner of DTCC preferred stock, all directors will be elected annually by the owners of DTCC common stock.
- The rights to purchase DTCC common stock will be reallocated to the users of each of the Operating Subsidiaries based upon their usage. Under the Basic Documents, these rights will be reallocated on a periodic basis to be determined by DTCC's Board and in accordance with the DTCC Shareholders Agreement.
- DTCC common stock owners will be able to exercise cumulative voting in the election of DTCC's directors.
- Each year the DTCC Board will appoint a nominating committee that may include both members and non-members of the DTCC Board. After soliciting suggestions from all users of each of the Operating Subsidiaries of possible nominees to fill vacancies on the DTCC Board, the nominating committee will recommend a slate of nominees for the full DTCC Board. The DTCC Board may make changes in that slate before submitting nominations to the holders of DTCC common stock for election. The election ballot included in the proxy materials will provide an opportunity for stockholders to cast their votes for a person not listed as a nominee. Because the Basic Documents will provide for cumulative voting, certain large holders of DTCC common stock may have a sufficient number of shares to elect a person not on the slate nominated for election by the DTCC Board.

In addition, GSCC's Certificate of Incorporation and By-Laws will be revised to reflect the changes in GSCC's corporate governance structure.[9] GSCC's Certificate of Incorporation shall be amended and restated in accordance with Section 807 of the New York Business Corporation Law as follows:

- Current Article 2 of the Certificate of Incorporation will be revised to state that the purposes for which GSCC is formed are to engage in any lawful act or activity for which corporations may be organized under New York Business Corporation Law, provided, however, that GSCC is not formed to engage in any act or activity requiring the consent or approval of any state official, department, board, agency, or other body without first obtaining the consent of such body.
- The supermajority voting provisions previously contained in Article 3 will be deleted since they will be unnecessary because DTCC through its wholly-owned subsidiary,

[8] Given that GSCC's initial post-integration board would be elected upon the effectiveness of the integration plan, GSCC has determined to postpone its 2001 annual election of directors, which would normally occur near calendar year-end, with the current Board remaining in office until the Plan is effectuated. Should the Plan not become effective by March 31, 2002, then GSCC will call an annual meeting for the election of directors pursuant to its current procedures.

[9] The full text of the proposed changes to the Certificate of Incorporation and to the By-Laws is set forth in Exhibit A of GSCC's rule filing.

Acquisition Company, will be the controlling shareholder of GSCC.

- Current Article 4 of the Certificate of Incorporation, which provides for removal of directors by shareholders, will be deleted as redundant because the By-Laws contain a substantially similar provision.
- Because there are no Class B common shares currently outstanding and because there are no plans to issue any such shares prior to or subsequent to the proposed integration, Article 5 (as revised, Article 3) of the Certificate of Incorporation will be modified to eliminate Class B shares. Because GSCC will no longer have any Class B shares, Article 6, which addressed the conversion of Class B shares to Class A shares, will be deleted. Article 7 (as revised, Article 5) will be amended to eliminate the references to classes of shares.
- A new Article 4 will be inserted to provide that GSCC shareholders may take action by written consent without a meeting as long as such consent is signed by the holders of outstanding shares having no less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all shares entitled to vote thereon were present and voted.
- A new Article 6 will be inserted to limit liability of the directors to GSCC and its shareholders for any breach of duty provided that such limitation is consistent with the provisions of the New York Business Corporation Law.
- Articles 8A, 8B, and 9 will be eliminated because most of the content of those articles is no longer relevant or will not be relevant after the proposed integration since GSCC will have a controlling shareholder, DTCC through its wholly-owned subsidiary Acquisition Company. GSCC's Rules currently address the subject of allocation of liability of failed participants.[10]
- Article 10, which refers to the election of the Vice Chairman of the Board pursuant to a shareholder agreement, will be deleted because the GSCC Shareholder Agreement will be terminated as part of the proposed integration.
- After the proposed integration, Acquisition Company, which is wholly-owned by DTCC, will be the majority or sole (depending on whether all current GSCC shareholders tender their shares under the Exchange Offer) shareholder of GSCC. In order to promote efficiency in the governance of the Operation Subsidiaries after the Plan is completed, GSCC's current By-Laws will be replaced with a set of By-Laws that generally conform to NSCC's By-Laws.[11]

GSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Exchange Act and the rules and regulations thereunder applicable to GSCC because it is designed to coordinate further the activities of each of the Operating Subsidiaries in order to help assure the continued prompt and accurate clearance and settlement of securities transactions in the face of changing business and regulatory requirements for the securities industry. The proposed rule change will not effect and is therefore consistent with GSCC's duty to safeguard funds and securities in GSCC's custody or control or for which it is responsible.

B. Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. GSCC, as well as each of the other Operating Subsidiaries, is a utility created to serve members of the securities industry by providing certain complementary services that are ancillary to the businesses in which industry members compete with one another.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at GSCC's principal office. All submissions should refer to File Number SR–GSCC–2001–11 and should be submitted by October 31, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

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BILLING CODE 8010–01–M

[10] GSCC will make a separate rule filing under Section 19(b) of the Act concerning amendments to its Rules to appropriately reflect the integration.

[11] GSCC's By-Laws will differ from NSCC's By-Laws in that (i) all references will be gender-neutral, (ii) Section 1.2 will provide that a majority, rather than twenty-five percent, of all outstanding shares may make a demand to call a special meeting, (iii) Section 1.4 will provide for the ability to notify shareholders of shareholder meetings electronically, (iv) Section 1.2 will set the number of directors at a minimum of fifteen and maximum of twenty-five, rather than twenty-seven, (v) Section 2.1 will provide that the number of directors at any time shall be determined by GSCC's Board of Directors, (vi) Section 2.9 will provide that GSCC's directors that are also GSCC or DTCC officers may not serve on the Audit Committee, (vii) Section 3.1 will state that the GSCC officers will include those required by statute and may include a Chief Executive Officer, (viii) the provision in Section 3.3 that the President shall be the Chief Executive Officer will be eliminated, (ix) the provision in Section 3.4 that Managing Directors shall, upon request, advise and assist the Chief Operating Officer will be eliminated, and (x) Article VIII will provide that a majority of the holders of all outstanding shares, rather than all the holders of all outstanding shares, may amend GSCC's By-Laws.

[12] 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44838; File No. SR–MBSCC–2001–01]

Self-Regulatory Organizations; MBS Clearing Corporation; Notice of Filing of Proposed Rule Change Relating to Arrangements To Integrate MBS Clearing Corporation and The Depository Trust & Clearing Corporation

September 24, 2001.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''), notice is hereby given that on August 22, 2001, the MBS Clearing Corporation (''MBSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared primarily by MBSCC. 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 proposed rule change involves the initial arrangements for the integration of MBSCC with The Depository Trust & Clearing Corporation (''DTCC'').[2]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MBSCC 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. MBSCC has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.[3]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change is the first formal regulatory step to effect the integration of MBSCC with DTCC. Specifically, the rule change would implement certain changes in MBSCC's organizational documents to facilitate the integration with DTCC and the subsequent exchange offer.

1. Background

At its meeting on July 19, 2001 the Board of Directors of MBSCC voted to proceed with a plan for the integration of MBSCC and Government Securities Clearing Corporation (''GSCC'') with DTCC (''Plan'').[4] Such integration is expected to take place concurrently with the integration of Emerging Markets Clearing Corporation (''EMCC'') with DTCC.[5] MBSCC has been advised that DTCC's Board of Directors has also agreed to proceed with the Plan.

A principal goal of the Plan is to facilitate the development and timely execution of a strategy to harmonize the processing streams at MBSCC, GSCC, EMCC, The Depository Trust Company (''DTC'') and the National Securities Clearing Corporation (''NSCC'') (collectively, ''Operating Subsidiaries'') for the clearance and settlement of both institutional and broker transactions. Harmonized processing should help to accommodate shortened settlement cycles, address increasing volumes, improve risk management, and lower transaction processing costs.

2. The Plan

Under the Plan, DTCC will form (i) a company that will engage in a merger with MBSCC (''Operating Company''), (ii) a company that will own all of the capital stock of Operating Company (''Holding Company''), and (iii) an acquisition subsidiary (''Acquisition Company'') that will make an exchange offer (''Exchange Offer'') for Holding Company shares, as described below, and hold shares of Holding Company received pursuant to the Exchange Offer.

After receipt of all necessary regulatory, board, and shareholder approvals, Operating Company will merge with MBSCC in a transaction (''Merger'') in which (i) the shareholders of MBSCC (''MBSCC Shareholders'') will receive an equal number and class of shares of Holding Company stock for their shares of MBSCC Class A and Class B common stock; (ii) all of the shares of MBSCC will be cancelled; and (iii) all the shares of Holding Company stock owned by DTCC will be cancelled. MBSCC shareholders will have the opportunity to vote against the Merger and to exercise their appraisal rights. MBSCC will be the surviving corporation of the Merger.

Following a successful merger, the MBSCC Shareholders Agreement will be terminated. The Acquisition Company will conduct the Exchange Offer in which the shareholders of Holding Company (''Holding Company Shareholders'') *i.e.*, former MBSCC Shareholders, will have the opportunity to exchange their shares of Holding Company common stock for shares of DTCC common stock on the basis of the adjusted book value of the shares of MBSCC common stock that they exchanged for their shares of Holding Company common stock and the adjusted book value of the DTCC common shares. Adjusted book value of MBSCC shares will equal book value less the retained earnings of MBSCC at the time of (or as of the end of the last full calendar month preceding) the integration of MBSCC with DTCC. Such retained earnings will thereafter be used only to support the business of MBSCC. Adjusted book value of the DTCC common shares will equal book value less the smaller of (i) the retained earnings of DTCC attributable to the retained earnings of NSCC at the time of the integration of NSCC and DTC with DTCC in 1999 or (ii) the retained earnings of DTCC attributable to the retained earnings of NSCC at the time of (or as of the last full calendar month preceding) the integration of MBSCC with DTCC. Such retained earnings are dedicated to the business of NSCC.

Following a successful Exchange Offer, (i) Acquisition Company will be the majority or sole (depending on whether all Holding Company Shareholders agree to tender their shares) shareholder of Holding Company; (ii) Holding Company will be the sole shareholder of MBSCC; and (iii) any non-tendering Holding Company Shareholders (former MBSCC Shareholders) will be minority shareholders of Holding Company.

DTCC, through its wholly-owned subsidiary, Acquisition Company, will elect as directors of MBSCC the persons elected by the shareholders of DTCC to be directors of DTCC. As a subsidiary of the Holding Company (and indirect subsidiary of Acquisition Company), MBSCC will continue to operate essentially as it does currently, offering its own services to its own members pursuant to separate legal arrangements

[1] 15 U.S.C. 78s(b)(1).

[2] DTCC is a holding company for The Depository Trust Company and the National Securities Clearing Corporation, which are registered clearing agencies.

[3] The Commission has modified the text of the summaries prepared by MBSCC.

[4] Because of the current functional integration of operations of MBSCC and GSCC, the integration of MBSCC with DTCC is contingent upon the successful integration of GSCC with DTCC and vice versa. Securities Exchange Act Release No. 44895 (Oct. 2, 2001) [File No. SR–GSCC–2001–11].

[5] Pursuant to a separate plan for the integration of EMCC with DTCC, it is contemplated that EMCC will become an operating subsidiary of DTCC at the same time that MBSCC and GSCC become operating subsidiaries of DTCC. However, the integration of MBSCC and GSCC with DTCC is not contingent on the integration of EMCC with DTCC and vice versa. Securities Exchange Act Release No. 44896 (Oct. 2, 2001) [File No. SR–EMCC–2001–3].

and separate risk management procedures.

Following the integration, MBSCC will continue to exist as a separate registered clearing agency. The retained earnings of MBSCC at the time of (or as of the end of the last full calendar month preceding) the integration of MBSCC with DTCC will, as a matter of DTCC policy, be dedicated to supporting the business of MBSCC. MBSCC will be sufficiently capitalized for its activities as a clearing agency.

Acquisition Company, Holding Company, and DTCC will not engage in clearing agency activities. Certain support functions, including human resources, finances, audit, general administration and corporate communications that are now centralized in DTCC will be provided by DTCC to MBSCC pursuant to service contracts.

After the proposed integration, Acquisition Company, which is wholly owned by DTCC, will be the majority or sole (depending on whether all Holding Company shareholders, *i.e.* former MBSCC Shareholders, tender their shares during the Exchange Offer) shareholder of Holding Company, which, in turn, will be the sole shareholder of MBSCC. In or to promote efficiency in the governance of Operating Subsidiaries after the Plan is completed, the current By-Laws of MBSCC will be replaced with a set of By-Laws that conform, except for certain small modifications [6] and a more broadly drafted indemnification provision, to the By-Laws of NSCC.

As part of the Plan, a structure will be implemented allowing for the fair representation of the members of each of the Operating Subsidiaries in the governance of DTCC. Specifically, the DTCC shareholders, consisting of the current shareholders of DTCC and the shareholders of MBSCC, GSCC, and EMCC, which become shareholders of DTCC as a result of the Plan, will elect the persons to serve on the Board of Directors of DTCC. These individuals will, in turn, be selected by DTCC to serve as the directors of each of the Operating Subsidiaries. On a periodic basis to be determined by the DTCC Board, rights to purchase DTCC common stock will be reallocated to shareholders using the services of any one or more of the Operating Subsidiaries based upon their usage. Shareholders may, but will not be obligated to, purchase some or all of the DTCC common stock to which they are entitled. Holders of DTCC common stock will be entitled to cumulative voting in the election of directors.

In addition, DTCC will create a Fixed Income Operations and Planning Committee that will include representatives of members of each of MBSCC and GSCC. The Fixed Income Operations and Planning Committee will advise the DTCC Board and management on its policies and procedures with respect to the fixed income products and/or services of the Operating Subsidiaries and will have certain other responsibilities to be assigned to the Committee.

Furthermore, MBSCC and GSCC will establish a joint GSCC/MBSCC Membership and Risk Management Committee, which will be comprised of representatives of participants of MBSCC and GSCC. The joint GSCC/MBSCC Membership and Risk Management Committee will advise the Boards of Directors and management of MBSCC and GSCC with respect to membership, credit, and risk matters, and will have certain other responsibilities to be assigned to the Committee.

DTCC's Certificate of Incorporation, By-Laws, and Shareholders Agreement (''Basic Documents'') will be amended to extend to the shareholders of MBSCC, GSCC, and EMCC, which become shareholders of DTCC as a result of the Plan, the rights that the shareholders of DTCC currently have and, in particular, to satisfy the Fair Representation Requirement of Section 17A of the Exchange Act. In this regard, the Basic Documents will provide for the following:

- The persons elected as directors to the DTCC Board will also serve as the directors of each of the Operating Subsidiaries, including MBSCC.
- Other than, as is currently the case, one director appointed to the DTCC Board by the New York Stock Exchange, Inc., as the owner of DTCC preferred stock, and one director appointed to the DTCC Board by the National Association of Securities Dealers, Inc., as the owner of DTCC preferred stock, all directors will be elected annually by the owners of DTCC common stock.
- As discussed above, the right to purchase DTCC common stock will be reallocated to the users of each of the Operating Subsidiaries based upon their usage. Under the Basic Documents, these rights will be reallocated on a periodic basis to be determined by the DTCC Board.
- The owners of DTCC common stock will be able to exercise cumulative voting in the election of directors of DTCC.
- With respect to the nomination process, each year the DTCC Board will appoint a nominating committee that may include both members and nonmembers of the DTCC Board. After soliciting suggestions from all users of each of the Operating Subsidiaries of possible nominees to fill vacancies on the DTCC Board, the nominating committee will recommend a slate of nominees from the full DTCC Board. The DTCC Board may make changes in that slate before submitting nominations to the holders of DTCC common stock for election. The election ballot included in the proxy materials will provide an opportunity for stockholders to cast their votes for a person not listed as a nominee. Because the Basic Documents will provide for cumulative voting, certain large holders of DTCC common stock may have a sufficient number of shares to elect a person not on the slate nominated for election by the DTCC Board.

The Certificate of Incorporation and By-Laws of MBSCC will be revised to reflect the changes in MBSCC's corporate governance structure.[7] MBSCC's Certificate of Incorporation shall be amended and restated in accordance with Section 245 of the Delaware General Corporation Law (''Section 245'') as follows:

- The amended and restated Certificate of Incorporation shall contain a preamble and recitals pursuant to Section 245.
- The fourth article of the Certificate of Incorporation shall be amended to eliminate all references to Class A and

[6] The modifications include (i) making all references gender-neutral, (ii) changing the references to the State of New York to the State of Delaware (except the reference in Section 5.2), (iii) providing in Section 1.2 that a majority, rather than twenty-five percent, of all outstanding shares may make a demand to call a special meeting, (iv) providing for the ability to notify shareholders of shareholder meetings electronically in Section 1.4, (v) deleting the provision addressing shareholder action by written consent because this is addressed under Delaware law, (vi) setting the number of directors in Section 2.1 at a minimum of fifteen and maximum of twenty-five, rather than twenty-seven, (vii) providing in Section 2.1 that the number of directors at any time shall be determined by the Board of Directors of MBSCC, (viii) providing in Section 2.9 that directors of MBSCC that are also officers of GSCC or DTCC, rather than directors, officers, or employees of any MBSCC shareholders, may not serve on the Audit Committee, (ix) providing in Section 3.1 that the officers of MBSCC will include those required by statute and may include a Chief Executive Officer, (x) eliminating the provision in Section 3.3 that the President shall be the Chief Executive Officer, (xi) eliminating the provision in Section 3.4 that Managing Directors shall upon request advise and assist the Chief Operating Officer, and (xii) providing in Article VIII that a majority of the holders of all outstanding shares, rather than all the holders of all outstanding shares, may amend the MBSCC By-Laws.

[7] The full text of the proposed changes to the Certificate of Incorporation and to the By-Laws is set forth in Exhibit A of MBSCC's rule filing.

Class B Common Stock, including the right of holders of Class B Common Stock to elect one MBSCC director. References to Class B Common Stock, including the right of holders of Class B Common Stock to elect a director, will no longer be necessary as MBSCC will be wholly-owned by Holding Company. All of MBSCC's directors will be elected by DTCC through its wholly-owned subsidiary, Acquisition Company, which will be the majority or sole (depending on how many Holding Company shareholders, *i.e.,* former MBSCC shareholders, tender their Holding Company shares in the Exchange Offer) shareholder of Holding Company. The former holders of MBSCC Class B Common Stock, as well as the former holders of Class A Common Stock, that participate in the Exchange Offer will have the opportunity to participate in the governance of DTCC through the election of DTCC's directors.

- The fifth article of the Certificate of Incorporation shall be stricken as permitted by Section 245 of the Delaware General Corporation Law and the sixth, seventh, ninth and tenth articles of the Certificate of Incorporation shall be deleted as unnecessary. The remaining articles shall be renumbered accordingly.
- The eighth article (as revised, the fifth article) of the Certificate of Incorporation shall be modified to include a reference to a testator or intestate of a person that is being indemnified.

MBSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Exchange Act and the rules and regulations thereunder applicable to MBSCC because it is designed to coordinate further the activities of each of the Operating Subsidiaries in order to help assure the continued prompt and accurate clearance and settlement of securities transactions in the face of changing business and regulatory requirements for the securities industry. Specifically, the proposed integration structure satisfies the fair representation requirement of Section 17A of the Act, by (1) giving participants, including those participants of MBSCC, of each of the Operating Subsidiaries who are also shareholders of DTCC the right to purchase shares of DTCC common stock on a basis that reflects their use of the services and facilities of each of the Operating Subsidiaries. This system for reallocating entitlements to purchase shares of DTCC common stock among participants will be the same as that now employed by DTCC for reallocating entitlements to purchase shares of DTCC common stock among participants of DTCC and NSCC and (2) selecting individuals to be directors of DTCC (who will also be directors of each of the Operating Subsidiaries) on a basis that will ensure that all major constituencies in the securities industry will have a voice in the business and affairs of each of the Operating Subsidiaries. Finally, the proposed rule change will not affect, and is therefore consistent with, the safeguarding of securities and funds in MBSCC's custody or control or for which it is responsible.

B. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

MBSCC does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. MBSCC, as well as each of the other Operating Subsidiaries, is a utility created to serve members of the securities industry by providing certain complementary services that are ancillary to the businesses in which industry members compete with one another.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments relating to the proposed rule change have been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 MBSCC's principal office. All submissions should refer to File No. SR–MBSCC–2001–01 and should be submitted by October 31, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–25382 Filed 10–9–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–44898; File No. SR–NASD–2001–64)

Self-Regulatory Organizations; Notice of Filing of a Proposed Rule Change by the National Association of Securities Dealers, Inc. Adjusting the Fees Charged to Non-NASD Members for Use of the Nasdaq National Market Execution System and the SelectNet Service

October 2, 2001

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 28, 2001, the National Association of Securities Dealers, Inc. (''NASD'') through its subsidiary, the Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On October 2, 2001, Nasdaq filed Amendment No. 1 with the Commission.[3] The Commission is

[8] 7 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from John M. Yetter, Assistant General Counsel, Office of General Counsel, Nasdaq, to Katherine A. England, Assistant

Continued

publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to adjust the fees charged to non-NASD members for uses of the NNMS and SelectNet by: (1) Replacing the per order execution charge for the execution of transactions in SuperSOES with a per share charge; (2) adding a fee for the entry of orders in the NNMS and SelectNet; (3) modifying the fees for order executions in SelectNet; and (4) clarifying the distinction between fees charged for execution of liability orders and non-liability orders in SelectNet.[4] Nasdaq would charge these fees to national securities exchanges trading Nasdaq-listed securities pursuant to grants of unlisted trading privileges (''UTP Exchanges''), which are not NASD members.[5]

The fees currently in effect for SelectNet, the NNMS, and the SOES were established through prior rule filings.[6] They were not, however, fully reflected in the text of NASD Rules, and the rules that currently reference such fees are not consolidated in one location in the NASD Rules. Nasdaq proposes to adjust the fees for SelectNet, the NNMS and the SOES and consolidate the rules governing these fees into NASD Rule 7010(i). The rule language set forth below has been marked to show the proposed changes to the NASD Rules (as amended by the prior filings). Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

[4714. Fees Applicable to NNMS]

[(a) A fee for orders executed through NNMS shall be assessed as follows:]

[0.50 per order execution for the first 150,000 orders under 2,000 shares executed monthly (entering party only)]

[0.30 per order execution for all remaining orders under 2,000 shares executed monthly (entering party only)]

[0.90 per order execution for all executed orders of 2,000 shares or more (entering party only)]

[(b) For each order entered by an NNMS Order Entry Firm or an NNMS Market Maker that is canceled, the NNMS Order Entry Firm or NNMS Market Maker that cancels such order shall be assessed a fee of $0.25.]

* * * * *

[4757. Fees Applicable to SOES]

[(a) A fee for orders executed through SOES shall be assessed as follows:]

[$0.50 per order execution for the first 150,000 orders executed monthly (entering party only)]

[$0.30 per order execution for all remaining orders executed monthly (entering party only)]

[(b) For each order entered by a SOES Order Entry Firm or a SOES Market Maker that is cancelled, the SOES Order Entry Firm or SOES Market Maker that cancels such order shall be assessed a fee of $0.25.]

* * * * *

7010. System Services

(a)–(h) No change.

(i) *Transaction Execution Services*

(1) SelectNet Service

The following charges shall apply to the use of SelectNet:

Transaction Charge for Execution Resulting from Broadcast Message	$2.50/side
Order Entry Charge	*$0.10 per order entry (entering party only)*
Directed Non-Liability Order Entry Charge	*$0.90 per order execution (entering party only)*
Directed *Liability* Order *Execution* Charge	[$0.70] *$0.90* per order execution for the first 25,000 orders executed monthly (entering only)
	[$0.50] *$0.60* per order execution for the next 25,000 orders executed monthly (entering only)
	$0.10 per order execution for [all remaining] *the next 200,000* orders executed monthly (entering party only)
	$0.00 per orders execution for all remaining orders executed monthly
Cancellation Fee	$.25/per order cancelled (canceling party only)

Director, Division of Market Regulation (''Division''), Commission (October 2, 2001) (''Amendment No. 1''). The fees currently in effect for SelectNet, the Nasdaq National Market Execution System (''NNMS'' and ''SuperSOES''), and the Small Order Execution System (''SOES'') were established by SR–NASD–2001–31 and SR–NASD–00–41, but these fees were not fully reflected in the text of NASD Rules. *See* Securities Exchange Act Release No. 44321 (May 18, 2001), 66 FR 28767 (May 24, 2001) (SR–NASD–2001–31); Securities Exchange Act Release No. 43001 (June 30, 2000), 65 FR 42741 (July 11, 2000) (SR–NASD–00–41). Amendment No. 1 is a technical amendment that adds Exhibit A to the proposed rule change. Exhibit A sets forth NASD rule language as modified by SR–NASD–2001–31 and SR–NASD–00–41. Amendment No. 1 also amends the text of SR–NASD–2001–64 to describe the changes being made to the rule text as amended by the prior filings.

[4] *See* note 11 *infra.*

[5] Nasdaq has filed a separate proposal to impose these same fees on NASD members. *See* Securities Exchange Act Release No. 44899 (October 2, 2001) (SR–NASD–2001–63).

[6] *See supra* note 3.

[For a pilot period commencing April 1, 1999, and lasting until the sooner of March 31, 2002 or the date of implementation of the Nasdaq National Market Execution System, an NASD member who enters a directed SelectNet order that is subsequently executed in whole or in part will have its monthly Directed Order Charge assessed as follows:]

[$1.00 per order for the first 50,000 directed orders executed that month

$0.70 per order for the next 50,000 directed orders executed that same month

$0.20 per order for all remaining directed orders executed that same month]

[Executions resulting from broadcast messages will continue to be assessed at a $2.50 per side rate.]

(2) Nasdaq National Market Execution System (SuperSOES)

The following charges shall apply to the use of the Nasdaq National:

Market Execution System:

Order Entry Charge	*$0.10 per order entry (entering party only)*
Per Share Charge	*$0.001 per share executed for all fully or partially executed orders (entering party only)*
Cancellation	*$0.25 per order canceled (canceling party only)*

(3) Small Order Execution System (SOES)

The following charges shall apply to the use of the Small Order Execution System:

Order Execution Charge	*$0.50 per order execution for the first 150,000 orders executed monthly (entering party only) $0.30 per order execution for all remaining orders executed monthly (entering party only)*
Cancellation Fee	*$0.25 per order cancelled (canceling party only)*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 14, 2000, the Commission issued an order approving a rule change that: (1) established the NNMS, a new platform for the trading of Nasdaq National Market (''NNM'') securities; (2) modified the rules governing the use of SelectNet for trading NNM issues; and (3) left unchanged trading of Nasdaq SmallCap securities on SOES.[7] Nasdaq began implementing these system changes on July 9, 2001 and completed implementation on July 30, 2001. Through these changes, the NNMS has become the primary trading platform for NNM securities, and SelectNet is intended to be used primarily for the transmittal and execution of ''non-liability'' orders, as well as the transmittal and execution of ''liability'' orders to market participants that do not participate in the automatic execution functionality of the NNMS.

The introduction of the NNMS has had a dramatic effect on market efficiency. Market participants can place SuperSOES orders of up to 999,999 shares, and a single order can be used to access multiple quotes automatically. In contrast, in the pre-SuperSOES environment, a market participant had to enter a separate SelectNet order for each quote that it wanted to access. Thus, the introduction of the NNMS has significantly reduced the number of orders required for the trading of a given volume of shares.

Nasdaq believes, however, that while these changes redound to the benefit of all market participants, they are incompatible with its current fee structure for the NNMS, which is based on the number of orders executed. The fee changes implemented by this rule change are designed as an interim modification to begin the process of aligning the charges to market participants for using the NNMS and SelectNet more closely with the costs of providing these services and the benefits that they provide to market participants. Nasdaq plans to implement additional modifications to the fee structures for the NNMS in the near future.

First, Nasdaq proposes to replace the current order execution charge in the NNMS, which is based on the number of orders executed per month, with a $0.001 per share charge for execution of orders through the NNMS. Thus, for example, a transaction of 1,000 shares would be assessed a per share charge of $1.00. Nasdaq believes that a per share charge is more appropriate than a per order execution charge, in light of the enhanced efficiency of the NNMS. In addition, Nasdaq believes that by providing access to the liquidity needed

[7] Securities Exchange Act Release No. 42344 (January 14, 2000), 65 FR 16 (January 25, 2000) (SR–NASD–99–11).

to fill larger orders, the NNMS provides market participants with a higher-value service. Moreover, larger orders are more likely than smaller orders to be filled through multiple executions against market participant quotes, thereby imposing more burden on system capacity. Calibrating the charge for order executions to their size will compensate for this additional burden.

Second Nasdaq proposes to impose a $0.10 order entry charge on orders in both the NNMS and SelectNet. Nasdaq represents that this charge reflects the fact that many market participants enter orders that have little chance of being filled, especially on days when unusual market activity is occurring. For example, traders may enter such orders in anticipation of news about a company's earnings or the release of government macroeconomics data. The imposition of the charge recognizes that these low-probability orders impose burdens on system capacity and that market participants derive value from order entry.

Third, Nasdaq proposes to modify the charges for order execution in SelectNet to reflect its transformation, in connection with the implementation of the NNMS, into a system that is intended to be used primarily for the delivery of negotiable, non-liability orders to market makers and electronic communication networks that participate in the NNMS.[8] Nasdaq will charge $0.90 per execution for the first 25,000 liability orders executed in a month, $0.60 per execution for the next 25,000 liability orders executed, $0.10 per execution for the next 200,000 liability orders executed, and will assess no order-execution charge for the remaining liability orders executed in a month. In addition, Nasdaq will charge a fee of $0.90 per execution for all non-liability orders executed.

Nasdaq believes that the proposed rule change restores SelectNet charges to levels similar to those in effect prior to the implementation of the NNMS, with some adjustment to compensate for the imposition of the order-entry fee described above. The proposed rule change also clarifies the distinction between fees charged for execution of liability orders and non-liability orders in SelectNet, which was not clearly delineated in the prior rule filing establishing current SelectNet fees.[9] The distinction between order-execution charges for liability and non-liability orders reflects the fact that the NNMS is available to market participants that use SelectNet for entry of non-liability orders but is not used for conducting the types of trades that may be executed as liability orders on SelectNet.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with Section 15A(b)(5) of the Act, which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls, and Section 15A(b)(6) of the Act, which requires rules that are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Nasdaq represents that the fees are designed to align the charges to market participants for using the NNMS and SelectNet more closely with the costs of providing these services and the benefits that they provide to market participants, resulting in an equitable allocation of charges based on system usage. Nasdaq believes that the fees are reasonable, since it estimates that overall fees for the NNMS, SelectNet, and SOES under the rule change will be slightly lower than overall fees for SelectNet and SOES prior to the introduction of the NNMS.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will 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

Nasdaq did not solicit or receive written comments on the proposed rule change.

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 NASD consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2001–64 and should be submitted by October 31, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

Exhibit A

This Exhibit shows the text of the NASD Rules, marked to reflect the substance of changes made by SR–NASD–00–41 and SR–NASD–2001–31, which described certain rule changes but did not reflect them in amendments to rule text. Deletions effected by these prior rule filings are in brackets, and new language added by these prior rule filings is underlined.

* * * * *

4714. Fees Applicable to NNMS

(a) A fee for orders executed through NNMS shall be assessed[, to be allocated] as follows: [the NNMS Market Maker executing the order shall be assessed $0.50 per transaction and the NNMS Order Entry Firm or NNMS Market Maker entering the order shall be assessed $0.50 per order.]

$0.50 per order execution for the first 150,000 orders under 2,000 shares executed monthly (entering party only)

[8] Under current rules, SelectNet may still be used for liability orders by (i) UTP Exchanges that choose not to participate in the automatic execution functionality of the NNMS, and (ii) other market participants directing orders to market participants that choose not to participate in the automatic execution functionality of the NNMS.

[9] *See* SR–NASD–2001–31 at note 3.

[10] 17 CFR 200.30–3(a)(12).

$0.30 per order execution for all remaining orders under 2,000 shares executed monthly (entering party only)

$0.90 per order execution for all executed orders of 2,000 shares or more (entering party only)

(b) For each order entered by an NNMS Order Entry Firm or an NNMS Market Maker that is canceled, the NNMS Order Entry Firm or NNMS Market Maker that cancels such order shall be assessed a fee of $0.25.

* * * * *

4757. Fees Applicable to SOES

(a) A fee for orders executed through SOES shall be assessed[, to be allocated] as follows: [the SOES Market Maker executing the order shall be assessed $0.50 per transaction and the SOES Order Entry Firm or SOES Market Maker entering the order shall be assessed $0.50 per order.]

$0.50 per order execution for the first 150,000 orders executed monthly (entering party only)

$0.30 per order execution for all remaining orders executed monthly (entering party only)

(b) For each order entered by a SOES Order Entry Firm or a SOES Market Maker that is canceled, the SOES Order Entry Firm or SOES Market Maker that cancels such order shall be assessed a fee of $0.25.

* * * * *

7010. System Services

(a)–(h) No change.

(i) SelectNet Service

The following charges shall apply to the use of SelectNet:

Transaction Charge *for Execution Resulting from Broadcast Message*	$2.50/side
Directed Order Charge[11]	[$1.00 (per execution, entering party only)] *$0.70 per order execution for the first 25,000 orders executed monthly (entering party only)* *$0.50 per order execution for the next 25,000 orders executed monthly (entering party only)* *$0.10 per order execution for all remaining orders executed monthly (entering party only)*
Cancellation Fee	$.25/ per order *cancelled (cancelling party only)*

For a pilot period commencing April 1, 1999, and lasting until [March 31, 2001] *the sooner of March 31, 2002 or the date of implementation of the Nasdaq National Market Execution System,* an NASD member who enters a directed SelectNet order that is subsequently executed in whole or in part will have its monthly Directed Order Charge assessed as follows:

$1.00 per order for the first 50,000 directed orders executed that month

$0.70 per order for the next 50,000 directed orders executed that same month

$0.20 per order for all remaining directed orders executed that same month

Executions resulting from broadcast messages will continue to be assessed at a $2.50 per side rate.

[FR Doc. 01–25379 Filed 10–9–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44899; File No. SR–NASD–2001–63]

Self Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Adjusting the Fees Charged to NASD Members for Use of the Nasdaq National Market Execution System and the SelectNet Service

October 2, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 28, 2001, the National Association of Securities Dealers, Inc. (''NASD'') through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. On October 2, 2001, Nasdaq filed Amendment No. 1 with the Commission.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq is proposing to adjust the fees charged to NASD members for use of the NNMS and SelectNet by: (1) Replacing the per order execution charge for the execution of transactions in SuperSOES with a per share charge; (2) adding a fee for the entry of orders in the NNMS and SelectNet; (3) modifying the fees for order executions in SelectNet; and (4) clarifying the distinction between fees charged for execution of liability orders and non-liability orders in SelectNet.[4] Nasdaq has implemented the charges on its members as of October 1, 2001.[5]

The fees currently in effect for SelectNet, the NNMS, and the SOES were established through prior rule filings.[6] They were not, however, fully reflected in the text of NASD Rules, and the rules that currently reference such

[11] In SR–NASD–01–31, Nasdaq proposed a fee of $.90 to be charged for each SelectNet order entered and directed to one particular market participant that is subsequently executed in whole or in part. Nasdaq, however, represents that it has never charged the fee; the fee therefore does not appear in the rule text above. Telephone conversation between John M. Yetter, Assistant General Counsel, Nasdaq, and Susie Cho, Special Counsel, Division, Commission (October 2, 2001).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from John M. Yetter, Assistant General Counsel, Office of General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission (October 2, 2001) (''Amendment No. 1''). The fees currently in effect for SelectNet, the Nasdaq National Market Execution System (''NNMS'' and ''SuperSOES''), and the Small Order Execution System (''SOES'') were established by SR–NASD–2001–31 and SR–NASD–00–41, but these fees were not fully reflected in the text of NASD Rules. *See* Securities Exchange Act Release No. 44321 (May 18, 2001), 66 FR 28767 (May 24, 2001) (SR–NASD–2001–31); Securities Exchange Act Release No. 43001 (June 30, 2000), 65 FR 42741 (July 11, 2000), SR–NASD–00–41). Amendment No. 1 is a technical amendment that adds Exhibit A to the proposed rule change. Exhibit A sets forth NASD rule language as modified by SR–NASD–2001–31 and SR–NASD–00–41. Amendment No. 1 also amends the text of SR–NASD–2001–63 to describe the changes being made to the rule text as amended by the prior filings.

[4] *See* note 13 *infra.*

[5] Nasdaq has filed a separate proposal to impose these same fees on national securities exchanges trading Nasdaq-listed securities pursuant to grants of unlisted trading privileges (''UTP Exchanges''), which are not NASD members. *See* Securities Exchange Act Release No. 44898 (October 2, 2001) (SR–NASD–2001–64).

[6] *See supra* note 3.

fees are not consolidated in one location in the NASD Rules. Nasdaq proposes to adjust the fees for SelectNet, the NNMS and the SOES and consolidate the rules governing these fees into NASD Rule 7010(i). The rule language set forth below has been marked to show the proposed changes to the NASD Rules (as amended by the prior filings). Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

[4714. Fees Applicable to NNMS]

[(a) A fee for orders executed through NNMS shall be assessed as follows:]

[0.50 per order execution for the first 150,000 orders under 2,000 shares executed monthly (entering party only)]

[0.30 per order execution for all remaining orders under 2,000 shares executed monthly (entering party only)]

[0.90 per order execution for all executed orders of 2,000 shares or more (entering party only)]

[(b) For each order entered by an NNMS Order Entry Firm or an NNMS Market Maker that is canceled, the NNMS Order Entry Firm or NNMS Market Maker that cancels such order shall be assessed a fee of $0.25.]

* * * * *

[4757. Fees Applicable to SOES]

[(a) A fee for orders executed through SOES shall be assessed as follows:]

[$0.50 per order execution for the first 150,000 orders executed monthly (entering party only)]

[$0.30 per order execution for all remaining orders executed monthly (entering party only)]

[(b) For each order entered by a SOES Order Entry Firm or a SOES Market Maker that is canceled, the SOES Order Entry Firm or SOES Market Maker that cancels such order shall be assessed a fee of $0.25.]

* * * * *

7010. System Services

(a)–(h) No change.

(i) *Transaction Execution Services*

(1) SelectNet Service

The following charges shall apply to the use of SelectNet:

Transaction Charge for Execution Resulting from Broadcast Message	$2.50/side
Order Entry Charge	*$0.10 per order entry (entering party only)*
Directed Non-Liability Order Execution Charge	*$0.90 per order execution (entering party only)*
Directed *Liability* Order *Execution* Charge	[$0.70] *$0.90* per order execution for the first 25,000 orders executed monthly (entering party only) [$0.50] *$0.60* per order execution for the next 25,000 orders executed monthly (entering party only) $0.10 per order execution for [all remaining] *the next 200,000* orders executed monthly (entering party only) *$0.00 per order execution for all remaining orders executed monthly*
Cancellation Fee	$.25/per order cancelled (canceling party only)

[For a pilot period commencing April 1, 1999, and lasting until the sooner of March 31, 2002 or the date of implementation of the Nasdaq National Market Execution System, an NASD member who enters a directed SelectNet order that is subsequently executed in whole or in part will have its monthly Directed Order Charge assessed as follows:]

[$1.00 per order for the first 50,000 directed orders executed that month

$0.70 per order for the next 50,000 directed orders executed that same month

$0.20 per order for all remaining directed orders executed that same month]

[Executions resulting from broadcast messages will continue to be assessed at a $2.50 per side rate.]

(2) Nasdaq National Market Execution System (SuperSOES)

The following charges shall apply to the use of the Nasdaq National Market Execution System:

Order Entry Charge	*$0.10 per order entry (entering party only)*
Per Share Charge	*$0.001 per share executed for all fully or partially) executed orders (entering party only)*
Cancellation Fee	*$0.25 per order cancelled (canceling party only)*

(3) Small Order Execution System (SOES)

The following charges shall apply to the use of the Small Order Execution System:

Order Execution Charge	*$0.50 per order execution for the first 150,000 orders executed monthly (entering party only) $0.30 per order execution for all remaining orders executed monthly (entering party only)*
Cancellation Fee	*$0.25 per order cancelled (canceling party only)*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Nasdaq has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 14, 2000, the Commission issued an order approving a rule change that: (1) Established the NNMS, a new platform for the trading of Nasdaq National Market ("NNM") securities; (2) modified the rules governing the use of SelectNet for trading NNM issues; and (3) left unchanged trading of Nasdaq SmallCap securities on SOES.[7] Nasdaq began implementing these system changes on July 9, 2001 and completed implementation on July 30, 2001. Through these changes, the NNMS has become the primary trading platform for NNM securities, and SelectNet is intended to be used primarily for the transmittal and execution of "non-liability" orders, as well as the transmittal and execution of "liability" orders to market participants that do not participate in the automatic execution functionality of the NNMS.

The introduction of the NNMS has had a dramatic effect on market efficiency. Market participants can place SuperSOES orders of up to 999,999 shares, and a single order can be used to access multiple quotes automatically. In contrast, in the pre-SuperSOES environment, a market participant had to enter a separate SelectNet order for each quote that it wanted to access. Thus, the introduction of the NNMS has significantly reduced the number of orders required for the trading of a given volume of shares.

Nasdaq believes, however, that while these changes redound to the benefit of all market participants, they are incompatible with Nasdaq's current fee structure for the NNMS which is based on the number of orders executed. The fee changes implemented by this rule change are designed as an interim modification to begin the process of aligning the charges to market participants for using the NNMS and SelectNet more closely with the costs of providing these services and the benefits that they provide to market participants. Nasdaq plans to implement additional modifications to the fee structures for the NNMS in the near future.

First, Nasdaq is replacing the current order execution charge in the NNMS, which is based on the number of orders executed per month, with a $0.001 per share charge for execution of orders through the NNMS. Thus, for example, a transaction of 1,000 shares would be assessed a per share of $1.00. Nasdaq believes that a per share charge is more appropriate than a per order execution charge, in light of the enhanced efficiency of the NNMS. In addition, Nasdaq believes that by providing access to the liquidity needed to fill larger orders, the NNMS provides market participants with a higher-value service. Moreover, larger orders are more likely than smaller orders to be filled through multiple executions against market participant quotes, thereby imposing more burden on system capacity. Calibrating the charge for order executions to their size will compensate for this additional burden.

Second, Nasdaq is imposing a $0.10 order entry charge on orders in both the NNMS and SelectNet. Nasdaq represents that this charge reflects the fact that many market participants enter orders that have little chance of being filled, especially on days when unusual market activity is occurring. For example, traders may enter such orders in anticipation of news about a company's earnings or the release of government macroeconomic data. The imposition of the charge recognizes that these low-probability orders impose burdens on system capacity and that market participants derive value from order entry.

Third Nasdaq is modifying the charges for order execution in SelectNet to reflect its transformation, in connection with the implementation of the NNMS, into a system that is intended to be used primarily for the delivery of negotiable, non-liability orders to market makers and electronic communication networks that participate in the NNMS.[8] Nasdaq will charge $0.90 per execution for the first 25,000 liability orders executed in a month, $0.60 per execution for the next 25,000 liability orders executed, $0.10 per execution for the next 200,000 liability orders executed, and will assess no order-execution charge for the remaining liability orders executed in a month. In addition, Nasdaq will charge a fee of $0.90 per execution for all non-liability orders executed.

Nasdaq believes that the proposed rule change restores SelectNet charges to levels similar to those in effect prior to the implementation of the NNMS, with some adjustment to compensate for the imposition of the order-entry fee described above. The proposed rule change also clarifies the distinction between fees charged for execution of liability orders and non-liability orders in SelectNet, which was not clearly delineated in the prior rule filing establishing current SelectNet fees.[9] The distinction between order-execution charges for liability and non-liability orders reflects the fact that the NNMS is available to market participants that use SelectNet for entry of non-liability orders but its not used for conducting the types of trades that may be executed as liability orders on SelectNet.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with Section 154A(b)(5) of the Act, which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls, and Section 15A(b)(6) of the Act, which requires rules that are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Nasdaq represents that the fees designed to align the charges to market participants for using the NNMS and SelectNet more closely with the costs of providing these services and the benefits that they provide to market participants, resulting in an equitable allocation of charges based on system usage. Nasdaq believes that the fees are reasonable, since it estimates that overall fees for the NNMS, SelectNet, and the SOES under the rule change will be slightly lower than overall fees for SelectNet and the SOES prior to the introduction of the NNMS.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will 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

Nasdaq did not solicit or receive written comments on the proposed rule change.

[7] Securities Exchange Act Release No. 42344 (January 14, 2000), 65 FR 16 (January 25, 2000) (SR–NASD–99–11).

[8] Under current rules, SelectNet may still be used for liability orders by (i) UTP Exchanges that choose not to participate in the automatic execution functionality of the NNMS, and (ii) other market participants directing orders to market participants that choose not to participate in the automatic execution functionality of the NNMS.

[9] *See* SR–NASD–2001–31 at note 3.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[10] and Rule 19b–4(f)(2) thereunder,[11] in that it establishes or changes a due, fee, or other charge. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the 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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2001–63 and should be submitted by October 31, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

Exhibit A

This Exhibit shows the text of the NASD Rules, marked to reflect the substance of changes made by SR–NASD–00–41 and SR–NASD–2001–31, which described certain rule changes but did not reflect them in amendments to rule text. Deletions effected by these prior rule filings are in brackets, and new language added by these prior rule filings is underlined.

* * * * *

4714. Fees Applicable to NNMS

(a) A fee for orders executed through NNMS shall be assessed[, to be allocated] as follows: [the NNMS Market Maker executing the order shall be assessed $0.50 per transaction and the NNMS Order Entry Firm or NNMS Market Maker entering the order shall be assessed $0.50 per order.]

$0.50 per order execution for the first 150,000 orders under 2,000 shares executed monthly (entering party only)

$0.30 per order execution for all remaining orders under 2,000 shares executed monthly (entering party only)

$0.90 per order execution for all executed orders of 2,000 shares or more (entering party only)

(b) For each order entered by an NNMS Order Entry Firm or an NNMS Market Maker that is canceled, the NNMS Order Entry Firm or NNMS Market Maker that cancels such order shall be assessed a fee of $0.25.

* * * * *

4757. Fees Applicable to SOES

(a) A fee for orders executed through SOES shall be assessed[, to be allocated] as follows: [the SOES Market Maker executing the order shall be assessed $0.50 per transaction and the SOES Order Entry Firm or SOES Market Maker entering the order shall be assessed $0.50 per order.]

$0.50 per order execution for the first 150,000 orders executed monthly (entering party only)

$0.30 per order execution for all remaining orders executed monthly (entering party only)

(b) For each order entered by a SOES Order Entry Firm or a SOES Market Maker that is cancelled, the SOES Order Entry Firm or SOES Market Maker that cancels such order shall be assessed a fee of $0.25.

* * * * *

7010. System Services

(a)–(h) No change.

(i) SelectNet Service

The following charges shall apply to the use of SelectNet:

Transaction Charge *for Execution Resulting from Broadcast Message*	$2.50/side
Directed Order Charge[13]	[$1.00 (per execution, entering party only)] *$0.70 per order execution for the first 25,000 orders executed monthly (entering party only)* *$0.50 per order execution for the next 25,000 orders executed monthly (entering party only)* *$0.10 per order execution for all remaining orders executed monthly (entering party only)*
Cancellation Fee	$.25/per order *cancelled (canceling party only)*

[13] In SR–NASD–01–31, Nasdaq proposed a fee of $.90 to be charged for each SelectNet order entered and directed to one particular market participant that is subsequently executed in whole or in part. Nasdaq, however, represents that it has never charged the fee; the fee therefore does not appear in the rule text above. Telephone conversation between John M. Yetter, Assistant General Counsel, Nasdaq, and Susie Cho, Special Counsel, Division, Commission (October 2, 2001).

For a pilot period commencing April 1, 1999, and lasting until [March 31, 2001] *the sooner of March 31, 2002 or the date of implementation of the Nasdaq National Market Execution System*, an NASD member who enters a directed SelectNet order that is subsequently executed in whole or in part will have its monthly Directed Order Charge assessed as follows:

$1.00 per order for the first 50,000 directed orders executed that month

$0.70 per order for the next 50,000 directed orders executed that same month

$0.20 per order for all remaining directed orders executed that same month

Executions resulting from broadcast messages will continue to be assessed at a $2.50 per side rate.

[FR Doc. 01–25384 Filed 10–09–01; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44897; File No. SR–NASD–2001–62]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. Amending NASD Code of Arbitration Procedure Rule 10333 Relating to Member Surcharges and Hearing and Prehearing Process Fees

October 2, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''), [1] and Rule 19b–4 thereunder, [2] (''NASD''), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. notice is hereby given that on September 28, 2001, the National Association of Securities Dealers, Inc. (''NASD'') through its wholly owned subsidiary, NASD Dispute Resolution, Inc. (''NASD Dispute Resolution'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Dispute Resolution. 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

NASD Dispute Resolution proposes to amend Rule 10333 of the NASD Code of Arbitration Procedure (''Code'') to raise member surcharges and hearing and prehearing process fees paid by members. Below is the text of the proposed rule change. Proposed new language is in italics; proposed deletions are in brackets.

* * * * *

10000. Code of Arbitration Procedure

* * * * *

10333. Member Surcharge and Process Fees.

(a) *Member Surcharge*

(*1*) Each member that is named as a party to an arbitration proceeding, whether in a Claim, Counterclaim, Cross-Claim or Third-Party Claim, shall be assessed a nonrefundable surcharge pursuant to the schedule below when the Director of Arbitration perfects service of the claim naming the member on an party to the proceeding.

(*2*) For each associated person who is named, the surcharge shall be assessed against the member or members that employed the associated person at the time of the events which gave rise to the dispute, claim or controversy. No member shall be assessed more than a single surcharge in any arbitration proceeding.

(*3*) The surcharge shall not be chargeable to any other party under Rules 10332(c) and 10205(c) of the Code.

Member Surcharge Schedule

Amount in Dispute	Surcharge
$.01–$2,500	$150
$2,500.01–$5,000	$200
$5,001.01–$10,000	[$300] *$325*
$10,000.01–$25,000	[$400] *$425*
$25,000.01–$30,000	$600
$30,000.01–$50,000	[$800] *$875*
$50,000.01–$100,000	[$1,000] *$1,100*
$100,000.01–$500,000	[$1,500] *$1,700*
$500,000.01–$1,000,000	[$2,000] *$2,250*
$1,000,000.01–$5,000,000.	[$2,500] *$2,800*
$5,000,000.01–$10,000,000.	[$3,000] *3,350*
Over 10,000,000	[$3,600] *$3,750*

([b]*4*) Unchanged.

([c]*5*) If the dispute, claim, or controversy does not involve, disclose, or specify money a claim, the non-refundable surcharge shall be [$1,200] *$1,500* or such greater or lesser amount as the Director of Arbitration or the panel of arbitrators may require, but shall not exceed the maximum amount specified in the schedule.

([d]*b*) *Prehearing and Hearing Process Fees*

(*1*) Each member that is a party to an arbitration proceeding *in which more than $25,000 is in dispute* will pay:

(*A*) [a non-refundable process fee as set forth in the schedule below for each stage of the proceeding] *a non-refundable prehearing process fee of $750, due at the time the parties are sent arbitrator lists in accordance with Rule 10308(b)(5); and*

(B) each member that is a party to an arbitration proceeding will pay a non-refundable hearing process fee, due when the parties are notified of the date and location of the first hearing session, as set forth in the schedule below.

(2) [The process fee shall not be chargeable to any other party under Rules 10332(c) and 10205(c) of the Code.] If an associated person of a member is a party, the member that employed the associated person at the time of the events which gave rise to the dispute, claim or controversy will be charged the process fees[.], *even if the member is not a party. No member shall be assessed more than one prehearing and one hearing process fee in any arbitration proceeding.*

(3) The prehearing and hearing process fees shall not be chargeable to any other party under Rules 10332(c) and 10205(c) of the Code.

[The prehearing process fee will accrue according to the schedule set forth below, but will not become due until (1) the parties are notified of the prehearing conference, or (2) if no prehearing conference is scheduled, the parties are notified of the date and location of the first hearing session. The hearing fee will accrue and be due and payable when the parties are notified of the date and location of the first hearing session. All accrued but unpaid fees will be due and payable at the conclusion of the member's or associated person's involvement in the proceeding. No member will pay more than one prehearing and hearing process fee for any case. The process fees will stop accruing when either the member enters into a settlement of the dispute or the member is dismissed from the proceeding or, if the member is paying a process fee as a result of an associated person being named as a party, when the associated person enters into a settlement or is dismissed from the proceeding, whichever is later.]

[Prehearing Process Fee Schedule

(proceedings where more than $25,000 is in dispute)

Service of Claim (accrues when the claim has been submitted and is ready to be served on the respondents)	$50
Case Preparation (accrues when the first answer to the claim is received or due and discovery or motions proceedings commence	$150
Prehearing Activities (accrues when the parties are first notified of the names of any arbitrators selected to hear the matter or are given the names of arbitrators to select)	$400
Total	$600]

Hearing Process Fee Schedule

[(accrues and becomes due and payable when the parties are notified of the date and location of the first hearing session)]

Damages Requested	Hearing Process Fee
$1–$25,000	$0
$25,000.01–$50,000	$1,000
$50,000.01–$100,000	[$1,500] *$1,700*
$100,000.01–$500,000	[$2,500] *$2,750*
$500,000.01–$1,000,000	[$3,500] *$4,000*
$1,000,000.01–$5,000,000.	[$4,500] *$5,000*
More than $5,000,000	[$5,000] *$5,500*
Unspecified	[$2,000] *$2,200*

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Dispute Resolution included statements concerning the purpose of and the 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. NASD Dispute Resolution 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 proposed amendments to Rule 10333 of the NASD Code would raise member surcharges and hearing process fees, which are paid by members only, by an aggregate of ten percent. The proposed rule change would also combine the various current portions of the prehearing process fee paid by members in cases in which more than $25,000 is in dispute into one fee of $750, representing an increase of $150, payable at the time arbitrator lists are sent to parties pursuant to Rule 10308(b)(5) of the Code. The primary purposes of the proposed fee increase are to fund NASD Dispute Resolution's share of the cost of developing and implementing a new computer system, MATRICS, which will greatly enhance the administration of cases in the forum, and to give NASD Dispute Resolution additional funds to pay for inflationary cost increases. The proposed rule change would also amend and reorganize Rule 10333 to reflect the consolidation of the prehearing process fee payments, and to make the rule easier to use.

Member Surcharge Increase

Rule 10333 currently requires that each member that is a party to an arbitration proceeding, or that employed an associated person who is a party to an arbitration proceeding at the time of events that gave rise to the dispute, pay a non-refundable member surcharge. The amount of the surcharge varies depending on the amount in dispute, ranging from $150 for cases involving claims of $2,500 or less, to $3,600 for claims involving more than $10,000,000.

Under the proposed rule change, member surcharges, which were last raised in 1997, would be raised by an aggregate of ten percent. Actual increases in each case would range from zero to 25.7 percent, depending on the amount in dispute. The highest actual per-case increase would be $350. Based on anticipated caseloads, this would generate additional annual revenue of approximately $1,000,000 per year.

Prehearing Process Fees

Currently, Rule 10333 provides that, in cases in which the amount in controversy exceeds $25,000, each member that is a party, or members that employed an associated person named as a party at the time of the events that gave rise to the arbitration proceeding, must pay a prehearing process fee. The prehearing process fee is currently divided into three segments, which accrue as follows: $50 at the time of the service of claim; $150 when the first answer to the claim is received or due and discovery and motions proceedings begin; and $400 when the parties are first notified of the names of any of the arbitrators selected to hear the matter, or are given the names of arbitrators to select.

Under the proposed rule change, these three prehearing process fees would be combined into a single fee of $750, an increase of $150, due at the time the parties receive the arbitrator lists. This would generate a projected $850,000 in additional revenue per year.

Hearing Process Fee Increase

Rule 10333 also requires that each member that is a party to an arbitration, or that employed an associated person who is a party to an arbitration proceeding at the time of the events that gave rise to the dispute, pay a hearing process fee, which accrues when the parties are notified of the date and location of the first hearing session. The amount of the hearing process fee ranges between $0 and $5,000 depending on the amount of damages requested.

The proposed rule change would result in a ten percent aggregate increase in the hearing process fee paid by members. Actual increases in each case would range from zero to 14 percent, depending on the amount in dispute. The highest per-case increase would be $500. Based on anticipated caseloads, this would generate additional annual revenue of approximately $1,000,000 per year.

Other Changes to Rule 10333

The proposed rule change would also reorganize Rule 10333 to make it simpler to use, and to conform the text throughout the rule to the proposed consolidation of the prehearing process fee payments. The rule would be broken into two sections: Members Surcharges and Prehearing and Hearing Process Fees. Other than the reorganization of the text, and the increase in the surcharge amounts, the substance of the rule regarding payment of surcharges would not be changed in any material respect. Other than the reorganization of the text and the increase in the amount of fees, the substance of the rule regarding prehearing and hearing process fees would be modified to reflect the consolidation of the prehearing process fee payments. In addition, language in Rule 10333(d) explaining that all accrued but unpaid member fees are due at the conclusion of the member's or associated person's involvement in the case, even in the case of settlement, would be deleted. NASD Dispute Resolution has determined that the language is no longer necessary in light of a recently approved amendment to Rule 10306 of the Code, which clarifies that in the event of a settlement, parties remain responsible for all fees incurred under the Code.[3]

2. Statutory Basis

NASD Dispute Resolution believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6)[4] of the Act, which requires, among other things, that the NASD's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD Dispute Resolution believes that the proposed rule changes will protect investors and the general public by ensuring that NASD Dispute Resolution remains adequately funded and able to meet its commitment to provide fair, expeditious, and cost-effective dispute resolution services for investors, brokerage firms, and their employees.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Dispute Resolution does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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[3] Exchange Act Release No. 44573 (April 20, 2001)(File No. SR–NASD–2001–21), 66 FR 21423 (April 30, 2001).

[4] 15 U.S.C. 78*o*–3(b)(6).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)[5] of the Act and Rule 19b–4(f)(2) thereunder[6] as establishing or changing a due, fee, or other charge paid solely by members of the NASD. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate, in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[7]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2001–62 and should be submitted by October 31, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

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[5] 15 U.S.C. 78s(b)(3)(A).

[6] 17 CFR 240.19b–4(F)(2).

[7] *See* Section 19(b)(3)(C) of the Act, 15 U.S.C. 78s(b)(3)(C).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–44888; File No. SR–NYSE–2001–38)

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Listing and Trading Ordinary Shares of Deutsche Bank on the Exchange

September 28, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on September 27, 2001, the New York Stock Exchange, Inc. (''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to adopt interpretations of certain rules of the Exchange's Listed Company Manual (''Manual'') to accommodate the trading of ordinary shares of Deutsche Bank Aktiengesell shaft (''Deutsche Bank'').[3] These interpretations pertain to Deutsche Bank's proxy procedures and form of shares.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In 1998, the Exchange facilitated the trading of the ordinary shares of DaimlerChrysler AG (''DaimlerChrysler'') by adopting interpretations of certain existing rules of the Manual.[4] The Commission approved those interpretations.[5] In 2000, the Exchange facilitated the trading of the ordinary shares of Celanese AG (''Celanese'') by adopting interpretations that were substantially similar to those made in connection with the trading of the ordinary shares of DaimlerChrysler. The Commission also approved those interpretations.[6]

The Exchange's experience indicates that since their original listing on the Exchange, the ordinary shares of each of DaimlerChrysler and Celanese have traded on the Exchange without difficulty. The Exchange now proposes to adopt similar interpretations to accommodate the listing and trading on the Exchange of Deutsche Banks's ordinary shares. Because of the developments in German law and business practices, as well as evolution of the Exchange's rules, the Exchange proposes to adopt an additional interpretation relating to form of shares of Deutsche Bank that would allow the Ordinary Shares to be in a book-entry only format, provided that the securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] These interpretations are generally similar to those approved by the Commission in respect of trading of ordinary shares of DaimlerChrysler AG and Celanese AG, each a stock corporation incorporated under laws of the Federal Republic of Germany. *See* Securities Exchange Act Release No. 40597, 63 FR 58435 (October 30, 1998); Securities Exchange Act Release No. 43044, 65 FR 45808 (July 25, 2000).

[4] Specifically, the Exchange accepted a form of stock certificate that complied with requirements of the Frankfurt Stock Exchange (''FSE'') notwithstanding its variation from some of the requirements in Paras. 501 and 502 of the Manual. The Exchange also interpreted Paras. 401.03 and Para. 402 of the Manual to permit DaimlerChrysler to solicit proxies in a manner that combined characteristics of both German and U.S. markets.

[5] *See* Securities Exchange Act Release No. 40597, 63 FR 58435 (October 30, 1998).

[6] *See* Securities Exchange Act Release No. 43044, 65 FR 45808 (July 25, 2000).

are ''depository eligible'' as is required by Exchange Rule 227.

Deutsche Bank is a stock corporation incorporated under the laws of the Federal Republic of Germany. Deutsche Bank's share capital consists of ordinary shares issued in registered form without par value (''Ordinary Shares''). The Ordinary Shares will trade on both the FSE and the NYSE under the symbol ''DB.'' The register for the Ordinary Shares will be administered by registrar services GmbH, Deutsche Bank's transfer agent and registrar in Germany, and by Deutsche Bank AG, the company's ''named'' transfer agent and registrar in the United States, as well as Mellon Investor Services LLC (''Mellon'' or ''U.S. Transfer Agent''), the ''record keeping transfer agent'' in the United States. Transactions in the Ordinary Shares will be cleared through the central clearing systems of both countries, The Depository Trust Company (''DTC'') in the United States and Clearstream Banking AG Frankfurt [7] in Germany.

To facilitate the trading of Ordinary Shares of Deutsche Bank on the Exchange, the Exchange proposes to adopt the following interpretations of the Exchange's rules:

Voting

Under German law, only stockholders who hold shares on the date of the stockholders' meeting are entitled to vote. Accordingly, the record date for voting at a stockholder meeting is the meeting date. In contrast, the Exchange's rules require 10 days' notice of a record date and 30 days' interval between record and meeting dates. Deutsche Bank will accommodate the notice period in the United States.

In Germany, there already are procedures to distribute preliminary agendas and other information to shareholders approximately one month before the meeting. Deutsche Bank has agreed to prepare and mail shareholder-meeting materials approximately 45 days prior to its meeting, permitting the solicitation of proxies in the United States in the currently accepted time frame. Deutsche Bank also has agreed to give the Exchange 10 days' notice of the record date.

The coincidence of the record and meeting date also raises the possibility that a selling shareholder could give a proxy and then sell the shares, with the buyer also getting a proxy. To address the issue of possible double voting, both the U.S. Transfer Agent and Automatic Data Processing (''ADP''), the proxy agent for most member organizations, will institute procedures to monitor changes in the shareholder list between the date the proxy material is mailed out and the date of the meeting. These procedures will be designed (i) to cancel the votes of persons who submit proxies but sell their shares prior to the meeting date, and (ii) to facilitate voting by persons who purchase shares after the time the proxy material is mailed out, but before the meeting date. A purpose of the proposed interpretation is to accept these procedures as being in compliance with NYSE procedures.

Both the U.S. Transfer Agent and ADP will produce shareholder lists on the day designated for mailing the proxy material (approximately 30–45 days prior to the meeting). The U.S. Transfer Agent's list will reflect the names of registered holders and ADP's list will reflect the names of beneficial owners. Prior to the meeting date, the U.S. Transfer Agent and ADP will each produce a current shareholder list. If holders no longer appear on the list, then votes attributed to proxies submitted by them will be canceled. If new holders appear, proxy materials will be mailed to them by the U.S. Transfer Agent, in the case of registered owners, and by ADP, in the case of beneficial owners. The shareholder lists can be updated periodically up until the date of the meeting. If practicable, proxy materials will be mailed to any new holders on a best effort basis. Such best efforts may include electronic notification and expedited delivery service. The proxy materials will describe voting procedures in detail. Notices will be included advising of the automataic revocation of the proxy if the holder sells stocks prior to the meeting. Finally, as a check and balance, the total vote cast in nominee name will not be permitted to exceed the total position so held.

In addition, Deutsche Bank shareholders can vote in person at a shareholders' meeting. Under Deutsche Bank's Articles of Association, a shareholder must give the company notice of his or her intent to vote in person no later than three business days prior to the meeting, and the person must be a record holder on the meeting date. Deutsche Bank will solicit proxies in a manner consistent with the Exchange's rules applicable to non-U.S. issuers.

Form of Shares

The Exchange has been advised that it has become a standard market practice for German listed stock corporations not make share certificates available.[8] Consistent with this practice, Deutsche Bank's shareholders generally have no right to individual shares in certificate form.

The Exchange proposes to adopt an interpretation that would allow the Ordinary Shares to be in a book-entry only format, provided that the securities are ''depository eligible'' as is required by Exchange Rule 227. Investors will be able to hold their interest in the Ordinary Shares in ''street name'' or in their own name through a system for direct registration of shares (''DRS'') in the United States.

Under the book-entry only system, the Ordinary Shares are represented by one or more global certificates deposited with Clearstream Banking AG Frankfurt, the German central depository. No individual physical certificates will generally be issued. It is expected that U.S. holders of the Ordinary Shares would hold their interest in the global certificates in street name through DTC in the United States. Investors who choose to hold their interest in the Ordinary Shares through DRS will be able to update ownership information directly with the U.S. Transfer Agent.

In the event individual certificates in respect of the Ordinary Shares are issued, they will comply with applicable interpretations relating to the form of stock certificates developed for DaimlerChrysler.[9]

Based on the foregoing, the Exchange believes that it is appropriate to approve ordinary shares of Deutsche Bank for listing and trading on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act [10] in general, and with Section 6(b)(5) in particular,[11] in

[7] Clearsteam International is a clearing and settlement company that is a product of a merger between Deutsche Börse Clearing and Luxemburg's Cedel International, which became effective in January 2000. Clearstream Banking AG Frankfurt is a subsidiary of Clearsteam International.

[8] Under the German Stock Corporation Act (Aktiengesetz), a stock corporation is permitted to restrict or exclude the shareholders' right to request the issuance of share certificates. Such restriction or exclusion must be provided in the stock corporation's articles of association. If the articles of association provide for such restriction or exclusion, the shareholders' rights will be represented by an interest in one or more global share certificates representing the entire share capital of the stock corporation.

[9] Note that the recent elimination of the Exchange's printing and engraving requirements will affect that interpretation. *See* Securities Exchange Act Release No. 44592, 66 FR 39809–01 (August 1, 2001). The interpretation regarding the form of stock certificate developed for Daimler Chrysler permitted vignettes not to be fully steel engraved and permitted the form of endorsement to provide for German registry. As part of the elimination of the Exchange's printing and engraving requirement, vignettes are no longer required by the Manual.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

that it is designed to perfect the mechanism of a free and open market and a national market system, protect investors and the public interest and promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange did not receive or solicit any written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to the File No. SR–NYSE–2001–38 and should be submitted by [insert date 21 days from date of publication].

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. [12] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b(5) of the Act, which requires that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national securities system, and protect investors and the public interest. [13] The Commission believes that the proposed rule change will remove impediments to and perfect the mechanism of a free and open market, and will protect investors and the public interest, by enabling the NYSE to serve as a market for shares of Deutsche Bank (rather than American depositary receipts) while maintaining the standards that are substantially equivalent to the NYSE's existing standards.

The Commission believes that it is reasonable for the NYSE to interpret the Manual to permit Deutsche Bank shares to be in book-entry format only, provided that the securities are ''depository eligible'' as required by Exchange Rule 227. The interpretation is necessary to accommodate the fact that Deutsche Bank shareholders generally have no right to individual shares in certificate form. In the event that individual certificates are issued, the Commission believes that it is reasonable for the Exchange to interpret the Manual to permit it to list shares of Deutsche Bank despite differences from the Manual's standards for endorsement.

The Commission also believes that it is reasonable for the NYSE to interpret the Manual to accept Deutsche Bank's proxy procedures. By mailing stockholder meeting materials approximately 45 days prior to its annual meeting, Deutsche Bank will give shareholders the same type of advance notification provided for in the Manual. Moreover, Deutsche Bank's proxy procedures will cancel proxies for shares sold prior to the meeting, and will facilitate voting by persons who purchase shares during the month leading up to the meeting. In that way, the Exchange's proxy procedures regarding Deutsche Bank appear to be substantially equivalent to the NYSE's existing standards, by permitting the votes cast at the annual meeting to accurately reflect the company's shareholders at the time of the meeting.

The Exchange has requested that the Commission approve the proposed rule change prior to the thirtieth day after publication of the proposal in the FEDERAL REGISTER. According to the Exchange, the trading of Deutsche Bank shares is scheduled to commence as early as October 3, 2001. The Exchange states that approval of the rule change by the date will facilitate the maintenance of an orderly market in the shares of Deutsche Bank. The Exchange further states that without accelerated approval of this proposed rule change, there will be uncertainty in the market regarding the form of Deutsche Bank certificates and the procedures governing Deutsche Bank proxies.

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act, [14] for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission believes that it is necessary to approve the NYSE's proposal on an accelerated basis to permit the public to begin to trade the newly issued Deutsche Bank shares on the NYSE without doubts about whether the book-entry only shares are acceptable under NYSE rules, and without question about how Deutsche Bank will conduct proxy voting.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, [15] that the proposed rule change (SR–NYSE–2001–38) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–25385 Filed 10–09–01; 8:45 am]

BILLING CODE 8010–01–M

[12] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(2).

[15] *Id.*

[16] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3367]

State of Florida

DeSoto, Flagler, Putnam and Sarasota Counties and the contiguous counties of Alachua, Bradford, Charlotte, Clay, Glades, Hardee, Highlands, Manatee, Marion, St. Johns and Volusia in the State of Florida constitute a disaster area due to damages from heavy rainfall, winds and severe flooding caused by Tropical Storm Gabrielle, which made landfall on September 14, 2001. Applications for loans for physical damage may be filed until the close of business on November 30, 2001 and for economic injury until the close of business on July 1, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.750
Homeowners Without Credit Available Elsewhere	3.375
Businesses With Credit Available Elsewhere	8.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	4.000
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	7.125
For Economic Injury:	
Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 336711 and for economic injury the number assigned is 9M9000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 1, 2001.

Hector V. Barreto,

Administrator.

[FR Doc. 01–25337 Filed 10–9–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3347 (Amendment #6)]

State of Texas;

In accordance with a notice received from the Federal Emergency Management Agency, dated October 3, 2001, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to October 22, 2001.

All other information remains the same, i.e., the deadline for filing applications for loans for economic injury is March 8, 2002.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: October 4, 2001.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 01–25430 Filed 10–9–01; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region IV—North Florida District Advisory Council; Public Meeting

The Small Business Administration Region IV North Florida District Advisory Council, located in the geographical area of Jacksonville, Florida, will hold a public meeting at 12 p.m. eastern time on Thursday, October 11, 2001, at the U.S. Small Business Administration, North Florida District Office, 7825 Baymeadows Way, Suite 100B, Jacksonville, Florida 32256, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

Anyone wishing to make an oral presentation to the Board must contact Wilfredo J. Gonzalez, District Director, in writing by letter or fax no later than September 21, 2001, in order to be put on the agenda. Wilfredo J. Gonzalez, District Director, U.S. Small Business Administration, North Florida District Office, 7825 Baymeadows Way, Suite 100B, Jacksonville, Florida 32256, (904) 443–1900 phone (904) 443–1980 fax.

For further information, write or call Nancy N. Collazo, U.S. Small Business Administration, 7825 Baymeadows Way, Suite 100–B, Jacksonville, Florida 32256–7504, telephone (904) 443–1970.

Steve Tupper,

Committee Management Officer.

[FR Doc. 01–25369 Filed 10–9–01; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

President's Commission To Strengthen Social Security

AGENCY: Social Security Administration (SSA).

ACTION: Announcement of meeting location.

DATES: October 18, 2001, 10 a.m.–3 p.m.

ADDRESSES: Park Hyatt Ballroom, Park Hyatt Washington, 24th at M Street NW., Washington, DC 20037, (202) 789–1234.

SUPPLEMENTARY INFORMATION: The **Federal Register** notice announcing the October 18 meeting of the President's Commission to Strengthen Social Security did not include a meeting location. The purpose of this announcement is to provide the meeting location.

The Commission will meet commencing Thursday, October 18, at 10 a.m. and ending at 3 p.m., with a break for lunch between noon and 1 p.m. A series of panels will present testimony to members of the Commission. Panelists will include young Americans, academics, and technical experts.

Dated: October 3, 2001.

Michael A. Anzick,

Designated Federal Officer.

[FR Doc. 01–25441 Filed 10–9–01; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 3806]

Bureau of Population, Refugees, and Migration; Information Collection

ACTION: 30-Day Notice of Information Collection: Refugee Biographic Data, OMB # 1405–0102.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Extension of a currently approved collection.

Originating Office: Bureau of Population, Refugees, and Migration (PRM).

Title of Information Collection: Refugee Biographic Data.

Frequency: On occasion.

Form Number: N/A.

Respondents: Refugees Abroad.

Estimated Number of Respondents: 80,000.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 40,000 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER ADDITIONAL INFORMATION: Copies of the proposed information collection and supporting documents may be obtained from Office of Admissions, Bureau for Population, Refugees, and Migration, U.S. Department of State, Washington, DC 20520 (202–663–1056). Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, (202) 395–5871.

Dated: August 17, 2001.

James. P. Kelley,

Executive Director, Bureau of Population, Refugees and Migration, Department of State.

[FR Doc. 01–25273 Filed 10–9–01; 8:45 am]

BILLING CODE 4710–33–P

DEPARTMENT OF STATE

[Public Notice 3810]

Culturally Significant Objects Imported for Exhibition Determinations: ''Earth and Fire: Italian Terracotta and Sculpture from Donatello to Canova''

DEPARTMENT: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, I hereby determine that the objects to be included in the exhibition ''Earth and Fire: Italian Terracotta and Sculpture from Donatello to Canova,'' imported from abroad for the temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the exhibition or display of the exhibit objects at The Museum of Fine Arts, Houston, Texas, from on or about November 18, 2001 to on or about February 3, 2002 is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact David S. Newman, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State, (telephone: 202/619–6982). The address is U.S. Department of State, SA–44, 301 4th Street, S.W., Room 700, Washington, D.C. 20547–0001.

Dated: September 28, 2001.

Helena Kane Finn,

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

[FR Doc. 01–25404 Filed 10–9–01; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 3808]

Determination Regarding Export-Import Bank Financing of Certain Defense Articles and Services for the Government of the Dominican Republic

Pursuant to section 2(b)(6) of the Export-Import Bank Act of 1945, as amended (the ''Act''), Executive Order 11958 of January 18, 1977, as amended by Executive Order 12680 of July 5, 1989, and State Department Delegation of Authority No. 245 of April 23, 2001, I hereby determine that:

(1) The defense articles and services for which the Government of the Dominican Republic has requested U.S. Export-Import Bank (Ex-Im) financing, the six naval patrol vessels to be rebuilt and the two new naval patrol vessels to be purchased, are being sold primarily for anti-narcotics purposes.

(2) The sale of such defense articles and services is in the national interest of the United States.

(3) The requirement for a determination that the Government of the Dominican Republic has complied with all U.S.-imposed end use restrictions on the use of defense articles and services previously financed under the Act is inapplicable at this time because no such prior sales have taken place.

(4) The requirement for a determination that the Government of the Dominican Republic has not used defense articles or services previously provided under the Act to engage in a consistent pattern of gross violations of internationally recognized human rights is also inapplicable at this time. As stated above, no such prior transactions have taken place.

This determination shall be reported to Congress and shall be published in the **Federal Register**.

Dated: August 27, 2001.

Richard L. Armitage,

Deputy Secretary of State, Department of State.

[FR Doc. 01–25402 Filed 10–9–01; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice 3809]

Privacy Act of 1974, as Amended: Removal of a System of Records

Notice is hereby given that the Department of State is removing a system of records ''Bureau of Economic and Business Affairs Data Bank of Economic Officers—STATE–56,'' pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a(5)), and in accordance with the record-keeping practices of the Bureau of Economic and Business Affairs.

The Bureau of Economic and Business Affairs determined that it was no longer necessary to maintain STATE–56 as a system of records once the Bureau of Human Resources implemented the Global Employment Management Systems electronically. Comparable files are now located in ''Human Resources Records—STATE–31.'' STATE–56 files have been destroyed in accordance with published disposition schedules of the Department of State and as approved by the National Archives and Records Administration and consequently STATE–56 has been removed.

Dated: October 2, 2001.

William A. Eaton,

Assistant Secretary for the Bureau of Administration, Department of State.

[FR Doc. 01–25403 Filed 10–9–01; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings

Aviation Proceedings, Agreements filed during week ending September 21, 2001. The following Agreements were filed with the Department of Transportation under provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the applications.

Docket Number: OST–2001–10645.

Date Filed: September 18, 2001.

Parties: Members of the International Air Transport Association.

Subject: PTC COMP 0864 dated 18 September 2001 Mail Vote 145—Resolution 015n TC12 and TC123 North Atlantic USA Add-On Amounts (Amending) Intended Effective Date: 1 November 2001

Andrea M. Jenkins,

Federal Register Liaison.

[FR Doc. 01–25351 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

High Density Traffic Airports; Slot Allocation and Transfer Method

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of waiver of the slot usage requirement.

SUMMARY: This action waives the minimum slot usage requirement for slots and slot exemptions at the four high density traffic airports. As a result of the recent terrorist attacks, the temporary cessation of air service nationwide, and the temporary reduction in air carrier flight schedules, a waiver is necessary to assist carriers in resuming service and planning future schedules. This waiver is effective through April 6, 2002, which is the end of the winter scheduling season.

EFFECTIVE DATE: September 11, 2001.

FOR FURTHER INFORMATION CONTACT: Lorelei Peter, Office of the Chief Counsel, AGC–220, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, DC 20591; telephone number 202–267–3073.

SUPPLEMENTARY INFORMATION:

Background

Following the aircraft hijackings and terrorist attacks on September 11, 2001, the FAA temporarily ceased all non-military flights in the United States and required the adoption of certain security measures prior to the resumption of commercial air service. Several air carriers have reduced flight schedules below previously planned levels in order to adjust to operational changes brought on by the new security requirements. Therefore, the agency finds it necessary to take action to assist carriers in managing their operations at the high density traffic airports as a result of the recent extraordinary events.

Waiver of the Slot Usage Requirement

The regulations governing slots and slot allocation provide that any slot not utilized at least 80 percent of the time over a 2-month period shall be recalled by the FAA (14 CFR 93.227(a)). Additionally, paragraph (j) of that section provides that the Chief Counsel may waive the slot usage requirement in the event of a highly unusual and unpredictable condition that is beyond the control of the slot holder and exists for more than nine days (14 CFR 93.227(j)). These two provisions are also applicable to slot exemptions.

The facts described above meet the criteria for a waiver under Section 93.227(j). Therefore, the FAA is waiving the minimum slot usage requirement in 14 CFR Section 93.227(a) for all slots and slot exemptions at the four high density traffic airports through April 6, 2002, which is the end of the winter scheduling season. Furthermore, the FAA advises that any carrier that chooses temporarily to return slots or slot exemptions to the FAA between now and April 6, 2002 may do so without jeopardizing the carrier's holding of the slots or slot exemptions.

For the purpose of determining slot usage, the FAA will treat allocated slots or slot exemptions as having been used whether or not a flight was actually operated using the slot or slot exemption during this period. This waver applies retroactively beginning on September 11, 2001, for the September-October reporting period, provided that the slot or slot exemption was not already subject to withdrawal for non-use. This waiver will remain in effect through April 6, 2002. Slot use or lose information for each slot or slot exemption must be filed with the FAA unless the slot or slot exemption has been returned for the entire reporting period. Carriers should report as used only those slots or slot exemptions that were actually operated during the reporting period.

Although many carriers have reduced service or are planning temporary flight reductions throughout the system, including at the high density airports, some may be planning slight increases or changes to scheduled flight times that impact their slot holdings at an airport. Carriers are strongly encouraged to work cooperatively with other airlines in order to maximize the use of available slots for any carrier desiring to initiate new or rescheduled service. The FAA will work with carriers to the maximum extent practical to facilitate schedule adjustments during this interim period.

The FAA will continue to monitor any developments that may impact airlines' ability to meet the minimum usage requirements at any of the high density traffic airports. This waiver supersedes the agency's policy statement issued on September 13, 2001, and published in the **Federal Register** on September 18, 2001 (66 FR 48157), which addressed slot usage at LaGuardia Airport.

Issued in Washington, DC on October 4, 2001.

David G. Leitch,

Chief Counsel.

[FR Doc. 01–25401 Filed 10–4–01; 3:23 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

User Input to the Aviation Weather Technology Transfer (AWTT) Board

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: The FAA will hold an informal public meeting to seek aviation weather user input. Details: November 14, 2001; TRW, 475 School Street, Washington, D.C., 20024; 1:00 PM to 4:00 PM in Conference Room B. The objective of this meeting is to provide an opportunity for interested aviation weather users to provide input on FAA's plans for implementing new weather products. This meeting was originally scheduled for September 18, 2001 in New Orleans, LA, was subsequently cancelled, and is now being re-scheduled for the new date.

DATES: The meeting will be held at TRW, 475 School Street, Washington, D.C., 20024 in Conference Room B, Washington, D.C. on November 14, 2001. Times: 1:00–4:00 PM.

FOR FURTHER INFORMATION CONTACT: Debi Bacon, Aerospace Weather Policy Division, ARS09100, Federal Aviation Administration, 800 Independence Ave., S.W., Washington, D.C. 20591; telephone number (202) 385097705; Fax: (202) 385097701; email: *debi.bacon@faa.gov.* Internet address: *http://www.debi.bacon@faa.gov.*

SUPPLEMENTARY INFORMATION:

History

In 1999, the FAA established an Aviation Weather Technology Transfer (AWTT) Board to manage the orderly transfer of weather capabilities and products from research and development into operations. The Director of the Aerospace Weather Policy and Standards Staff, ARS0920, chairs the AWTT Board. The Board is composed of stakeholders in Air Traffic Services, ATS; Regulation and Certification, AVR; and Research and Acquisitions, ARA in the Federal Aviation Administration and the Office of Meteorology in the National Weather Service.

The AWTT Board will meet semi-annually or as needed, to determine the readiness of weather research and development (R&D) products for experimental use, full operational use for experts or full operational use for end users. The Board's determinations will be based upon criteria in the following areas: users needs; benefits;

costs; risks; technical readiness; operational readiness and budget requirements.

The user interface process is designed to allow FAA to both report progress and receive feedback from industry users. Each AWTT Board meeting will be preceded by a half-day industry review session approximately one month prior to each Board meeting. These industry review sessions will be announced in the **Federal Register** and open to all interested parties.

This meeting is the second industry review session and is intended to receive feedback on weather R&D products that will be presented for consideration at the December 2001 AWTT Board meeting. The products to be considered are the Integrated Icing Diagnosis Algorithm (IIDA) and the Integrated Icing Forecast Algorithm (IIFA).

Meeting Procedures

(a) The meeting will be informal in nature and will be conducted by representatives of the FAA Headquarters.

(b) The meeting will be open to all persons on a space-available basis. Every effort was made to provide a meeting site with sufficient seating capacity for the expected participation. There will be neither admission fee nor other charge to attend and participate.

(c) FAA personnel present will conduct a briefing on how the AWTT system works and changes to the process made in the last year. Any person will be allowed to ask questions during the presentation and FAA personnel will clarify any part of the process that is not clear.

(d) FAA personnel will present a briefing on the specific products to be reviewed at the December 2001 AWTT Board Meeting. Any person will be allowed to ask questions during the presentation and FAA personnel will clarify any part of the presentation that is not clear.

(e) Any person present may give feedback on the products to be presented. Feedback on the proposed products will be captured through discussion between FAA personnel and any persons attending the meeting. The meeting will not be formally recorded. However, informal tape recordings may be made of the presentation to ensure that each respondent's comments are noted accurately.

(f) An official verbatim transcript or minutes of the informal meeting will not be made. However, a list of the attendees, a digest of discussion during the meeting and an action item list will be produced. Any person attending may receive a copy of the written information upon request to the information contact, above.

(g) Every reasonable effort will be made to hear each person's feedback consistent with a reasonable closing time for the meeting. Written feedback may also be submitted to FAA personnel for up to seven (7) days after the close of the meeting.

Agenda

(a) Opening Remarks and Discussion of Meeting Procedures
(b) Briefing on AWTT Process
(c) Briefing on Weather Products
(d) Request for User Input
(e) Closing Comments

Issued in Washington, DC, on October 3, 2001.

Frances Sherertz,

Deputy Director, Aerospace Weather Policy and Standards Staff.

[FR Doc. 01–25089 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on January 16, 2001 [66 FR 3645–3646].

DATES: Comments must be submitted on or before November 9, 2001.

FOR FURTHER INFORMATION CONTACT: Chris Flanigan at the National Highway Traffic Safety Administration, Office of Safety Performance Standards (NPS–20), 202–366–4918, 400 Seventh Street, SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Replaceable Light Source Dimensional Information Collection, 49 CFR Part 564.

OMB Number: 2127–0563.

Type of Request: Extension of a currently approved collection.

Abstract: Manufacturers of motor vehicle headlamp light sources must provide performance and interchangeability information to NHTSA and the public in order to assure reliable and respectable performance for original and field replaced headlamp bulbs.

Affected Public: Business of other for profit organizations.

Estimated Total Annual Burden: 28.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, D.C. 20503, Attention NHTSA Desk Officer.

Comments Are Invited On

Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on October 3, 2001.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 01–25352 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections

and their expected burden. The **Federal Register** notice with a 60-day comment period was published on January 2, 2001 (66 FR 129–130).

DATES: Comments must be submitted on or before November 9, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Benn at the National Highway Traffic Safety Administration, Office of Safety Performance Standards (NPS–20), 202–366–2264. 400 Seventh Street, SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Assigning DOT Code Numbers to Glazing Materials Manufacturers.

OMB Number: 2127–0038.

Type of Request: Extension of a currently approved collection.

Abstract: Requirements for glazing materials for use in passenger cars, multipurpose passenger vehicles, trucks, buses, motorcycles, slide-in campers and pickup covers designed to carry persons while in motion. Also, this standard specifies certification and marking of each piece of glazing materials. Certification for the items listed comes in form of a label, tag or marking on the outside of the motor vehicle equipment and is permanently affixed and visible for the life of the motor vehicle equipment.

Affected Public: Business of other for profit organizations.

Estimated Total Annual Burden:

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, D.C. 20503, Attention NHTSA Desk Officer.

Comments Are Invited On

Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on October 3, 2001.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 01–25353 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** notice with a 60-day comment period was published on May 1, 2001 (66 FR 21815–21816).

DATES: Comments must be submitted on or before November 9, 2001.

FOR FURTHER INFORMATION CONTACT: Deborah Mazyck at the National Highway Traffic Safety Administration, Office of Safety Performance Standards (NPS–32), 202–366–0846. 400 Seventh Street, SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: 49 CFR part 543, Exemption from Vehicle Theft Prevention Standard.

OMB Number: 2127–0542.

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

Abstract: 49 U.S.C. Chapter 331 requires the Secretary of Transportation to promulgate a theft prevention standard to provide for the identification of certain motor vehicles and their major replacement parts to impede motor vehicle theft. 49 U.S.C. 33106 provides for an exemption to this identification process by petitions from manufacturers who equip covered vehicles with standard original equipment antitheft devices, which the Secretary determines are likely to be as effective in reducing or deterring theft as the identification system.

Affected Public: Business or other for-profit.

Estimated Total Annual Burden: 64.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, D.C. 20503, Attention NHTSA Desk Officer.

Comments Are Invited On

Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on October 3, 2001.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 01–25354 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on January 2, 2001 (66 FR 130–131).

DATES: Comments must be submitted on or before November 9, 2001.

FOR FURTHER INFORMATION CONTACT: Mary Benn at the National Highway Traffic Safety Administration, Office of Safety Performance Standards (NPS–20), 202–366–2264. 400 Seventh Street, SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Consolidated Labeling Requirements for Motor Vehicles (Except the V.I.N)

OMB Number: 2127–0512.

Type of Request: Extension of a currently approved collection.

Abstract: Motor vehicle and equipment must be properly labeled to insure safe operation. This information collection requires each manufacturer or distributor of motor vehicles to furnish to the dealer or distributor of the vehicle a certification that the vehicle meets all applicable FMVSS. This certification is required by that provision to be in the form of a label permanently affixed to the vehicle. Under 49 U.S.C. 32504, vehicle manufacturers are directed to make a similar certification with regard to bumper standards. To implement this requirement, NHTSA issued 49 CFR Part 567. The agency's regulations establish form and content requirements for the certification labels.

Affected Public: Business of other for profit organizations.

Estimated Total Annual Burden:

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention NHTSA Desk Officer.

Comments Are Invited On

Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on October 3, 2001.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 01–25355 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** notice with a 60-day comment period was published on May, 2001 (66 FR 24178–24179).

DATES: Comments must be submitted on or before November 9, 2001.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Tremont at the National Highway Traffic Safety Administration, Office of Research and Traffic Records (NTS–31), 202–366–5587. 400 Seventh Street, SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: National Survey of Speeding, Driving While Distracted and Other Unsafe Driving Behaviors.

OMB Number: 2127–NEW.

Type of Request: New information collection.

Abstract: The National Highway Traffic Safety Administration (NHTSA) plays a central role in the national effort to reduce motor vehicle related traffic injuries and deaths. Last year more than 38,000 deaths and several million injuries occurred as direct result of motor vehicle crashes. There is strong evidence to suggest that most of these crashes are caused by human errors, such as speeding, aggressive driving, driver distraction and fatigue, and are thus avoidable.

The proposed survey, will gather data on the nature and extent of these problem-driving behaviors with the objective of providing the basis for the development of countermeasures to them. Data will be collected on topics covered in the 1997 Speeding & Unsafe Driving survey, and also will include questions on distracted, aggressive and fatigue-related driving. Question areas will cover characteristics of drivers who perform these various unsafe driving actions, and the situations accompanying unsafe actions. Data will also be acquired on distractions drivers are subject to, including wireless phones, the situations that lead to these distractions, and the way they are managed while driving.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 1000.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, D.C. 20503, Attention NHTSA Desk Officer.

Comments Are Invited On

Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on October 4, 2001.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 01–25424 Filed 10–9–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–106177–98]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is

soliciting comments concerning an existing final regulation, REG–106177–98(TD 8845), Adequate Disclosure of Gifts (§ 301.6501(c)-1).

DATES: Written comments should be received on or before December 10, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Adequate Disclosure of Gifts.

OMB Number: 1545–1637.

Regulation Project Number: REG–106177–98.

Abstract: Section 301.6501(c)-1(f) requires that, in order to commence the running of the gift tax statute of limitations, the donor must file a Form 709 and submit sufficient information about the transaction that will give the Service a complete and accurate description of the transfer. Such information includes a description of the transferred property, the identity and relationship of the parties to the transfer and any entities involved, a description of the methods used to value the transferred property, a description of any restrictions on the transferred property, and a statement of any potential controversy or legal issue involved.

Current Actions: There is no change to this existing regulation.

Type of review: Extension of OMB approval.

Affected Public: Individuals or households.

The reporting burden contained in § 301.6501(c)-1(f) is reflected in the burden for Form 709, U.S. Gift (and Generation-Skipping Transfer) Tax Return.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 3, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–25435 Filed 10–9–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–104072–97]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–104072–97 (TD 8853), Recharacterizing Financing Arrangements Involving Fast-Pay Stock (§ 1.7701(l)-3).

DATES: Written comments should be received on or before December 10, 2001 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Recharacterizing Financing Arrangements Involving Fast-Pay Stock.

OMB Number: 1545–1642.

Regulation Project Number: REG–104072–97.

Abstract: Section 1.7701(l)-3 recharacterizes fast-pay arrangements. Certain participants in such arrangements must file a statement that includes the name of the corporation that issued the fast-pay stock, and (to the extent the filing taxpayer knows or has reason to know) the terms of the fast-pay stock, the date on which it was issued, and the names and taxpayer identification numbers of any shareholders of any class of stock that is not traded on an established securities market.

Current Actions: There is no change to this existing regulation.

Type of review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 50.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 3, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01–25436 Filed 10–9–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–75]

Cancellation of Customs Broker Licenses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Cancellation of licenses.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 111.51(a), the following Customs broker licenses have been cancelled due to death of the broker. Because previous publication of some records cannot be readily verified, the records are now being published to ensure Customs compliance with administrative requirements.

Last name	First name	License	Port name
Bellack	Paul G	05425	Baltimore
Diaz	Yolanda	07119	Miami
Favro	Noel J	04340	Champlain
Joffroy, Sr	William F	02478	Nogales
Knipper	Abe M	03581	New York
Liebert	Carl F	02707	Seattle
Loudon	James V	02614	Los Angeles
Meuter	Walter F	02158	Cleveland
Pepper	Harold I	03584	New York
Perez	Jose Antonio	06805	Miami
Rodriguez	Alfreco	11724	Miami
Soto	Alfonso X	05278	Laredo

Dated: September 30, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–25374 Filed 10–9–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–76]

Revocation of Customs Broker Licenses

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Customs broker license revocations.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930 as amended (19 USC 1641) and the Customs Regulations (19 CFR 111), the following Customs broker licenses are revoked. Please be aware that some of these entities may continue to provide broker services under another valid brokerage license. Because previous publication of some records cannot be readily verified, the records are now being published to ensure Customs compliance with administrative requirements.

Name	License
Port unknown:	
Ryler, William Scott	13895
Anchorage:	
Keith, Scott Henry	14618
Shaw, Donald H	05059
VanPatten, Joanne C	07455
Atlanta:	
Farah, Rose Marie	16859
McCallum, Christie Ann	14464
Mitchely, Diane B	12356
Olejnik-Anthis, Tara Marie	15078
Rabern, Kimberly L	15079
Baltimore:	
Bennett, Perijo P	14146
Bollhorst, Donald K	04256
Braverman, Julius	04157
Caplan, Ronald	04105
Fillmore, Joan Ruth	09747
Hendrix, Marshall Stan	06694
Horwitz, Morris E	03434
Keeney, Stephen Brooks	04904
Kraus, Duncan Lee	03587
Kuhl, Donald James	04111
Mahon, Patrick J	07210
McDonagh, Meredith A	13730
Neff, Monica	12527
Price, Mary Jane	10297

Name	License
Schevitz, Howard J	04159
Seaschott, Inc	09613
Stern, H. George	03123
Boston:	
Alexander, Timothy D	06886
Blanz, Madeleine R	14117
Brandyberry, Paul R	07110
Brome, Betsey P	09193
Cercone, Donald Robert	03808
Conover, Janet	10518
Curtis, Lawrence	07359
Dahn, Paul D	14838
Dion, Donna M	15256
Eldridge, Donald N	02993
Flott, Jonathan	17149
Goodhue, Edmund	03353
Goodsill, Jeffrey Allen	16584
GSI Logistics Services, Inc	14693
Marino, Donna M	09896
McNamara, Kellie A	13410
Murphy, Gerard X	04909
Osburn, Robert A	09212
Patten, Richard Dain	03739
Ross, John L	04026
Spence, Lisa Ann	13304
Buffalo:	
Anderson, Kurt M	13927
Camilli, Anthony	04722
Gambino, Sr., Jerry J	02626
Gonzalez, Robert W	07105
Goris, Frederick J	04380
Jurnack, James	06654
Limebeer, Hal A	10305
Rausch, John H	10584
Schnell, Bruce M	09155
Vitello, Sharyle Ellen	12145
Ward, Theresa A	09047
Zimmermen, Michael D	15049
Champlain:	
Bashaw, Kim Anthony	09217
Sullivan, Gregory John	15419
Charleston:	
American National Brokerage	14841
Brown, Cindy C	11215
Chope, Joseph W	11992
Donohue, Kelly D	14312
Fisher, Richard John	16263
Jones, Danny Joe	04728
Marchant, Margaret Dana	15396
Riley, Theresa Lapolia	10433
Shaw, Kimberly Anne	14091
Smith, Nancy J	07136
Stone, Carol	10566
Walker, Kristy J	10387
Charlotte:	
ASI Logistics, Inc	16606
Landen, Rosalie D	10168
Long Int'l Logistics Svcs., Inc	15765
McConnell, Jeff A	12752
MJ Shea & Company, Inc	14037
Chicago:	
Ace Pool Car, Inc	11753
Air Express International	03020
Allen, Danielle	13439
Allfreight Import Service, Inc	13131
American Exhibition Services, Inc	07812
Anderson, Debra Lynn	10621
Bell, Randall W	16047
Benedict, Bruce Ernest	09966
Bradley, Gary	10830
Brian, Nancy Ann	07631
Brian, Ralph E	05499
Calkins, Kevin M	12210
Callaway, Albert J	13225

Name	License
Cobb, Karen L	10799
Dart Express (Chicago), Inc	14249
Dorf International, Inc	01732
Drawback Refunds Company, Inc	06417
Geist, Daniel M	09031
Griffiths, William	04800
Guy B Barham Company	01442
Jerominski-Spoonholtz, Margaret M	09008
Knight, Glen A	13085
Lachman, Michelle	13094
Leber, Steven D	15384
LEP International, Inc	02641
McGinty, William Allen	03180
Meyer, Lucille A	05967
Mocniak, Suzanne M	16514
Mueller, Gene L	04903
Neary, Jeffery A	13035
O'Connor, Velina Jeannette	14570
Osowski, Eugene F	03333
Peterson, Janice M	17159
Petr, Carole G	04809
Shatney, Kristin A	15007
Shepherd, Charles M	17171
Slinker, Jeanne M	13032
Thompson, Jeffrey S	16016
Walsh, Kevin M	05177
Cleveland:	
Adair, Jeffrey	14558
Bain, Albert E	09301
Ball, Lonnie	14717
Ball, Nancy	16459
Cozart, Johann	06006
Damyanoff, Damyan	07860
Daniel, Kathryn M	14890
Delozier, Marie L	10574
Gill, Linda J	15909
Goss, Tisha	16852
Greenwell, Stephen D	14484
Groh, Peter A	09797
International Cargo Services, Inc	16382
Kindle, David E	15183
Klingensmith, Laura M	13877
Longley, Keith N	11888
Matitia, Issac	11189
Murray, Robert J	14219
Newman, Robert W	07554
Noss, Jr., Donald	15229
Okon, Eugene	04939
Phillips, Franklin J	02598
Quast & Company, Inc	05564
Quinn, Heidi M	10576
Ritter, Jennifer L	15277
Robinson, Faith D	14420
Schmitz, Eloise	13603
Seybeth, Mary Ann	06559
Seybold, Suzane M	12712
Shaw, Robert M	10207
Starr, David B	10208
Vendetti, Marilou	12508
Vinson, James P	16383
White, Troy S	14770
Wolff, Thomas M	14422
Dallas/Fort Worth:	
Atlas Cargo Express, Inc	15530
Christy-Mohabeer, Linda M	15238
Douglass, Margo Lee	15399
Globe Express Services	10640
James, Martha J	15237
Luyanda, Jose H	15481
Marrone, Scott Michael	14190
Roberts, Steven Scott	15434
Self, Larry V	06790
Williams, Elizabeth B	16724
Detroit:	

Name	License
Adams, Orosia C	14262
Advance International Freight	14130
Armbruster, Gerald L	03742
Coughlin, Jr., Francis X	03712
Folino-Nazda, Robbie	12561
Gill, Brian T	16680
Hakala, Patricia A	11028
Holley, Scott R	15696
Kimball, Barbara	04857
McAfee, Erstin C	03782
McBride, James	15835
Silber, Laura	15677
VG Nahrgang Company	03410
El Paso:	
Camino Real Customs Brokers	14120
Harlan, Harry Edwin	16525
Hudson, John M	06661
Rocky Mountain	14193
Great Falls:	
Anderson, Donald Douglas	11880
Garbaccio, Christopher James	14718
Rodman, Scott W	16393
Steiner, Darlene Sue	14231
Summers, Sherry Lynn	10897
Honolulu:	
Corrigan, J. Patrick	10588
Dabalos, Norman	04746
Kido, Sako S	03523
Lam, Stephen T	05708
Matsuno, Kent	04205
Mitchell, James	03524
Nakamura, Sharon	09482
Skelton, Leslie P	03685
Teibel, Willard W	04144
Houston:	
All Port Services, Inc	15116
Anderson, Matthew	16037
Andrews, Mary	15116
Bazzurro, Betty D	14188
Blumar Custom House Brokers, Inc	17021
Butler, Carol	00999
Darrell J Sekin Company, Inc	05249
Friedman, Bruce J	16472
Greer, Jeffrey W	15737
Macy, Jullian	10982
Maier, Cleburne B	05718
McCullough, Patricia Lane	09687
McGilberry, Scott A	16196
Nichols, Brenda C	11899
Ram Forwarding, Inc	11172
Small, David L	14211
Smyth, Jr., Lonnie	16775
Snell, Susan	16239
Steil, Karen D	10972
Whiddon, Edward Scott	14719
Laredo:	
Casso International, Inc	11479
Cisneros, Jr., Luis	04359
Corrigan, EH	02503
Falk Randolph E	13416
Freeman, Philip Wayne	12257
Fugitt, William R	07507
Jones, Jr., Guy W	05724
Pina, Sr., Librado	02979
Salinas US Customs, Inc	14531
Los Angeles:	
Abou-Fadel, Nasrallah Nicholas Fadlo	16338
Acme International, Inc	07063
Albert, Peter	11162
Allen, Ronald Lee	11774
Aras International, Inc	13847
Beseda, Jane	09500
Bui, Quan Dang	13333
Chen, Johnny Yen	07092

Name	License
Chu, Vincent Kin Wing	14796
Donatelli, Paul Andrew	04396
Doub, III, George Moffett	16231
Elliot, Douglas Matthew	16214
Fabian, Louis Patrick	03860
Hadfield, Pamela	11708
Ho, Sai-yim Happy	10489
Keener, Constance G	07313
Kelm, Marcia Joan	10629
Kenehan, John William	05809
Le, Kathryn Tram	16080
LeMoine, Allison Michelle	14481
Lindblom, Lenore M	06438
Moopen, Thomas	09856
Murray, Janet Kathryn	12253
Orr, Samuel E	02673
Pacific Freight Group, Inc	11127
Power Transportation, Inc	14709
Preston, Elizabeth A	15858
Priority Cargo Services (USA), Inc	16416
Rojas, Jaime A	07821
Rosoff, Lauri Ellen	14081
Stewart, Gary C	06649
Stewart-Robbins, Lori L	13188
Westland, John Lawrence	02611
Wiggs, Vicki Annette	06616
Yen, Jerry Jeong	14088
Yeung, Allison	14634
Miami:	
Bell, James R	12011
Carl Matusek, Inc	03709
Dominguez, John A	04461
Herbison, Sharon Ann	04624
Howell, Mark H	11916
Jameson, Jr., Jere R	09859
Veitia, Jorge	04630
Milwaukee:	
Monfils, Owen F	03794
Pollock, Elizabeth Ann	14323
Salentine, Dave A	03619
Testroet, Vincent Leo	03620
Minneapolis:	
Fellows, Jeffrey Taber	10538
Hut Retail Services, Inc	17117
Martin, Kelly Ann	15373
Miell, Debra Louise	14831
Reynolds, Richard Carver	14690
Tradelink, Inc	11131
Mobile:	
Allen, Howard	05433
Stuckey, Joseph	05558
New Orleans:	
Adams, Hugh B	11962
Barnes, Carol M	05600
Baxter Company CHB, Inc	03022
Blancq, Jr., Claude E	05075
CF Export Import Services	07870
Dorf International, Inc	01893
Dorf International, Ltd	02666
Evans, Arthur	06292
Everidge, Eddie	06252
Gerardi, Cheryl	09802
Gilbert, John P	16520
Guenther, John	02901
Gulf States Forwarding, Inc	09385
Keer, Maurer, Inc	09397
Kennedy, Jr., Frank B	03485
Lavis, Charles	14646
Lawrence M Parry, Jr., Inc	07309
Mann, Peter Drake	12567
Memphis Compress & Storage Co., Inc	07129
Montalbano, Raymond	04488
Moss, Robert	16577
Movers Port Services, Inc	09159

Name	License
Petrey, Jr., Charles Louis	13939
Phillips, Karen	07552
Seuzeneau, Betty	03994
Thornton, Kathleen	06779
Wills, Alfred B	03875
New York:	
AFC International Forwarders, Inc	09989
Altman, Robert	02965
Apollo International Forwarders, Inc	12067
Appello, Rocco	02539
Baird, Jr., Kenneth J	07099
Baldassano, Vincent J	07276
Baratta, Kenneth	09146
Berger, Jerome H	03196
Berns, Louis	01569
Black & Geddes, Inc	04014
Bluman, Jeanette S	15540
Browne, Leslie K	00686
Browne, Walter Francis	02788
Burckard, Alvin M	01003
C & T Customs Brokers, Inc	09295
Caldwell, Lorraine	16284
Cargomate Customs Clearance Service	02981
Carpp, Stanley	02257
Chan, Alex S	10349
Christophides, Demetrius G	02494
Cohen, Isidore	01668
Combined Logistics (USA), Inc	04585
Control Cargo Service Ltd	06987
Cosmos Shipping Co, Inc	02971
Csak, Ernest M	14261
David K Lindemuth Company, Inc	07220
DeMalio, Louis V	03540
Denezzo, FD	02404
Dichter, Harold	02287
Dierks, Jurgen H	04697
Doherty, Jr., George F	01617
Dunbar, William F	01852
Eastern Cargo Forwarders, Inc	03666
Eden, Edward	00915
Edgar, Henry B	01966
Edward J Six, Inc	16547
Ellis, Charles R	03740
Emig, William H	00254A
Engelbrecht, Joseph A	05549
Englert, Edwin	00769
Englert, Raymond A	01609
Excel Shipping Corp	02284
Fabius & Company Customs Brokers, Inc	02323
Farrell, Joseph F	06067
FE Wallace & Company, Inc	01346
Federman, Jonathan	12615
Fichtmann, Louis B	02900
Fijux, George F	01328
Fine, Harold	10720
Fleitman, Arnold A	01027
Florescu, Florea	09786
Foreign Shipping Svc. Company, Inc	03644
Forwand, Sam	02015
Freeslate International Corporation	03254
Freyermuth, Lewis Paul	12318
Gall, Alexander	01332
Garber, Daniel Joseph	15977
Gauss, Charles P	05453
Geils, Christian L	00006A
Gill, John H	02305
Glennon, John L	00269A
Gloss, Theodore R	01647
Greer, Leslie N	13004
Grimes, Jr., Edward T	01257
Haeger, Jr., Albert C	02720
Haig, Douglas M	01505
Harte, Thomas	06472
Hartenstine, Richard J	05409

Name	License
Heiner, Harold W	02756
Hermann, Victor J	00838
Hodgkinson, Frederick R	02001
Hollman, John M	01528
HZ Bernstein Airfreight Corp	04281
Intercontinental-Wisk, Inc	04251
Inter-Maritime Container Lines, Inc	02600
Intermodal Freight Forwarding, Inc	04176
Intra-Mar Transport Corp	01929
James E Fox & Company, Inc	01348
Jensen, Albert C	03522
Kampuries, Carol	05638
Kaufman & Vinson Company	03901
Kayser, Marilyn	10843
Kazangian, Albert	05987
Keer, Maurer, Inc	06820
Kersten Shipping Agency, Inc	02564
Klebanoff, Gary E	09289
Kleinstein, Ruth	10609
Koerner, Arthur G	02893
Kraemer, Albert EC	00030
Kramer, Samuel	01154
Lansen, John P	01083
Lee-Herrmann Company	02140
Lefelstein, Susan	04011
Leff, Robert A	03035
Lehman, Gail Ann	07559
Levine, Michael	05543
M Farris & Company, Inc	01630
Magno, Laraine	08031
Mann, Martin G	03744
Manuh, Elvis Stephen	12049
Mariano, Angel A	03397
Martin, Arthur J	00856
Masse, James	03472
Maxwell, Michael P	11959
Mayer, Gustave Howard	02949
McConnell, Edward Hugh	01891
McCormack, Paul	05932
McKeown, Kevin J	12319
Meanen, John J	03150
Meneses, Ben O	16082
Meyer, William F	03322
Milkoff, Ben	02112
Mintz, Sol	02918
Molina, Edward H	03652
Mottola, Thomas A	01765
Muray, Walter W	02932
Narr, William J	02022
Nietsch, Cynthia	05783
Novo Int'l Airfreight Corporation	05212
Novo International Corporation	05014
O'Donnell, James T	03986
O'Grady, James	09057
P John Hanrahan, Inc	02212
Palle, William R	07341
Pedron, Florenda B	14105
Peter A Bernacki, Inc	03167
Peterman, Steven T	06640
Pfeiffer, Harry L	02262
Prchal, Charles	01940
Priemer, August C	01353
Pullis, Charles J	01995
Ramono, Silvio W	02070
REA Express, Inc	01691
Remer, Edward	01701
Rice, John P	02508
Roberts, Paul	06436
Rokamer Customs Expediter Co., Inc	05546
Romano, Kenneth Douglas	04564
Rosenberg, Edward	02869
Royals, Jr., Copeland	01651
Rubino, Joseph A	01564
Russell, Quentin R	03309

Name	License
Sam Schwartz CHB, Inc	07425
Schiller, Mortimer	02988
Schipani, Francis D	03955
Schleifstein, Ely	02516
Schmitz, Gerhardt	05746
Schneider, Frank S	00662
Sellers Transportation Company, Inc	01644
Seuzeneau, Betty	02236
Shannon, Newell C	10276
Sheridan, Edward J	01666
Silvey Shipping Company, Inc	02896
Somma, Peter J	10976
Spano, Alfred B	04959
Specific Int'l Freight Forwarders, Inc	12070
Springer, Gustave	02464
Stateside Customs Brokerage, Inc	06692
Switsky, Steve	11420
Tarus, Charles J	02204
Trainor, Joseph	10230
Transnational Shipping Corporation	06959
United Shipping, Inc	11934
US Brokers, Inc	07293
VanBuskirk, John W	05138
VanWagoner, John R	05797
Wallrabe, Christopher Sean	11858
Warren, Toni	10037
Wedeman & Godnecht, Inc	00202A
Weiss, Murray H	02962
Westerlund, Paul J	06050
Westrack, Robert M	07789
William G Young & Company, Inc	01258
WITS, Inc	04876
Wooster, Ray S	00792
World-Wide Services, Inc	02966
Zawacki, Ronald	07565
Zwicker, Abraham E	00874
Nogales:	
Torre, Shawn B	11210
Norfolk:	
Deloatch, Jane M	13883
Lewis, Jude	12084
Otay Mesa:	
Wright, Claire	13371
Pembina:	
Eszlinger, Lyle	13361
Philadelphia:	
Baird, Kenneth J	07550
D'Amico, Lenore Anne	15093
Gaudio, Alan	10039
Gehry, Bruce R	07429
Lucas, Sheila D	07676
Patrick, Nolan John	07258
Pennell, Jr., William G	06445
Sun, Charlene Chen	14867
Wallace, Barbara Ann	05190
Walsmann, Monika	16213
Yost, John Andrew	13352
Portland, ME:	
Lawrence, Barbara E	04027
Moe, Keith V	15244
Whitworth, Stephen	16304
Williamson, Katheryn A	12275
Portland, OR:	
Brosterhous, Coleman & Company	07286
Consolidated Freightways Export-Import, Inc	07992
Drew, Bruce Alan	13657
Gadeke, Jill Lynn	14495
Graham, Andrew Carter	14100
James J Boyle & Company	05438
Lindsey Forwarders, Inc	14223
Livingston International	00034
Newman, Steven W	03342
Newman Wilson Company	06061

Name	License
Seaport Shipping Company	04767
Sluys, Ralph V	09394
Summit Trade Specialist (US)	14544
Wallen, Robert Glenn	08019
WITS, Inc	04827
Providence:	
Campagna, Anthony F	04679
Gomez, Roger	03807
Jackvony, Vincent M	04403
San Diego:	
Anderson, Albert Moulton	17067
Chaparral Freight Forwarders and CHB, Inc	16740
Compian, Claudia M	14983
Free Trade, Inc	13941
Jensen, David Ray	15147
Pettengill, Linda K	17122
San Francisco:	
Alexander, Timothy D	05663
Ardan, Lori Ann	06874
Arellanes, Gloria Jeanette	12197
August, III, Joseph J	05226
Barry McCarthy Shipping Company, Inc	07374
Belonogoff, Sharon R	11002
Binnie, Anne Elizabeth	13541
Bohling, Sally Kay	05269
Bonetti, Mark R	07463
Brandt, Charles P	03505
Brownfield, Marshall Ray	04899
Bruce Duncan Company, Inc	03720
Bull, DeVota Wilson	02976
Carrasco, Jose Antonio	14947
Ceniceros, Nilda	11292
Chang-Thompson, Chii Jean	15838
Chattey, Fred N	04713
Chojnowski, Mary E	05148
Chow, Charles	06533
Coady, Katherine J	05816
Coleman, John E	02314
Conde, Marlowe Chapin	05748
Conner, Jason Eugene	16352
Cordoni, Richard Elio	04518
Daniel F Young, Inc	07764
Derenzo, Joseph	02591
DeRoulhac, Paul G	14784
Diran, Kevin M	08082
Dunbar Customs Services	04574
Elco Air Freight Corp	07452
Falk, Dennis Sheldon	03015
Fazio, Frank	02169
Felton, Gerald O	04483
Fiala, Jean G	05659
Gallegos, Mark Andre	13174
Goldsborough, William West	05122
Gonzales, Robert Michael	12428
Goodwin, George E	09653
Gouguet, Louis Jean	04710
Graham, Ronald G	14445
Hagan, John Patrick	13461
Hansen, Robert C	04721
Hatcher-Brand, Dorothy N	06929
Hettrich, John Albert	05258
Hom, Wendie T	11542
Hompe, Byron J	16653
Hughes, Robert W	03048
Hughes, Stephen P	09372
Hulka, Margarete H	10994
Indreboe, Martin James	07249
Intermodal Freight Forwarding, Inc	04214
Ipsen, Laura Kay	13647
Jacobson, Dennis R	04914
Jencek, Lucie	13648
Jensen, John H	04907
Jensen, William Anthony	05235
Jones, John Everett	09575

Name	License
Kaiser, John Melvin	04654
Kapur, Kanwar K	07942
Kapur, Manmohan	07653
Karres, Edward R	07638
Kennedy, Kathryn A	06586
Kertell, Arthur C	02428
Kilgore, James Barke	12141
Kinane, Michael Joseph	07851
Kirby, David E	11004
Kitchel, Candace Ann	11109
Law, Linda D	06599
Levey, Kristine A	12878
Lindsay, John R	04435
Loechel-Alexander, Lloyd S	09654
Louie, Andrew P	12274
Madsen, Carl J	02128
Magliano, John Charles	04074
Matthews, John Henley	02906
McLaughlin, Jerome M	12849
McMullen, Michael Patrick	08002
Miller, Peter J	09960
Milner, James L	09452
Movers Port Services, Inc	08009
Movsky, David Stewart	05036
Mulvany, Thomas	06440
O'Brien, Jeffrey	05035
O'Hanneson Worldwide	13045
Oliveira, Monique U	12851
Pack, Patricia D	05112
Paik, Paul G	04750
Perkins, Coy G	07766
Petit, Jennifer A	10294
Pfeifer, Mary Lee	05180
Pinkerton, Timothy Charles	07446
Ponte, Diane A	06927
Raetz, Nancy Alma	12499
Rhee, Gene Sang	14577
Robie, James S	14070
Roque, Disosdado C	06140
Russell, William	06031
Sable, Benjamin J	03274
SEAIR Express of San Francisco, Inc	10079
Seaport Shipping Company	05435
Smith, Scott Joseph Burton	14082
Stoddard, Barbara	10045
Stout, Terry L	04968
Strubing, Michael E	06836
Stucky, Max L	17480
Suehiro, Pat Chiyoko	02592
Sutton, Robert F	07087
Valdez, Lisa Y	13555
Vidonne, Michael	05090
Welch, Laura D	12865
White, John Anthony	05468
Wiesen, W. Duane	04335
Wiley, Thomas Merritt	11254
Wilkerson, Arthur E	04749
Williams, Gail Kathryn	15597
San Juan:	
Air-Mar of Puerto Rico, Inc	16704
Air-Mar Shipping, Inc	04362
Blanch, Irma	03574
Jorge Blanch, Inc	04235
Rosa-Agosto, Hector L	07670
Rosa-Sanchez, Salvador	02403
Traffic Systems Corporation	11317
Savannah:	
Anderson, Candice L	11692
Ansley, Lawrence N	07005
Bruner, Kellie Y	15474
Carroll, Eloise	03226
Davis, Philip R	14608
Ennis, Jr., Robert E	13108
Flaxman, June T	04222

Name	License
Folgarait, Rene K	10735
Griffith, Jackie	09908
Harrison-Hansen, Barbara	10392
Heidt, Joan E	05186
Heidt, Jr., Frank Edward	04160
James, Suzie	14291
Jennings, William Allen	04314
Laprad, Kim Marie	15130
Mench, Christopher	13232
Mikell, Wanda Lee	11919
O'Neal, Brenda G	11734
Rios, Anabel M	10022
Saxton-Freeman, Sandra	12566
Shelton, Paula Y	14539
Stanfield, Robert	14714
VonOldenburg, Frank R	14098
Woodard, Paula E	12648
Seattle:	
AL Tokin Company, Inc	04832
Bauer, Rita Kaye	09074
Bauer, Susan P	11333
Berg, Lewis J	02678
Bostrum Warren, Inc	05414
Brooks, Harland G	02706
Carley, Lawrence E	03401
CE Tolonen Company, Inc	04517
Close, Ralph M	00195
Cloward, Kelly W	14907
Eachon, Jack	02760
Evans, Loretta J	07713
Frank P Dow Company, Inc	00097
Gaffney, Mark	10683
Gash, Robert W	02849
Graves, Clarence A	01586
Hansford, Joseph W	03175
Hatchel, John	06551
Hickman, Mark R	11395
Ingham, Arthur D	04636
Johnson, Ronald J	09902
JT Steeb & Company, Inc	00118
Kamigumi USA	11443
Kittelson, Heather	13974
Mann, William E	01811
McClary Swift & Company, Inc	03603
Murray, Carol A	12863
Novo International Corporation	04918
Pennington, Delores I	07714
REA Express, Inc	02144
Seaport Shipping Company	04447
Shipman, Patricia J	06773
Staff, Christopher George	12846
Teibel, Willard W	02795
Tuben, Jack R	02780
Wessler, Robert O	00189
Wickens, AH	00183
Williams, Tracey L	09018
WITS, Inc	04734
WTC International, Inc	04502
Yun, Minami	15589
St. Albans:	
Baker, Edward Robert	04215
St. Louis:	
Hanebrink, Richard	03203
Meadows, William H	09596
Shah, Mukesh	12188
Swartz, Serena	07162
Tampa:	
Above & Beyond CHB	14001
Avery & Taylor Import-Export Services, Inc	05256
Cumbee, Alan B	10142
Customs Brokers and Forwarders of Southwest Florida	11892
E Allen Brown International, Inc	04601
Esquerra, Deborah Todd	14053
Failde, Delia	02076

Name	License
General Brokerage Services, Inc	09262
James, John William	05679
Johnson, Debra J	10841
Linsley, Parke K	04960
Marek, Lisa A	11801
McGarry, William J	04440
Pullara, Frank B	02696
Robbins, Beverly	12518
Robbins, John W	10870
Roger Baum International, Inc	16703
Stickles, Donald R	14901
Sullivan, John Warren	04730
Sullivan & Son, Inc	04848
Sullivan, III, H.K. Edward	05827
Sullivan, Jr., Henry E	02502
Svensson, Theodore W	05486
Turner, Thomas G	04808
Vaine, Jr., Joseph T	13614
Wilk, James H	04472
Wilk Forwarding Company	10316
William G Young & Company, Inc	06421
Washington, DC:	
Koehncke, Theodore Ernest	15514
Wilmington:	
Arthur J Fritz Company	07961
Beatrice, Beth A	10615
Clemmons, Connie L	09834

Dated: October 5, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

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BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

List of Foreign Entities Violating Textile Transshipment and Country of Origin Rules

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This document notifies the public of foreign entities which have been issued a penalty claim under section 592 of the Tariff Act of 1930, for certain violations of the customs laws. This list is authorized to be published by section 333 of the Uruguay Round Agreements Act.

DATES: This document notifies the public of the semiannual list for the 6-month period starting October 1, 2001, and ending March 30, 2002.

FOR FURTHER INFORMATION CONTACT: For information regarding any of the operational aspects, contact Gregory Olsavsky, Fines, Penalties and Forfeitures Branch, Office of Field Operations, (202) 927–3119. For information regarding any of the legal aspects, contact Willem A. Daman, Office of Chief Counsel, (202) 927–6900.

SUPPLEMENTARY INFORMATION:

Background

Section 333 of the Uruguay Round Agreements Act (URAA) (Pub. L. 103–465, 108 Stat. 4809) (signed December 8, 1994), entitled Textile Transshipments, amended Part V of title IV of the Tariff Act of 1930 by creating a section 592A (19 U.S.C. 1592a), which authorizes the Secretary of the Treasury to publish in the **Federal Register**, on a semiannual basis, a list of the names of any producers, manufacturers, suppliers, sellers, exporters, or other persons located outside the Customs territory of the United States, when these entities and/or persons have been issued a penalty claim under section 592 of the Tariff Act, for certain violations of the customs laws, provided that certain conditions are satisfied.

The violations of the customs laws referred to above are the following: (1) Using documentation, or providing documentation subsequently used by the importer of record, which indicates a false or fraudulent country of origin or source of textile or apparel products; (2) Using counterfeit visas, licenses, permits, bills of lading, or similar documentation, or providing counterfeit visas, licenses, permits, bills of lading, or similar documentation that is subsequently used by the importer of record, with respect to the entry into the Customs territory of the United States of textile or apparel products;

(3) Manufacturing, producing, supplying, or selling textile or apparel products which are falsely or fraudulently labeled as to country of origin or source; and (4) Engaging in practices which aid or abet the transshipment, through a country other than the country of origin, of textile or apparel products in a manner which conceals the true origin of the textile or apparel products or permits the evasion of quotas on, or voluntary restraint agreements with respect to, imports of textile or apparel products.

If a penalty claim has been issued with respect to any of the above violations, and no petition in response to the claim has been filed, the name of the party to whom the penalty claim was issued will appear on the list. If a petition or supplemental petition for relief from the penalty claim is submitted under 19 U.S.C. 1618, in accord with the time periods established by §§ 171.2 and 171.61, Customs Regulations (19 CFR 171.2, 171.61) and the petition is subsequently denied or the penalty is mitigated, and no further petition, if allowed, is received within 60 days of the denial or allowance of mitigation, then the administrative action shall be deemed to be final and administrative remedies will be deemed to be exhausted. Consequently, the name of the party to whom the penalty claim was issued will appear on the list. However, provision is made for an appeal to the Secretary of the Treasury by the person named on the list, for the removal of its name from the list. If the

Secretary finds that such person or entity has not committed any of the enumerated violations for a period of not less than 3 years after the date on which the person or entity's name was published, the name will be removed from the list as of the next publication of the list.

Reasonable Care Required

Section 592A also requires any importer of record entering, introducing, or attempting to introduce into the commerce of the United States textile or apparel products that were either directly or indirectly produced, manufactured, supplied, sold, exported, or transported by such named person to show, to the satisfaction of the Secretary, that such importer has exercised reasonable care to ensure that the textile or apparel products are accompanied by documentation, packaging, and labeling that are accurate as to its origin. Reliance solely upon information regarding the imported product from a person named on the list is clearly not the exercise of reasonable care. Thus, the textile and apparel importers who have some commercial relationship with one or more of the listed parties must exercise a degree of reasonable care in ensuring that the documentation covering the imported merchandise, as well as its packaging and labeling, is accurate as to the country of origin of the merchandise. This degree of reasonable care must involve reliance on more than information supplied by the named party.

In meeting the reasonable care standard when importing textile or apparel products and when dealing with a party named on the list published pursuant to section 592A of the Tariff Act of 1930, an importer should consider the following questions in attempting to ensure that the documentation, packaging, and labeling is accurate as to the country of origin of the imported merchandise. The list of questions is not exhaustive but is illustrative.

(1) Has the importer had a prior relationship with the named party?

(2) Has the importer had any detentions and/or seizures of textile or apparel products that were directly or indirectly produced, supplied, or transported by the named party?

(3) Has the importer visited the company's premises and ascertained that the company has the capacity to produce the merchandise?

(4) Where a claim of an origin conferring process is made in accordance with 19 CFR 102.21, has the importer ascertained that the named party actually performed the required process?

(5) Is the named party operating from the same country as is represented by that party on the documentation, packaging or labeling?

(6) Have quotas for the imported merchandise closed or are they nearing closing from the main producer countries for this commodity?

(7) What is the history of this country regarding this commodity?

(8) Have you asked questions of your supplier regarding the origin of the product?

(9) Where the importation is accompanied by a visa, permit, or license, has the importer verified with the supplier or manufacturer that the visa, permit, and/or license is both valid and accurate as to its origin? Has the importer scrutinized the visa, permit or license as to any irregularities that would call its authenticity into question?

The law authorizes a semiannual publication of the names of the foreign entities and/or persons. On April 5, 2001, Customs published a Notice in the **Federal Register** (66 FR 18148) which identified 23 (twenty-three) entities which fell within the purview of section 592A of the Tariff Act of 1930.

592A List

For the period ending September 30, 2001, Customs has identified 13 (thirteen) foreign entities that fall within the purview of section 592A of the Tariff Act of 1930. This list reflects no new entities and ten removals to the 23 entities named on the list published on April 5, 2001. The parties on the current list were assessed a penalty claim under 19 U.S.C. 1592, for one or more of the four above-described violations. The administrative penalty action was concluded against the parties by one of the actions noted above as having terminated the administrative process.

The names and addresses of the 13 foreign parties which have been assessed penalties by Customs for violations of section 592 are listed below pursuant to section 592A. This list supersedes any previously published list. The names and addresses of the 13 foreign parties are as follows (the parenthesis following the listing sets forth the month and year in which the name of the company was first published in the **Federal Register**):

Austin Pang Gloves & Garments Factory, Ltd., Jade Heights, 52 Tai Chung Kiu Road, Flat G, 19/F, Shatin, New Territories, Hong Kong. (10/99)

Beautiful Flower Glove Manufactory, Kar Wah Industrial Building, 8 Leung Yip Street, Room 10–16, 4/F, Yuen Long, New Territories, Hong Kong. (10/99)

BF Manufacturing Company, Kar Wah Industrial Building, Leung Yip Street, Flat 13, 4/F, Yeun Long, New Territories, Hong Kong. (10/99)

Ease Keep, Ltd., 750 Nathan Road, Room 115, Kowloon, Hong Kong. (10/99)

Everlast Glove Factory, Goldfield Industrial Centre, 1 Sui Wo Road, Room 15, 15th Floor, Fo Tan, Shatin, New Territories, Hong Kong. (3/99)

Everlite Manufacturing Company, P.O. Box 90936, Tsimshatsui, Kowloon, Hong Kong (3/01).

Fabrica de Artigos de Vestuario E-Full, Lda. Rua Um doi Bairro da Concordia, Deificio Industrial Vang Tai, 8th Floor, A–D, Macau. (10/99)

Fabrica de Artigos de Vestuario Fan Wek Limitada, Av. Venceslau de Morais, S/N 14 B–C, Centro Ind. Keck Seng (Torre 1), Macau. (10/99)

Fairfield Line (HK) Co. Ltd., 60–66 Wing Tai Commer., Bldg. 1/F, Sheung Wan, Hong Kong (3/01).

G.P. Wedding Service Centre, Lee Hing Industrial Building, 10 Cheung Yue Street 11th Floor, Cheung Sha Wan, Kowloon, Hong Kong. (10/00)

G.T. Plus Ltd., Kowloon Centre, 29–43 Ashley Road, 4/Fl, Tsimshatsui, Kowloon, Hong Kong. (3/99)

Lucky Mind Industrial Limited, Lincoln Centre, 20 Yip Fung Street, Flat 11, 5/F, Fan Ling, New Territories, Hong Kong. (10/99)

Mabco Limited, 6/F VIP Commercial Centre, 116–120 Canton Road, Kowloon, Hong Kong. (3/99)

Any of the above parties may petition to have its name removed from the list. Such petitions, to include any documentation that the petitioner deems pertinent to the petition, should be forwarded to the Assistant Commissioner, Office of Field Operations, United States Customs Service, 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

Additional Foreign Entities

In the April 5, 2001, **Federal Register** notice, Customs also solicited information regarding the whereabouts of 11 foreign entities, which were identified by name and known address, concerning alleged violations of section 592. Persons with knowledge of the whereabouts of those 11 entities were requested to contact the Assistant Commissioner, Office of Field Operations, United States Customs Service, 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

In this document, a new list is being published which contains the names and last known addresses of 5 entities. This reflects the removal of six entities from the list of 11 entities published on April 5, 2001.

Customs is soliciting information regarding the whereabouts of the following 5 foreign entities concerning alleged violations of section 592. Their names and last known addresses are listed below (the parenthesis following the listing sets forth the month and year in which the name of the company was first published in the **Federal Register**):

Au Mi Wedding Dresses Company, Dragon Industry Building, 98, King Law Street, Unit F, 9/F, Lai Chi Kok, Kowloon, Hong Kong. (10/99)
Golden Wheel Garment Factory, Flat A, 10/F, Tontex Industrial Building, 2–4 Sheung Hei Street, San Po Kong, Kowloon, Hong Kong. (10/99)
Lai Cheong Gloves Factory, Kar Wah Industrial Building, 8 Leung Yip Street, Room 101, 1–F, Yuen Long, New Territories, Hong Kong. (3/00)
Maxwell Garment Factory, Unit C, 21/F, 78–84, Wang Lung Street, Tseun Wan, New Territories, Hong Kong. (3/99)
Tak Hing Textile Company Limited, Wo Fung Industrial Building, 3/F, block D, Lot No. 5180, IN D.D 51, On Lok Village, Fanling, New Territories, Hong Kong. (3/99).

If you have any information as to a correct mailing address for any of the above 5 firms, please send that information to the Assistant Commissioner, Office of Field Operations, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

Dated: October 4, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–25375 Filed 10–9–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20985]

Holland America Line—Westours, Inc.—Control—Westmark Hotels of Canada Ltd.

AGENCY: Surface Transportation Board.

ACTION: Notice Tentatively Approving Finance Transaction.

SUMMARY: Holland America Line—Westours, Inc. (HAL), a noncarrier holding company that controls two motor passenger carrier subsidiaries, Westours Motor Coaches, Inc. (WMC) and Evergreen Trails, Inc. (Evergreen),[1] has filed an application under 49 U.S.C. 14303 for acquisition of control of another subsidiary, Westmark Hotels of Canada Ltd. (Westmark), a recently certificated motor carrier of passengers.[2] Persons wishing to oppose the application must follow the rules under 49 CFR 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments are due by November 26, 2001. Applicant may reply by December 10, 2001. If no comments are received by November 26, 2001, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20985 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, send one copy of comments to applicant's representative: Jeremy Kahn, 1730 Rhode Island Ave., N.W., Suite 810, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: HAL is a noncarrier that currently controls two regulated passenger carrier subsidiaries, WMC (Docket No. MC–118832) and Evergreen (Docket No. MC–107638). Under the proposed transaction, HAL is seeking to acquire control of another regulated passenger carrier subsidiary, Westmark. Applicant states that it directly holds a portion of Westmark's shares and that the remainder are held by a HAL noncarrier subsidiary. All three carriers are authorized to transport passengers in charter and special operations between points in the United States.

Applicant has submitted information, as required by 49 CFR 1182.2(a)(7), to demonstrate that the proposed acquisition of control is consistent with the public interest under 49 U.S.C. 14303(b). Applicant states that the proposed transaction will have no impact on the adequacy of transportation services available to the public, that the operations of the carriers involved will remain unchanged, that there are no fixed charges associated with the proposed transaction, and that no carrier employees will be adversely affected by the transaction. In addition, applicant has submitted all of the other statements and certifications required by 49 CFR 1182.2. Additional information, including a copy of the application, may be obtained from the applicant's representative.

Under 49 U.S.C. 14303, we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) the effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

On the basis of the application, we find that the proposed acquisition of control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed acquisition of control is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.

3. This decision will be effective on November 26, 2001, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 400 7th Street, S.W., Room 8214, Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, S.W., Washington, DC 20590.

Decided: October 2, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–25235 Filed 10–9–01; 8:45 am]

BILLING CODE 4915–00–P

[1] The control of these two carriers was approved in *Westours, Inc.—Control—Evergreen Trails, Inc.,* No. MC–F–13910 (ICC served July 13, 1979).

[2] Westmark's operating authority was served on May 25, 2001, in FMCSA Docket No. MC–405618.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34102]

Bad Water Railway LLC—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant local trackage rights[1] to Bad Water Railway LLC (BDW) over BNSF's rail line located between BNSF milepost 303.6 near Shoshoni, WY, and milepost 282.5 at Lysite, WY, a distance of approximately 21.1 miles.

The transaction was scheduled to be consummated on or after September 27, 2001, the effective date of the exemption (7 days after the notice was filed).[2]

The purpose of the trackage rights is to permit BDW to move trains, locomotives, cabooses and cars with its own officers, agents, employees and contractors, and equipment in its account, over the joint trackage between points on its existing line and interchange with BNSF near Shoshoni, WY, and to provide rail service to the Lost Cabin Gas Plant near Lysite.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).[*]

This notice is filed under 49 CFR 1180.2(d)(7). If it 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. 34102, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Clifford Root, 642 South Federal Blvd., Riverton, WY 82501.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

By the Board, David M. Konschnik, Director, Office of Proceedings.

Decided: October 1, 2001.

Vernon A. Williams,

Secretary.

[FR Doc. 01–25236 Filed 10–9–01; 8:45 am]

BILLING CODE 4915–00–P

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[1] The trackage rights agreement is a supplemental agreement to the original agreement dated February 7, 1997, between BNSF and BDW. *See Bad Water Line—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company,* STB Finance Docket No. 33636 (STB served July 31, 1998) (*BDW 1998 Decision*).

[2] Counsel for BDW was contacted by telephone and acknowledged that the transaction could not be consummated until September 27, 2001. In a letter dated September 26, 2001, BDW states that it anticipates that it will exercise the above-described trackage rights by August 2002.

[*] In its Verified Notice of Exemption, BDW states that, ''[p]ursuant to 49 U.S.C. § 11326(a), labor protection conditions are not applicable to the subject transaction.'' BDW, however, has misinterpreted our statute. Accordingly, labor protection conditions are imposed for this transaction as were similarly imposed for the prior related transaction in *BDW 1998 decision.*

Federal Register

Wednesday,

October 10, 2001

Part II

National Archives and Records Administration

36 CFR Part 1234

Records Management; Electronic Text Documents; Proposed Rule

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1234

RIN 3095–AB05

Records Management; Electronic Text Documents

AGENCY: National Archives and Records Administration (NARA).

ACTION: Advance notice of proposed rulemaking; request for comment.

SUMMARY: NARA is seeking comments from Federal agencies and the public on a petition for rulemaking we received from the Public Citizen Litigation Group (Public Citizen). The petition requested that the Archivist amend NARA rules concerning the management, scheduling and preservation of text documents created in electronic form. This advance notice of proposed rulemaking (ANPRM) seeks comments on the issues raised in the first and third proposals in the petition. The comments will assist NARA in determining whether a regulatory amendment should be proposed, whether some other action should be taken (e.g., issuance of guidance to Federal agencies in a NARA Bulletin), or whether no changes should be made to NARA's regulations and other issuances.

DATES: Comments are due by January 8, 2002.

ADDRESSES: Comments must be sent to Regulation Comments Desk (NPOL), Room 4100, Policy and Communications Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. They may be faxed to 301–713–7270. You may also comment via the Internet to comments@nara.gov. Please submit Internet comments within the body of your email message or attach comments as an ASCII file avoiding the use of special characters and any form of encryption. Please also include ''Attn: 3095–AB05'' and your name and return address in your email message. If you do not receive a confirmation that we have received your email message, contact the Regulation Comment Desk at 301–713–7360, ext. 226.

An electronic copy of the Public Citizen petition for rulemaking is available for review at http:www.nara.gov/nara/petition.html. A paper copy of the petition is available by contacting the person listed in **FOR FURTHER INFORMATION CONTACT.** The exhibits submitted with the petition for rulemaking are available for review at the Textual Research Room, National Archives at College Park (Archives II), 8601 Adelphi Rd., College Park, MD 20740–6001 during hours that the research room is open (see 36 CFR 1253.2).

FOR FURTHER INFORMATION CONTACT: Nancy Allard at telephone number 301–713–7360, ext. 226, or fax number 301–713–7270.

SUPPLEMENTARY INFORMATION:

Background on Petition

Public Citizen submitted a petition for rulemaking under 5 U.S.C. 553(e) to the Archivist of the United States on October 31, 2000, requesting that the Archivist amend NARA regulations in 36 CFR Part 1234, Electronic Records Management. The petition proposed three amendments and suggested regulatory text to accomplish these amendments.

NARA responded formally in writing to the petition on January 18, 2001. That response stated NARA's intent to solicit the views of other Federal agencies and the public on two of Public Citizen's proposals contained in the petition prior to determining further action. The NARA response declined to act on the second proposal in the petition to phase out the application of General Records Schedule 20 to agency program records. As we explained in the response to Public Citizen, we are evaluating alternatives to GRS 20 for disposition authority as part of a comprehensive review of the policies and procedures for scheduling and appraisal of records in all formats. NARA has concluded that acting on Public Citizen's second proposal now would be inconsistent with our consideration of other alternatives as part of our study.

Description of Proposal 1

Public Citizen's first proposal was:

> **1. The regulations should make explicit that recordkeeping systems that preserve electronic text documents must preserve the entire content, structure and context of the electronic original, a requirement that the Archivist's attorneys have stated is already part of GRS 20, although the text of GRS 20 contains no such language.** [Bold in petition document.]
>
> We suggest that this be accomplished by amending 36 C.F.R. § 1234.30 to establish requirements for all recordkeeping systems that maintain text documents and include, as the first of these requirements, the requirement that the recordkeeping system preserve the content, structure and context of the original text document:

The Public Citizen proposal laid out the proposed wording of § 1234.22 (incorrectly cited as § 1234.30 in the Public Citizen petition) with strike-out of text proposed for removal and highlighting of new text. For ease of reading, this document sets forth the language in the following chart, with the current § 1234.22 provided in the left column and Public Citizen's proposed wording in the right column.

Current and proposed wording of 36 CFR 1234.22

Current text of 36 CFR 1234.22:	Public Citizen suggested revised language:
§ 1234.22 Creation and use of text documents. (a) Electronic recordkeeping systems that maintain the official file copy of text documents on electronic media shall meet the following minimum requirements: (1) Provide a method for all authorized users of the system to retrieve desired documents, such as an indexing or text search system; (2) Provide an appropriate level of security to ensure integrity of the documents; (3) Provide a standard interchange format when necessary to permit the exchange of documents on electronic media between agency computers using different software/operating systems and the conversion or migration of documents on electronic media from one system to another; and (4) Provide for the disposition of the documents including, when necessary, the requirements for transferring permanent records to NARA (see § 1228.188[1] of this chapter). (b) Before a document is created electronically on electronic recordkeeping systems that will maintain the official file copy on electronic media, each document shall be identified sufficiently to enable authorized personnel to retrieve, protect, and carry out the disposition of documents in the system. Appropriate identifying information for each document maintained on the electronic media may include: office of origin, file code, key words for retrieval, addressee (if any), signator, author, date, authorized disposition (coded or otherwise), and security classification (if applicable). Agencies shall ensure that records maintained in such systems can be correlated with related records on paper, microform, or other media.	**§ 1234.22 Creation and use of text documents.** (a) Recordkeeping systems that maintain the official file copy of text documents produced on electronic information systems shall meet the following minimum requirements: (1) Preserve the content, structure and context of the original text documents; (2) Provide a method for all authorized users of the system to retrieve desired documents, such as an indexing or text search system; (3) Provide an appropriate level of security to ensure integrity of the documents; (4) Provide for the disposition of the documents including, when necessary, the requirements for transferring permanent records to NARA (see subpart J[2] of this chapter): and (5) Identify each document sufficiently to enable authorized personnel to retrieve, protect, and carry out the disposition of documents in the system. Appropriate identifying information for each document maintained on the electronic media may include: office of origin, file code, key words for retrieval, addressee (if any), signator, author, date, authorized disposition (coded or otherwise), and security classification (if applicable). Agencies shall ensure that records maintained in such systems can be correlated with related records on paper, microform, or other media.

[1] A technical amendment to 36 CFR Part 1234 on May 16, 2001 (66 FR 27027) corrected the reference from §1228.188 to §1228.270.

[2] Subpart J, Transfer of Records to the National Archives of the United States, was redesignated as Subpart L in a final rule published on December 2, 1999 (64 FR 67662). We believe that Public Citizen intends to reference Subpart L, not Subpart J--Transfer, Use, and Disposition of Records in a NARA Records Center.

Discussion of Proposal 1

The Public Citizen proposal would expand current requirements for electronic recordkeeping systems to all recordkeeping systems and specifically require agencies to capture the content, structure, and context of the original electronic text document in the copy filed in the recordkeeping system.

To assist NARA in evaluating this Public Citizen proposal, we invite your comments on the following points:

1A. Definitions

The first paragraph of Public Citizen's proposed CFR text uses the term ''electronic information system.'' In 36 CFR 1234.2, NARA defines this term as ''A system that contains and provides access to computerized Federal records and other information.'' In 36 CFR 1234.2, NARA defines ''Text documents'' as ''narrative or tabular documents, such as letters, memorandums, and reports, in loosely prescribed form and format.''

Questions for comment: 1A1. Is NARA's definition of electronic information system still adequate? Should it explicitly include (or exclude) any types of office applications or other type of software such as the network operating system? Is the definition of ''text documents'' sufficiently broad enough to cover documents produced by products other than word processing software, e.g. PowerPoint presentations or desktop publishing files? Should the definition of ''text documents'' be amended to include presentations and other specific files? Please consider the issues raised relating to both this proposal 1 and proposal 3 found later in this ANPRM.

1A2. If we determine that the section should be amended to reflect Public Citizen's proposed requirements, would coverage of the section be clearer if the term ''electronic information systems'' is replaced in § 1234.22 by a delineation of specific applications that may produce original electronic text documents such as office suite application packages (e.g., Office 2000, Lotus Notes), or word processing or other office automation applications not integrated with the agency email or office suite?

1B. Content, Structure, and Context

The Public Citizen proposal does not place any limit on the content, structure, and context information to be preserved. Indeed, in several places in the petition Public Citizen cites the need for agencies that rely on paper recordkeeping systems to preserve (e.g., print out for a paper recordkeeping copy) the *entire* content, structure, and context that is available in the original electronic documents generated with an office automation application. Neither the Public Citizen petition nor current NARA CFR regulations define ''content'', ''structure'', and ''context'' explicitly. NARA has provided definitions of the terms in its October 2000 Records Management Guidance for Agencies Implementing Electronic Signature Technologies (NARA GPEA guidance), which is available at http://www.nara.gov/records/policy/gpea.html, as follows:

Content: The information that a document is meant to convey (Society of American Archivists Glossary). Words, phrases, numbers, or symbols comprising the actual text of the record that were produced by the record creator.

Structure: The physical and logical format of a record and the relationships between the data elements.[3]

Context: The organizational, functional, and operational circumstances in which documents are created and/or received and used (Society of American Archivists Glossary). The placement of records within a larger records classification system providing cross-references to other related records.

To evaluate the Public Citizen proposed § 1234.22(a)(1)—''Preserve the content, structure and context of the original text documents''—we need to be sure that there is a common understanding of how those terms apply to text documents.

For text documents, NARA considers ''content'' to be the information contained in the record that was used to conduct agency business. For example, the content of a letter would include the text of the letter, the signature, and any other markings (annotations, date stamp received, etc.). A draft circulated for comment might show special editing features, such as highlighting, different color fonts, strike-over, or comment fields, to draw the reviewer's attention to specific points. (We note that if a text document is saved as an ASCII file, special editing features including basic italics and underline are lost.)

For text documents, NARA considers ''structure'' to be the ordering or relationships of the parts of a record. In narrative text, this would include the ordering of the narrative in sentences, paragraphs, sections, chapters, etc. and the designation of certain elements of content as title, author, document date, etc. In a letter, the signature is structurally related to the closing and signature block. In a table, structure would determine the arrangement of content in rows and columns.

For text documents, NARA considers ''context'' to be information that places the record in the business context in which the record was created, received, and/or used. Context may include the drafter or source of the document (if different from the signer), the user(s), the filing code marked on the document or the placement of the document in a case file. Context also may be provided by an associated record, such as a routing slip that shows the levels of review of a final document.

Questions for comment: 1B1. Are the definitions of ''content,'' ''structure,'' and ''context'' contained in the NARA GPEA guidance adequate for all types of records? Do you agree with NARA's understanding of the terms ''content,'' ''structure,'' and ''context'' as they apply to text documents in the Federal Government? If not, what is your understanding of the terms? Do these concepts need to be defined in NARA regulations?

1B2. What information about the content, structure, and context must be maintained as part of the record for the agency to conduct its business and for accountability purposes? Can we define the minimum metadata needed for text documents to provide adequate documentation, as we do for email messages (see 36 CFR 1234.24(a)(1)–(a)(3))? Are the minimum metadata different for permanent and temporary records? Do specific types of text documents require different minimum metadata? What relationship do you see between ''content, structure, and context'' and metadata requirements? Specifically addressing the Public Citizen proposed CFR wording, does compliance with the metadata and other requirements in its proposed § 1234.22(a)(5) meet the requirements for content, structure, and context in its proposed § 1234.22(a)(1)?

1B3. We request comments specifically on the need to retain with the recordkeeping copy the following types of information for text documents:

- *Hidden information:* NARA's view is that hidden information (such as comments) in text records must be preserved as part of the record when the author intends to share the information with others, e.g., notes added to explain or comment on a draft report. Is it essential or even misleading to require it when the document is viewed/printed from a system that does not indicate that there is hidden text? What types of text documents besides word processing have hidden comments/text capability, e.g., spreadsheets with formulas?
- *Document summaries:* What elements of document summary information are commonly available from all major word processing applications? What other office applications that produce text documents have a similar feature? Is the

[3] While this definition is appropriate for the types of electronic records covered in the GPEA guidance, it may not be clearly applicable to all electronic records. Textual records, such as word processing files, may not contain any defined data elements. In the discussion following these definitions of ''content'', ''structure'', and ''context'' we use a broader definition.

document summary feature used in your agency and, if so, how widely? Does any agency require staff to complete the document summary routinely? Is a default normally used? How does the agency use the information if they retain the document in a non-electronic recordkeeping system?

1C. Requirement for Standard Interchange Format for Electronic Recordkeeping Systems

Public Citizen proposed to strike the current paragraph (a)(3), which is applicable only to electronic recordkeeping systems. This paragraph requires agencies to provide a standard interchange format when necessary to permit the exchange of documents on electronic media between agency computers using different software/operating systems and the conversion or migration of documents on electronic media from one system to another. NARA believes the interchange requirements are needed for the survival of all but the most short-term electronic records, and critical for long-term and permanent electronic records.

Question for comment: If we determine that § 1234.22 should be amended to reflect Public Citizen's proposed requirements, should we retain the current paragraph (a)(3) for electronic recordkeeping systems only?

1D. Alternatives to Public Citizen Proposal

Question for comment: Do you see any other issues that should be considered as we evaluate the Public Citizen Proposal 1?

Proposal 2

As noted in the Background on petition section of the **SUPPLEMENTARY INFORMATION,** NARA declined to act on the second proposal, and we are not inviting or considering comments on that proposal in this ANPRM.

Description of Proposal 3

Public Citizen's third proposal was:

3. The Archivist should mandate early appraisal of text documents and mandate that agencies incorporate disposition instructions in the design of new electronic information systems. [Bold in petition document.]

The Archivist's current regulations require that electronic information systems ''shall be scheduled as soon as possible but no later than one year after implementation of the system,'' 36 C.F.R. § 1234.32, but the regulations only require that disposition instructions be incorporated into system design for ''data files.'' Id. § 1234.20. We urge that the following language be added to 36 C.F.R. § 1234.30 to mandate consideration of recordkeeping when systems for text documents are implemented:

(b) Before approving new electronic information systems or enhancements to existing systems that produce, use, or store text documents, the agency shall conduct an initial appraisal of the records associated with the system and incorporate disposition instructions for such records into the electronic information system's design.

Discussion of Proposal 3

Public Citizen states in its petition that records in electronic form have unique advantages, including wider and easier distribution, searching and indexing the records, and storage. Public Citizen further states that ''electronic records carry advantages for research, even if the records have not been maintained in a system that satisfies all of the attributes of an ideal electronic recordkeeping system.'' Public Citizen argues that it is important to address the disposition of both text documents and data files whenever new information systems are developed.

NARA believes that the wording proposed by Public Citizen will need modification if we determine that we should incorporate the proposal in 36 CFR part 1234. NARA, not the creating agency, appraises records and approves disposition instructions. As part of an agency's planning for a new or modified system, we think that the agency should consider records management issues including retention and disposal of the records and ensuring that the records can be maintained for their entire retention period. Additionally, the proposed placement of the new paragraph (b) in § 1234.30 is not as appropriate as placing it in § 1234.22 or in a new separate section.

To assist NARA in evaluating this Public Citizen proposal, we invite your comments on the following points:

3A. Terminology Used in the Proposal

Questions for comment: 3A1. Does (and should) ''electronic information system'' as used in this proposed paragraph include word processing applications? If so, does the word processing application technically ''store'' the text documents produced with the software?

3.A.2. Should we distinguish systems that only produce or use electronic records from those that store them? If an agency sends all its electronic records to a records management application (RMA), NARA believes there is no need to build disposition functionality into its word processing application or into a web tool that can search and retrieve documents from the RMA. What do we do about systems used to produce electronic records that are only maintained in hard copy?

3.A.3. How should ''enhancements to existing systems'' be defined or qualified to indicate that new or different records are being created? NARA has a general policy that agencies must reschedule their records when an agency program is reorganized or otherwise changed in a way that results in the creation of new or different records (see 36 CFR 1228.26(a)(2)).

3.A.4. What activities does the term ''produce'' cover? Is there a clearer way to state these activities?

3B. Alternatives to Public Citizen Proposal 3

Question for comment: Do you see any other issues that should be considered as we evaluate Public Citizen proposal 3?

Dated: August 21, 2001.

John W. Carlin,

Archivist of the United States.

[FR Doc. 01–24783 Filed 10–9–01; 8:45 am]

BILLING CODE 7515–01–P

Federal Register

Wednesday,

October 10, 2001

Part III

State Justice Institute

Grant Guideline; Notice

STATE JUSTICE INSTITUTE

Grant Guideline

AGENCY: State Justice Institute.

ACTION: Final Grant Guideline.

SUMMARY: This Guideline sets forth the administrative, programmatic, and financial requirements attendant to Fiscal Year 2002 State Justice Institute grants, cooperative agreements, and contracts.

EFFECTIVE DATE: October 10, 2001.

FOR FURTHER INFORMATION CONTACT: David I. Tevelin, Executive Director, (703) 684–6100, ext. 214, dtevelin@statejustice.org, or Kathy Schwartz, Deputy Director, (703) 684–6100, ext. 215, kschwartz@statejustice.org, State Justice Institute, 1650 King St. (Suite 600), Alexandria, VA 22314.

SUPPLEMENTARY INFORMATION: Pursuant to the State Justice Institute Act of 1984, 42 U.S.C. 10701, *et seq.*, as amended, the Institute is authorized to award grants, cooperative agreements, and contracts to State and local courts, nonprofit organizations, and others for the purpose of improving the quality of justice in the State courts of the United States. Complete information about the Institute and its grant program, including tutorials, forms, and instructions for all grant applications, can be found at http://www.statejustice.org.

Funds Available for Grants

The House of Representatives has approved a $6.835 million appropriation for SJI in FY 2002. The Senate approved a $6.225 million appropriation. A House-Senate conference this fall will establish the Institute's final appropriation.

Types of Grants Available and Funding Schedules

The SJI grant program is designed to be responsive to the most important needs of the State courts. To meet the full range of the courts' diverse needs, the Institute offers five different categories of grants. The types of grants available in FY 2002 and the funding cycles for each program are provided below:

Project Grants. These grants are awarded to support innovative education, research, demonstration, and technical assistance projects that can improve the administration of justice in State courts nationwide. Except for "Single Jurisdiction" project grants awarded under section II.D. (see below), project grants are intended to support innovative projects of national significance. As provided in section V.C.1. of the Guideline, project grants may ordinarily not exceed $200,000 a year; however, grants in excess of $150,000 are likely to be rare, and awarded only to support projects likely to have a significant national impact.

SJI also awards "think piece" project grants to support the development of essays of publishable quality that explore emerging issues that could result in significant changes in judicial administration. "Think pieces" are limited to no more than $10,000. See section II.C.

Section II.D. reserves up to $300,000 for Projects Addressing a Critical Need of a Single State or Local Jurisdiction ("Single Jurisdiction Grants"). To receive a grant under this program, an applicant must demonstrate that (1) the proposed project is essential to meeting a critical need of the jurisdiction and (2) the need cannot be met solely with State and local resources within the foreseeable future. See sections II.D.1. and 2., and VII.A. for Single Jurisdiction Grant application procedures.

To obtain any type of project grant, applicants must submit a concept paper (see section VI.) and, if invited, an application (see section VII.). As indicated in Section VI.C.1., the Board may make an "accelerated" grant of less than $40,000 on the basis of the concept paper alone when the need for the project is clear and little additional information about the operation of the project would be provided in an application.

The FY 2002 mailing deadline for project grant concept papers is November 21, 2001. Papers must be postmarked or bear other evidence of submission by that date. The Board of Directors will meet in early March 2002 to invite formal applications based on the most promising concept papers. Applications must be sent by May 8, 2002 and awards will be approved by the Board in late July. See section VII.A. for Project Grant application procedures.

Technical Assistance Grants. Section II.E. reserves up to $400,000 for Technical Assistance Grants. Under this program, a State or local court may receive a grant of up to $30,000 to engage outside experts to provide technical assistance to diagnose, develop, and implement a response to a jurisdiction's problems.

Letters of application for a Technical Assistance grant may be submitted at any time. Applicants submitting letters between October 1, 2001 and January 11, 2002 will be notified of the Board's decision by March 29, 2002; those submitting letters between January 14 and March 8, 2002 will be notified by May 31, 2002; those submitting letters between March 11 and June 7, 2002 will be notified by August 23, 2002; and those submitting letters between June 10 and September 27, 2002 will be notified of the Board's decision by December 6, 2002. See section VII.D. for Technical Assistance Grant application procedures.

Judicial Branch Education Technical Assistance Grants. The Judicial Branch Education Technical Assistance (JBE TA) grant program offers grants of up to $20,000 to: (1) enable a State or local court to adapt and deliver an education program that was previously developed and evaluated under an SJI project grant (i.e., curriculum adaptation); and/or (2) support expert consultation in planning, developing, and administering State judicial branch education programs.

The services available through the JBE TA program include consultant assistance in developing systematic or innovative judicial branch education programming, or development of improved methods for assessing the need for, or evaluating, judicial branch education programs. Letters requesting Judicial Branch Education Technical Assistance grants may be submitted at any time throughout the year.

Scholarships. The Guideline allocates up to $200,000 of FY 2002 funds for scholarships to enable judges and court managers to attend out-of-State education and training programs.

Scholarships for eligible applicants are approved largely on a "first come, first served" basis, although the Institute may approve or disapprove scholarship requests in order to achieve appropriate balances on the basis of geography, program provider, and type of court or applicant (e.g., trial judge, appellate judge, trial court administrator). Scholarships will be approved only for programs that either (1) address topics included in the Guideline's Special Interest categories (section II.B.); (2) enhance the skills of judges and court managers; or (3) are part of a graduate program for judges or court personnel.

Applicants interested in obtaining a scholarship for a program beginning between January 2 and March 31, 2002 must submit their applications and any required accompanying documents between October 1 and December 3, 2001. For programs beginning between April 1 and June 30, 2002, the applications and documents must be submitted between January 4 and March 4, 2002. For programs beginning between July 1 and September 30, 2002, the applications and documents must be submitted between April 1 and June 3, 2002. For programs beginning between

October 1 and December 31, 2002, the applications and documents must be submitted between July 5 and August 30, 2002. For programs beginning between January 1 and March 31, 2003, the applications and documents must be submitted between October 1 and December 2, 2002. See section VII.F for Scholarship application procedures.

Continuation and Ongoing Support Grants. Continuation grants are intended to enhance the specific program or service begun during the initial grant period (see sections III.F, V.B.2., and VII.B.). Ongoing support grants may be awarded for up to a three-year period to support national-scope projects that provide the State courts with critically needed services, programs, or products (see sections III.Q., V.B.3., and VII.C.).

The Guideline establishes a target for continuation and ongoing support grants of approximately 25% of the total amount projected to be available for grants in FY 2002. See section V.B.

An applicant for a continuation or ongoing support grant must submit a letter notifying the Institute of its intent to seek such funding, no later than 120 days before the end of the current grant period. The Institute will then notify the applicant of the deadline for its renewal grant application.

Special Interest Categories

The Guideline includes nine Special Interest categories, i.e., those project areas that the Board has identified as being of particular importance to State courts this year. The selection of these categories was based on the Board and staff's experience and observations over the past year; the recommendations received from judges, court managers, lawyers, members of the public, and other groups interested in the administration of justice; and the issues identified in recent years' concept papers and applications.

Section II.B.2. of the Guideline includes the following Special Interest categories:

Improving Public Confidence in the Courts;
Education and Training for Judges and Other Key Court Personnel;
Dispute Resolution and the Courts;
Application of Technology;
Enhancing Court Management Through Collaboration;
Substance Abuse and the Courts;
Children and Families in Court;
Improving the Courts' Response to Gender-Related Violent Crime; and
The Relationship Between State and Federal Courts.

The Institute also wishes to highlight its interest in supporting a National Symposium on the Role of the Judge in the 21st Century that would examine how evolving demands, responsibilities, and expectations are changing the role of State judges and State courts in American society. The Board of Directors contemplates a multidisciplinary, interactive forum that would help better define public and political expectations of the judiciary, as well as judges' own expectations; identify the barriers to fulfillment of those expectations; and propose ways to overcome those barriers. See section II.B.2.(b)(4).

Comments

On the basis of comments received on the Proposed Guideline published in the August 23 **Federal Register** (66 FR 44443), the Institute has made several changes in the Final Guideline.

Three special interest categories—Education and Training for Judges and Other Key Court Personnel (section II.B.2.b.), Application of Technology (section II.B.2.d.), and Enhancing Court Management Through Collaboration (section II.B.2.e.)—have been amended to note the Institute's interest in promoting court security and effective disaster recovery efforts.

The Dispute Resolution and the Courts special interest category (section II.B.2.c.) has been amended to note the Institute's interest in eliminating bias in court-connected dispute resolution programs on the basis of disability as well as on the basis of race, ethnicity, and gender.

The Final Guideline also includes the Judicial Branch Education Technical Assistance (JBE TA) grant program highlighted for public comment in the Proposed Guideline. See section II.B.2.b.2.

Recommendations to Grantwriters

Recommendations to Grantwriters may be found in Appendix A.

The following Grant Guideline is adopted by the State Justice Institute for FY 2002:

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I. The Mission of the State Justice Institute

The Institute was established by Pub. L. 98–620 to improve the administration of justice in the State courts of the United States. Incorporated in the State of Virginia as a private, nonprofit corporation, the Institute is charged, by statute, with the responsibility to:

A. Direct a national program of financial assistance designed to assure that each citizen of the United States is provided ready access to a fair and effective system of justice;

B. Foster coordination and cooperation with the Federal judiciary;

C. Promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

D. Encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

To accomplish these broad objectives, the Institute is authorized to provide funds to State courts, national organizations which support and are supported by State courts, national judicial education organizations, and other organizations that can assist in improving the quality of justice in the State courts.

The Institute is supervised by an 11-member Board of Directors appointed by the President, by and with the consent of the Senate. The Board is statutorily composed of six judges, a State court administrator, and four members of the public, no more than two of whom can be of the same political party.

Through the award of grants, contracts, and cooperative agreements, the Institute is authorized to perform the following activities:

A. Support research, demonstrations, special projects, technical assistance, and training to improve the administration of justice in the State courts;

B. Provide for the preparation, publication, and dissemination of information regarding State judicial systems;

C. Participate in joint projects with Federal agencies and other private grantors;

D. Evaluate or provide for the evaluation of programs and projects funded by the Institute to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have contributed to improving the quality of justice in the State courts;

E. Encourage and assist in furthering judicial education;

F. Encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

G. Be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

II. Scope of the Program

During FY 2002, the Institute will consider applications for funding support that address any of the areas specified in its enabling legislation. The Board, however, has designated nine program categories as being of special interest. See section II.B.

A. Authorized Program Areas

The Institute is authorized to fund projects addressing one or more of the following program areas listed in the State Justice Institute Act, the Battered Women's Testimony Act, the Judicial Training and Research for Child Custody Litigation Act, and the International Parental Kidnapping Crime Act:

1. Assistance to State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

2. Education and training programs for judges and other court personnel for the performance of their general duties and for specialized functions, and national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

3. Research on alternative means for using judicial and nonjudicial personnel in court decisionmaking activities, implementation of demonstration programs to test such innovative approaches, and evaluations of their effectiveness;

4. Studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and support to States to implement plans for improved court organization and financing;

5. Support for State court planning and budgeting staffs and the provision of technical assistance in resource allocation and service forecasting techniques;

6. Studies of the adequacy of court management systems in State and local courts, and implementation and evaluation of innovative responses to records management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

7. Collection and compilation of statistical data and other information on the work of the courts and on the work of other agencies which relates to and affects the work of courts;

8. Studies of the causes of trial and appellate court delay in resolving cases, and establishing and evaluating experimental programs for reducing case processing time;

9. Development and testing of methods for measuring the performance of judges and courts, and experiments in the use of such measures to improve the functioning of judges and the courts;

10. Studies of court rules and procedures, discovery devices, and evidentiary standards to identify problems with the operation of such rules, procedures, devices, and standards, and the development of alternative approaches to better reconcile the requirements of due process with the need for swift and certain justice, and testing of the utility of those alternative approaches;

11. Studies of the outcomes of cases in selected areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, and the development, testing, and evaluation of alternative approaches to resolving cases in such problem areas;

12. Support for programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

13. Testing and evaluating experimental approaches to provide increased citizen access to justice, including processes which reduce the cost of litigating common grievances, and alternative techniques and mechanisms for resolving disputes between citizens;

14. Collection and analysis of information regarding the admissibility and quality of expert testimony on the experiences of battered women offered as part of the defense in criminal cases under State law, as well as sources of and methods to obtain funds to pay costs incurred to provide such testimony, particularly in cases involving indigent women defendants;

15. Development of training materials to assist battered women, operators of domestic violence shelters, battered women's advocates, and attorneys to use expert testimony on the experiences of battered women in appropriate cases, and individuals with expertise in the experiences of battered women to develop skills appropriate to providing such testimony;

16. Research regarding State judicial decisions relating to child custody litigation involving domestic violence;

17. Development of training curricula to assist State courts to develop an understanding of and appropriate responses to child custody litigation involving domestic violence and child sexual assault;

18. Dissemination of information and training materials and provision of technical assistance regarding the issues listed in paragraphs 14–17 above;

19. Development of national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction; and

20. Other programs, consistent with the purposes of the State Justice Institute Act, as may be deemed appropriate by the Institute, including projects dealing with the relationship between Federal and State court systems, such as where there is concurrent State-Federal jurisdiction and where Federal courts, directly or indirectly, review State court proceedings.

Funds will not be made available for the ordinary, routine operation of court systems or programs in any of these areas.

B. Special Interest Program Categories

1. General Description

The Institute is interested in funding both innovative programs and programs of proven merit that can be replicated in other jurisdictions. The Institute is especially interested in funding projects that:

a. Formulate new procedures and techniques, or creatively enhance existing arrangements to improve the courts;

b. Address aspects of the State judicial systems that are in special need of serious attention;

c. Have national significance by developing products, services, and techniques that may be used in other States; and

d. Create and disseminate products that effectively transfer the information and ideas developed to relevant audiences in State and local judicial systems, or provide technical assistance to facilitate the adaptation of effective programs and procedures in other State and local jurisdictions.

A project will be identified as a Special Interest project if it meets the four criteria set forth above and (1) it falls within the scope of the Special Interest program areas designated below; or (2) information coming to the attention of the Institute from the State courts, their affiliated organizations, the research literature, or other sources demonstrates that the project responds to another special need or interest of the State courts.

Concept papers and applications which address a Special Interest category will be accorded a preference in the rating process. (See the selection criteria listed in sections VI.C.2. and VIII.B.)

2. Specific Categories

The Board has designated the areas set forth below as Special Interest program categories. The order of listing does not imply any ordering of priorities among the categories. For a complete list of projects supported in previous years in each of these categories, please visit the Institute's Internet homepage at http://www.statejustice.org/ and click on Grants by Category.

a. Improving Public Confidence in the Courts

This category includes demonstration, evaluation, research, and education projects designed to improve the responsiveness of courts to public concerns regarding the fairness, accessibility, timeliness, and comprehensibility of the court process, and test innovative methods for increasing the public's trust and confidence in the State courts.

The Institute is particularly interested in supporting innovative projects that:

- Develop national strategies to promote the progress of State court task forces and other court-sponsored programs to eliminate race and ethnic bias in the courts; implement task force recommendations at the State and local level; evaluate the impact of court strategies to address racial and ethnic bias in jurisdictions in which task force recommendations have been implemented; establish mentoring relationships with States that have successfully implemented recommendations to learn from their experiences; develop products that highlight effective model programs and promising practices; and educate judges and court personnel about relevant products developed in different States (e.g., model judicial education curricula, bench books, court conduct handbooks, codes of ethics, and relevant legislation);
- Test and evaluate approaches designed to enhance public access to the courts, including demonstrations of innovative collaborative efforts between courts and community institutions (e.g., bar associations, legal service agencies, schools and public libraries) to enhance access to the courts by people without lawyers, those who are not computer-literate, and people for whom it would be a hardship to travel to a courthouse (in this regard, however, Institute funds may not be used to directly or indirectly support legal representation of individuals in specific cases);
- Develop and test a range of strategies, methodologies, and outcome measures to evaluate the effectiveness of programs established to assist people without lawyers;
- Demonstrate and evaluate restorative justice approaches that involve the community, victim, and offender in restoring the relationship of the offender to the community while ensuring public safety;
- Explore the impact of private judging on public confidence in the courts, including an examination of whether it diverts certain types of cases from the courts, and a comparison of the time and costs to parties who choose private judging with those of parties who go through the traditional court process;
- Evaluate long-term court-based programs that actively involve citizen volunteers in a range of roles, and compile information on promising practices with respect to the effective use of volunteers in the court environment;
- Educate and clearly communicate information to litigants and the public about judicial decisions, the trial and appellate court process, alternative dispute resolution, court operations, and the standards courts maintain with respect to timeliness, access, and the elimination of bias;
- Assure that judges and court employees meet the highest ethical standards and that judicial disciplinary procedures are known, fair, and effective; and
- Compile and disseminate information about practices being used by courts around the country that show the promise of enhancing public trust and confidence in the justice system.

Applicants should be aware that the Institute will not support new surveys to determine the sources of the public's dissatisfaction with the courts.

b. Education and Training for Judges and Other Key Court Personnel

The Institute is interested in supporting an array of projects that will continue to strengthen and broaden the availability of court education programs at the State, regional, and national levels. This category is divided into four subsections: (1) Innovative Educational Programs; (2) Judicial Branch Education Technical Assistance Projects; (3) Scholarships; and (4) National Conferences.

(1) *Innovative Educational Programs.* This category includes support for the development and pilot-testing of innovative, high-quality educational programs for trial and appellate judges or court personnel that address key issues of concern to the nation's courts, or help local courts or State court systems develop or enhance their capacity to deliver quality continuing education.

Programs may be designed for presentation at the local, State, regional, or national level. Ordinarily, court education programs should be based on an assessment of the needs of the target audience; include clearly stated learning objectives that delineate the new knowledge or skills participants will acquire (as opposed to a description of what will be taught); incorporate adult education principles and multiple teaching/learning methods; and result in the development of a curriculum as defined in section III.G.

(a) The Institute is particularly interested in supporting the development of education programs that:

- Educate State court judges, law clerks, and staff counsel about capital case law, DNA evidence, and other legal and scientific issues related to the trial and appeal of capital cases;
- Educate State court judges and court personnel about special problems related to the adjudication of capital cases, including jury voir dire, jury sequestration, sentencing hearings, court security, and media management;
- Examine the concepts of restorative justice and their implications for the courts, including (but not limited to) the involvement of the community, victim, and offender in restoring the relationship of the offender to the community while ensuring public safety;

• Acquaint judges with the symptoms of mental illnesses (i.e., depression, manic depression, schizophrenia, anxiety disorders, and obsessive-compulsive disorder) that can lead to serious behavioral problems that repeatedly bring families or offenders to court, and explore meaningful sanctions and referrals to treatment that can prevent future crime and delinquency;

• Develop and test orientation programs for new judges that emphasize the leadership, team-building, and collaboration skills required to preside effectively in problem-solving courts;

• Promote the value of and develop the specific skills needed for intergovernmental team-building, collaboration, and planning among the judicial, executive, and legislative branches of government, or courts within a metropolitan area or multi-State region;

• Assist judges, court managers, community leaders, and other State or local government agency administrators in collaboratively developing and evaluating courthouse security policies and programs, and disaster recovery plans;

• Address adolescent and youth development, including the role and impact of youth culture (cults and gangs), and the impact that exposure to violence at home, in school, and in the community has on children, and that include materials for appellate, trial, and juvenile and family court judges;

• Assist local courts, State court systems, and court systems in a geographic region to develop or enhance a comprehensive program of continuing education, training, and career development for judges and court personnel as an integral part of court operations;

• Develop and test curricula and materials designed to familiarize judges and court managers with the need for and key elements of effective assistance programs for people without lawyers, and the resources required to sustain them;

• Develop and test curricula for judges on the full range of court-connected alternative dispute resolution approaches and the appropriate context for each of them;

• Test the effectiveness of including a variety of experiential instructional approaches in judicial branch education programs, such as field studies and interchanges with community programs, organizations, and institutions;

• Include innovative self-directed learning packages for use by appellate, trial, juvenile and family court judges and personnel, and distance-learning approaches for these audiences to assist those who do not have ready access to classroom-centered programs. These packages and approaches should include the appropriate use of various media and technologies such as Internet-based programming, interactive CD–ROM or computer disk-based programs, videos, or other audio and visual media, supported by written materials or manuals. They also should include a meaningful program evaluation and a self-evaluation process that assesses pre- and post-program knowledge and skills;

• Familiarize faculty with the effective use of innovative instructional technology, including methods for presenting information through web-based and other distance-learning approaches such as videos and satellite teleconferences;

• Develop and test innovative methods to evaluate the effectiveness of web-based and distance education programs; and

• Develop and test innovative short (one-half or one full day) educational programs on events or issues of critical importance to local courts or courts in a particular region.

(b) The Institute also continues to be very interested in supporting projects that would implement action plans and strategies developed by the State teams at the National Symposium on the Future of Judicial Branch Education held in St. Louis, Missouri, on October 7–9, 1999, as well as proposals from other applicants designed to assist in implementing and disseminating the findings and strategies discussed at the Conference.

(2) *Judicial Branch Education Technical Assistance Projects.* The Board is reserving up to $200,000 to support technical assistance and on-site consultation in planning, developing, and administering comprehensive and specialized State judicial branch education programs, as well as the adaptation of model curricula previously developed with SJI funds.

The goals of the Judicial Branch Education Technical Assistance Program (JBE TA) are to:

(a) Provide State and local courts with expert assistance in developing systematic or innovative judicial branch education programming as well as improved methods for assessing the need for and evaluating the impact of court education programs; and

(b) Enable courts to modify a model curriculum, course module, or conference program developed with SJI funds to meet a particular State's or local jurisdiction's educational needs; train instructors to present portions or all of the curriculum; and pilot-test it to determine its appropriateness, quality, and effectiveness. An illustrative but non-inclusive list of the curricula that may be appropriate for adaptation is contained in Appendix F.

Only State or local courts may apply for JBETA funding. Application procedures may be found in Section VII.E.

(3) *Scholarships for Judges and Court Managers.* The Institute is reserving up to $200,000 to support a scholarship program for State judges and court managers. The purposes of the scholarship program are to:

• Enhance the skills, knowledge, and abilities of judges and court managers;

• Enable State court judges and court managers to attend out-of-State educational programs sponsored by national and State providers that they could not otherwise attend because of limited State, local, and personal budgets; and

• Provide States, judicial educators, and the Institute with evaluative information on a range of judicial and court-related education programs.

Scholarships will be granted to individuals only for the purpose of attending an out-of-State educational program within the United States. Application procedures may be found in Section VII.F.

(4) *National Conferences.* The Institute is interested in supporting a National Symposium on the Role of the Judge in the 21st Century to examine how evolving demands, responsibilities, and expectations are changing the role of State judges and State courts in American society. The Board of Directors contemplates a multidisciplinary, interactive forum that would help better define public and political expectations of the judiciary, as well as judges' own expectations; identify the barriers to fulfillment of those expectations; and propose ways to overcome those barriers.

The Symposium should address the following issues, among others:

• The extent to which courts should be the source of social services to parties in litigation, the approaches by which those services can best be provided, and the criteria for determining when and which services should be provided;

• The potential evolution of the court into a service provider, problem solver, or source of dispute resolution services for the public generally, not just parties in litigation;

• The role of judges and the courts as leaders in cultivating and sustaining community and restorative approaches to justice;

• The participation of judges and court staff in intergovernmental, public-private, and court-community partnerships aimed at addressing issues such as family violence, drug abuse, and child abuse and neglect;

- The role of judges and court personnel in advocacy projects, including not only projects aimed at improving the administration of justice, but projects seeking to improve society's response to other issues, outside the courts;
- The potential impact of increased involvement in the community on judicial neutrality;
- Ethical constraints that may affect judges and court personnel when they consider whether and how to meet their evolving demands, responsibilities, and expectations; and
- The extent to which the changing role of judges and courts may impinge on the authority of the executive and legislative branches of government.

c. Dispute Resolution and the Courts.

This category includes research, evaluation, and demonstration projects to evaluate or enhance the effectiveness of court-connected dispute resolution programs. The Institute is interested in projects that facilitate comparison among research studies by using similar measures and definitions; address the nature and operation of ADR programs within the context of the court system as a whole; and compare dispute resolution processes to attorney settlement as well as trial. Specific topics of interest include:

- Examining the timing for referrals to dispute resolution services, and the effect of different referral methods on case outcomes and time to disposition;
- Evaluating innovative court-connected dispute resolution programs for resolving complex and multi-party litigation, environmental hazards, managed health care, minor criminal cases, probate proceedings, and land-use disputes;
- Evaluating innovative alternative dispute resolution processes, including on-line approaches that use the Internet and other computer-based technologies to facilitate dispute resolution;
- Developing methods to eliminate bias on the basis of race, ethnicity, disability, or gender in court-connected dispute resolution programs, testing approaches for assuring that such programs are open to all members of the community served by the court, and assessing whether having a mediator pool that reflects the diversity of the community it serves has an impact on the use of mediation and its effectiveness; and
- Testing innovative approaches involving community partnerships, particularly in the context of restorative justice, examining the benefits such partnerships offer in ensuring the quality of dispute resolution programs, and compiling examples of promising practices.

Applicants should be aware that the Institute will not provide operational support for ongoing ADR programs or start-up costs of non-innovative ADR programs. Courts also should be advised that it is preferable for an applicant to use its own funds to support the operational costs of an innovative program and request Institute funds to support related technical assistance, training, and evaluation elements of the program.

d. Application of Technology

This category includes the testing of innovative applications of technology to improve the operation of court management systems and judicial practices at both the trial and appellate court levels. The Institute seeks to support local experiments with promising but untested applications of technology in the courts that include an evaluation of the impact of the technology in terms of costs, benefits, and staff workload, and a training component to assure that staff is appropriately educated about the purpose and use of the new technology. In this context, "untested" includes novel applications of technology developed for the private sector that have not previously been applied in the courts.

The Institute is particularly interested in supporting efforts to test and evaluate technologies that, if successfully implemented, would significantly re-engineer the way that courts currently do business, including projects that would:

- Demonstrate and evaluate the delivery of technology to rural courts through an Internet-based "application service provider" approach;
- Test and evaluate the use of Geographic Information System (GIS) software as a means of examining and improving courts' outreach to particular segments of the communities they serve;
- Evaluate approaches for electronically filing pleadings, briefs, and other documents; approaches to integrate electronic filing and electronic document management; and the impact of electronic court record systems on case management and court procedures;
- Demonstrate and evaluate innovative applications of voice recognition technologies in the adjudication process;
- Demonstrate and evaluate the use of expert system technology to assist judicial decision-making;
- Demonstrate and evaluate the use of videoconferencing technology to present testimony by witnesses in remote locations, and appellate arguments (but see the limitations specified below);
- Test and evaluate the effectiveness of automated systems that would enable courts and other justice agencies to measure their performance with respect to internal processes and customer service against benchmarks and strategic goals; and
- Evaluate innovative applications of technology designed to ensure the safety of all who use and work in the courts.

Ordinarily, the Institute will not provide support for the purchase of equipment or software to implement a technology that is commonly used by courts, such as videoconferencing between courts and jails, optical imaging for record-keeping, metal detectors, and automated management information systems. (See also section X.I.2.b. regarding other limits on the use of grant funds to purchase equipment and software.)

e. Enhancing Court Management Through Collaboration

The Institute is interested in supporting projects that test innovative and collaborative problem-solving approaches for securing, managing, and demonstrating the effective use of the resources required to meet the responsibilities of the judicial branch, including the institutionalization of long-range planning processes. In particular, the Institute is interested in demonstration, evaluation, education, research, and technical assistance projects to:

- Facilitate collaboration, communication, information-sharing, and coordination between the juvenile and criminal courts, between courts and criminal justice agencies, and between courts and court users;
- Identify and assess the effects of collaborative problem-solving approaches designed to assure quality services to court users;
- Strengthen judge and court manager skills in leadership, collaborative planning, case management, facilitation, and human resource development;
- Assess the effects of innovative management approaches designed to assure quality services to court users;
- Enhance the core competencies required of court managers and staff;
- Document and evaluate effective intergovernmental team-building, collaboration, and planning among the judicial, executive, and legislative

branches of government, or courts within a metropolitan area or multi-State region;

- Enhance collaboration between the courts, community service providers, and other governmental agencies in the development of courthouse security policies and programs and disaster recovery plans;
- Facilitate, demonstrate, and assess the effective use of judge-staff teams for implementing change and encouraging excellence in court operations; and
- Compile examples of promising practices involving any of the management approaches described above.

f. Substance Abuse

This category includes education, technical assistance, research, and evaluation projects to assist courts in handling a large volume of substance abuse-related criminal, civil, juvenile, and domestic relations cases fairly and expeditiously. (It does not include providing support for planning, establishing, operating, or enhancing a local drug court. Applicants interested in obtaining grants to implement, operate, or enhance a drug court program should contact the Drug Court Program Office, Office of Justice Programs, U.S. Department of Justice.)

- The Institute is particularly interested in projects that would:
- Identify and test innovative methods to provide appropriate case docketing, drug treatment, and services for juveniles transferred to adult criminal court so that they are dealt with as adolescents, document promising practices in this area, and evaluate the outcomes of such cases, including recidivism;
- Evaluate the effectiveness of ''family drug court'' programs (i.e., specialized calendars that provide intensely supervised, court-enforced substance abuse treatment and other services to families involved in child neglect, child abuse, domestic violence, or other family cases);
- Evaluate the effectiveness of court-mandated substance abuse treatment provided to all criminal defendants (not just those appearing in drug courts);
- Educate judges and court managers about the long-term cognitive effects of substance abuse (including alcohol) and their implications for compliance with court orders, probation conditions, release, visitation orders, etc.; and
- Evaluate the effectiveness of innovative procedures to manage persistent misdemeanants who are substance abusers, and procedures designed to monitor probationers who have chronic substance abuse problems.

g. Children and Families in Court

This category includes education, demonstration, evaluation, technical assistance, and research projects to identify and inform judges of innovative, effective approaches for handling cases involving children and families. The Institute is particularly interested in projects that would:

- Develop and test guidelines, curricula, and other materials for judges that address the implications of sentencing juveniles as adults, including the need for age-appropriate services like schooling, sentencing alternatives, and pre-trial services;
- Demonstrate and evaluate the effectiveness of a ''one social worker/ one family'' or judge-social worker team approach to handling child abuse and neglect cases;
- Develop and test collaborative approaches involving community agencies and members of the public to improve services to families involved with the courts;
- Develop and test innovative protocols, procedures, educational programs, and other measures to address the service needs of children exposed to family violence and the methods for mitigating those effects when issuing protection, custody, visitation, or other orders;
- Develop guidelines and materials to assist judges and other court officers and personnel in critically analyzing psychological evaluations of children and the credibility of clinical experts, their reports, and methods of evaluating children;
- Compile and distribute information about innovative and successful approaches to sentencing and treatment alternatives for serious youthful offenders;
- Develop and test restorative justice approaches that include victims of offenses committed by youthful offenders in the juvenile court process (other than victim-offender mediation programs);
- Create and test educational programs, guidelines, and monitoring systems to assure that the juvenile justice system meets the needs of girls and children of color;
- Develop and test innovative techniques for enhancing collaboration, communication, information-sharing, and coordination of juvenile and criminal courts and divisions;
- Design or evaluate information systems that enable judges and court managers to manage their caseloads effectively, track placement and service delivery, and coordinate orders in different proceedings involving members of the same family; and
- Develop and test educational programs to assure that everyone coming into contact with courts serving children and families is treated with dignity, respect, and courtesy.

h. Improving the Courts' Response to Gender-Related Violent Crime

This category includes innovative education, demonstration, technical assistance, evaluation, and research projects to improve the fair and effective processing, consideration, and disposition of cases concerning gender-related violent crimes, including projects that would:

- Educate judges about the unique characteristics of juvenile sex offenders and the specialized array of age-appropriate services they require to control their abusive behavior;
- Evaluate the impact of court policies and procedures and collaborative community approaches designed to ensure that juvenile sex offenders have access to an appropriate array of services;
- Strengthen judges' skills in leadership, collaborative planning, and facilitation of community efforts to reduce and prevent domestic violence;
- Evaluate the implementation of the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act;
- Train custody evaluators, guardians ad litem, and other independent professionals appearing in custody and visitation cases about domestic violence and the impact witnessing such violence has on children;
- Educate judges about how to interpret and evaluate evidence presented by psychologists, psychiatrists, and other professionals appearing in child custody and visitation cases involving domestic violence between the parents;
- Develop and test guidelines to assist judges in identifying issues and risks to the child(ren) and the battered parent when considering whether to order supervised vs. unsupervised visitation in custody cases involving domestic violence between the parents;
- Coordinate juvenile, family, and criminal court management of domestic violence cases;
- Evaluate the effectiveness of domestic violence courts (i.e., specialized calendars or divisions for considering domestic violence cases and related matters), including their impact on victims, offenders, and court operations;
- Develop guidelines, curricula, or other materials that address the appropriate role of probation in monitoring domestic violence offenders;

• Assess the effectiveness of including jurisdiction over family violence in a unified family court;

• Demonstrate effective ways to encourage collaboration among courts, criminal justice agencies, and social services programs in responding to domestic violence and gender-related crimes of violence, and to assure that the courts are fully accessible to victims of domestic violence and other gender-related violent crimes;

• Develop and evaluate educational programs addressing a collaborative community approach to reducing and preventing domestic violence for a multidisciplinary audience that includes judges, prosecutors, defense attorneys, victim advocates, doctors, and social services providers;

• Test the effectiveness of innovative sentencing and treatment approaches in cases involving domestic violence and other gender-related crimes, including sentences that incorporate regular or periodic judicial review or restorative justice measures;

• Implement recommendations or action plans addressing the co-occurrence of domestic violence and child maltreatment that stem from the conference on Domestic Violence and Child Maltreatment—co-sponsored by SJI, the Department of Health and Human Services, and the Ford Foundation—that was held September 29–30, 2000, in Jackson, Wyoming; and

• Compile and disseminate information about promising practices relating to any of the issues described in this section.

Institute funds may not be used to provide operational support to programs offering direct services or compensation to victims of crimes. (Applicants interested in obtaining such operational support should contact the Office for Victims of Crime [OVC], Office of Justice Programs, U.S. Department of Justice, or the agency in their State that awards OVC funds to State and local victim assistance and compensation programs.)

i. The Relationship Between State and Federal Courts

This category includes education, research, demonstration, and evaluation projects designed to facilitate appropriate and effective communication, cooperation, and coordination between State and Federal courts.

(1) The Institute is particularly interested in innovative projects that:

• Evaluate State and Federal courts' experiences with capital cases in order to identify the reasons for reversals of trial court convictions, barriers to timely disposition of capital cases, and steps that can be taken to minimize reversals and undue delay;

• Develop, disseminate, and educate judges about model jury instructions for capital cases;

• Hire law clerks and staff counsel with special expertise in capital case law; and

• Develop new mechanisms for addressing complaints about attorney competence and performance in capital cases.

(2) The Institute also is interested in projects to develop and test new approaches to:

• Coordinate and process mass tort cases fairly and efficiently at the trial and appellate levels;

• Share facilities, jury pools, alternative dispute resolution programs, information regarding persons on pretrial release or probation, and court services; and

• Disseminate information regarding effective methods being used at the trial court, State, and Circuit levels to coordinate cases and administrative activities, and share facilities.

C. Think Pieces

This category addresses the development of essays of publishable quality directed to the court community. The essays should explore emerging issues that could result in significant changes in court process or judicial administration and their implications for the future for judges, court managers, policy-makers, and the public. Grants supporting such projects are limited to no more than $10,000. Applicants should follow the procedures for concept papers requesting an accelerated award of a grant of less than $40,000, which are explained in Section VI.A.3.(b) of this Guideline.

Possible topics include, but are not limited to:

• The impact of the ''digital divide'' on pro se litigants who do not have access to computers, particularly as it relates to increasing electronic access to court documents and placing court services and processes on-line;

• The implications of increasing commerce via the Internet for the State courts, including the new rules and procedures that may be needed to address them;

• The implications of voice recognition and other identification technologies on the courts;

• An exploration of issues related to privacy, data security, and public access to court records in our increasingly technological society;

• The potential for the creation of ''cybercourts'' through the use of the Internet—a ''courthouseless court'' instead of a paperless court—and how the courts would have to be re-engineered to accommodate such a development;

• An in-depth articulation of the concept of knowledge management and its implications for the courts;

• The burgeoning needs of small and rural courts and examples of emerging technological advances that could diminish their sense of isolation;

• The likelihood that the courts will experience a major shift in the make-up of judicial branch personnel and shortages of qualified individuals in the next decade as a result of changing demographics and significantly higher salaries available in the private sector, and suggestions for ways to prevent or respond to this occurrence;

• A preliminary exploration of the prevalence of sexual assault in domestic violence cases and the implications for judges with respect to the questions they should ask, the services that should be provided to victims, and the sanctions that should be imposed on offenders;

• The impact of fee-structuring proposals and ''attorney auctions'' on controlling litigation costs in class-action lawsuits and ensuring that plaintiffs receive adequate counsel;

• The likelihood of the emergence of court-connected alternative dispute resolution processes in problem-solving courts and what these specialized courts may need to do to prepare for this change;

• The implications of generalized vs. specialized social services on children and families in court; and

• The potential use of local court advisory councils rooted in the community as a method of promoting public trust and confidence in the court.

D. Single Jurisdiction Projects

The Board will set aside up to $300,000 to support projects proposed by State or local courts that address the needs of only the applicant State or local jurisdiction. A project under this section may address any of the topics included in the Special Interest Categories or Statutory Program Areas, but it need not be innovative. The Board is particularly interested in supporting projects to replicate programs, procedures, or strategies that have been developed, demonstrated, or evaluated through an SJI grant. An evaluation component is not required if a grant is awarded to replicate another successful SJI project; however, grants to support replications are subject to the same limits on amount and duration as other project grants. (See section V.)

Ordinarily, the Institute will not provide support solely for the purchase of equipment or software.

Concept papers for single jurisdiction projects may be submitted by a State court system, an appellate court, or a limited or general jurisdiction trial court. All awards under this category are subject to the matching requirements set forth in sections III.P. and IX.A.8.a.

The application procedures for Single Jurisdiction grants are the same as the procedures for Project Grants (see section VII.A); however, in addition to the information presented in the program narrative, Single Jurisdiction grant applicants must also demonstrate that:

1. The proposed project is essential to meeting a critical need of the jurisdiction; and

2. The need cannot be met solely with State and local resources within the foreseeable future.

E. Technical Assistance Grants

The Board will set aside up to $400,000 to support the provision of technical assistance to State and local courts. The program is designed to provide State and local courts with sufficient support to obtain technical assistance to diagnose a problem, develop a response to that problem, and implement any needed changes. The Institute will reserve sufficient funds each quarter to assure the availability of technical assistance grants throughout the year.

Technical Assistance grants are limited to no more than $30,000 each, and may cover the cost of obtaining the services of expert consultants; travel by a team of officials from one court to examine a practice, program, or facility in another jurisdiction that the applicant court is interested in replicating; or both. Technical assistance grant funds ordinarily may not be used to support production of a videotape. Normally, the technical assistance must be completed within 12 months after the start date of the grant.

Only a State or local court may apply for a Technical Assistance grant. The application procedures may be found in section VII.D.

III. Definitions

The following definitions apply for the purposes of this Guideline:

A. Accelerated Award

A grant of up to $40,000 awarded on the basis of a concept paper (including a budget and budget narrative) when the need for and benefits of the proposed project are clear and an application would not be needed to provide additional information about the project's methodology and budget. See section VI.C.1. for more information about accelerated awards.

B. Acknowledgment of SJI Support

The prominent display of the SJI logo on the front cover of a written product or in the opening frames of a videotape developed with Institute support, and inclusion of a brief statement on the inside front cover or title page of the document or the opening frames of the videotape identifying the grant number. See section IX.A.11.a.(2) for the precise wording of the statement.

C. Application

A formal request for an Institute grant that is invited by the Board of Directors after approval of a concept paper. A complete application consists of: Form A—Application; Form B—Certificate of State Approval (for applications from local trial or appellate courts or agencies—see Appendix I); Form C—Project Budget/Tabular Format or Form C1—Project Budget/Spreadsheet Format; Form D—Assurances; Disclosure of Lobbying Activities; a detailed 25-page description of the need for the project and all related tasks, including the time frame for completion of each task, and staffing requirements; and a detailed budget narrative that provides the basis for all costs. See section VII. for a complete description of application submission requirements.

D. Close-out

The process by which the Institute determines that all applicable administrative and financial actions and all required grant work have been completed by both the grantee and the Institute.

E. Concept Paper

A proposal of no more than eight double-spaced pages that outlines the nature and scope of a project that would be supported with State Justice Institute funds, accompanied by a preliminary budget. See section VI. for a complete description of concept paper submission requirements.

F. Continuation Grant

A grant lasting no longer than 15 months to permit completion of activities initiated under an existing Institute grant or enhancement of the products or services produced during the prior grant period. See section VII.B. for a complete description of continuation application requirements.

G. Curriculum

The materials needed to replicate an education or training program developed with grant funds including, but not limited to: the learning objectives; the presentation methods; a sample agenda or schedule; an outline of presentations and relevant instructors' notes; copies of overhead transparencies or other visual aids; exercises, case studies, hypotheticals, quizzes, and other materials for involving the participants; background materials for participants; evaluation forms; and suggestions for replicating the program, including possible faculty or the preferred qualifications or experience of those selected as faculty.

H. Curriculum Adaptation Grant

A grant of up to $20,000 to support an adaptation and pilot test of an educational program previously developed with SJI funds. See section III.O. defining judicial education branch technical assistance grants. See also section VII.E. for a complete description of judicial branch education technical assistance grant application requirements.

I. Designated Agency or Council

The office or judicial body which is authorized under State law or by delegation from the State Supreme Court to approve applications for SJI grant funds and to receive, administer, and be accountable for those funds.

J. Disclaimer

A brief statement that must be included at the beginning of a document or in the opening frames of a videotape produced with State Justice Institute funding that specifies that the points of view expressed in the document or tape do not necessarily represent the official position or policies of the Institute. See section IX.A.11.a.(2) for the precise wording of this statement.

K. Grant Adjustment

A change in the design or scope of a project from that described in the approved application, acknowledged in writing by the Institute. See section XI.A for a list of the types of changes requiring a formal grant adjustment. Ordinarily, changes requiring a Grant Adjustment (including budget reallocations between direct cost categories that individually or cumulatively exceed five percent of the approved original budget) should be requested at least 30 days in advance of the implementation of the requested change.

L. Grantee

The organization, entity, or individual to which an award of Institute funds is made. For a grant based on an application from a State or local court, grantee refers to the State Supreme Court or its designee.

M. Human Subjects

Individuals who are participants in an experimental procedure or who are asked to provide information about themselves, their attitudes, feelings, opinions, and/or experiences through an interview, questionnaire, or other data collection technique.

N. Institute

The State Justice Institute.

O. Judicial Branch Education Technical Assistance Grant

A grant of up to $20,000 awarded to a State or local court to support expert assistance in designing or delivering judicial branch education programming, and/or the adaptation of an education program based on an SJI-supported curriculum that was previously developed and evaluated under an SJI project grant.

P. Match

The portion of project costs not borne by the Institute. Courts or other units of State or local government (not including publicly supported institutions of higher education) must provide a match from private or public sources of not less than 50% of the total amount of the Institute's award. 42 U.S.C. 10705(d). Match includes both in-kind and cash contributions. Cash match is the direct outlay of funds by the grantee to support the project. In-kind match consists of contributions of time, services, space, supplies, etc., made to the project by the grantee or others (e.g., advisory board members) working directly on the project. Under normal circumstances, allowable match may be incurred only during the project period. When appropriate, and with the prior written permission of the Institute, match may be incurred from the date of the Board of Directors' approval of an award. Match does not include project-related income such as tuition or revenue from the sale of grant products, or the time of participants attending an education program. Amounts contributed as cash or in-kind match may not be recovered through the sale of grant products during or following the grant period.

Q. Ongoing Support Grant

A grant lasting 36 months to support a project that is national in scope and that provides the State courts with services, programs or products for which there is a continuing important need. See section VII.C. for a complete description of ongoing support application requirements.

R. Products

Tangible materials resulting from funded projects including, but not limited to: Curricula; monographs; reports; books; articles; manuals; handbooks; benchbooks; guidelines; videotapes; audiotapes; computer software; and CD–ROM disks.

S. Project Grant

An initial grant lasting up to 15 months to support an innovative education, research, demonstration, or technical assistance project that can improve the administration of justice in State courts nationwide. Ordinarily, a project grant may not exceed $200,000 a year; however, a grant in excess of $150,000 is likely to be rare and awarded only to support highly promising projects that will have a significant national impact. See section VII.A. for a complete description of project grant application requirements.

T. Project-Related Income

Interest, royalties, registration and tuition fees, proceeds from the sale of products, and other earnings generated as a result of a State Justice Institute grant. Project-related income may not be counted as match. For a more complete description of different types of project-related income, see section X.G.

U. Scholarship

A grant of up to $1,500 awarded to a judge or court employee to cover the cost of tuition for and transportation to and from an out-of-State educational program within the United States. See section VII.F. for a complete description of scholarship application requirements.

V. Single Jurisdiction Project Grant

A grant that addresses a critical but not necessarily innovative need of a single State or local jurisdiction that cannot be met solely with State and/or local resources within the foreseeable future. See section II.D. for a description of single jurisdiction projects and sections VI. and VII.A. for a complete description of single jurisdiction project application requirements.

W. Special Condition

A requirement attached to a grant award that is unique to a particular project.

X. State Supreme Court

The highest appellate court in a State, or, for the purposes of the Institute program, a constitutionally or legislatively established judicial council that acts in place of that court. In States having more than one court with final appellate authority, State Supreme Court means that court which also has administrative responsibility for the State's judicial system. State Supreme Court also includes the office of the court or council, if any, it designates to perform the functions described in this Guideline.

Y. Subgrantee

A State or local court which receives Institute funds through the State Supreme Court.

Z. Technical Assistance Grant

A grant, lasting up to 12 months, of up to $30,000 to a State or local court to support outside expert assistance in diagnosing a problem and developing and implementing a response to that problem. See section VII.D. for a complete description of technical assistance grant application requirements.

IV. Eligibility for Award

The Institute is authorized by Congress to award grants, cooperative agreements, and contracts to the following entities and types of organizations:

A. State and local courts and their agencies (42 U.S.C. 10705(b)(1)(A))

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court or its designated agency or council. The latter shall receive all Institute funds awarded to such courts and be responsible for assuring proper administration of Institute funds, in accordance with section X.C.2. of this Guideline. A list of persons to contact in each State regarding approval of applications from State and local courts and administration of Institute grants to those courts is contained in Appendix C.

B. National nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments (42 U.S.C. 10705 (b)(1)(B))

C. National nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments (42 U.S.C. 10705(b)(1)(C))

An applicant is considered a national education and training applicant under section 10705(b)(1)(C) if:

1. the principal purpose or activity of the applicant is to provide education

and training to State and local judges and court personnel; and

2. the applicant demonstrates a record of substantial experience in the field of judicial education and training.

D. Other eligible grant recipients (42 U.S.C. 10705(b)(2)(A)–(D))

1. Provided that the objectives of the project can be served better, the Institute is also authorized to make awards to:

a. Nonprofit organizations with expertise in judicial administration;

b. Institutions of higher education;

c. Individuals, partnerships, firms, corporations (for-profit organizations must waive their fees); and

d. Private agencies with expertise in judicial administration.

2. The Institute may also make awards to Federal, State or local agencies and institutions other than courts for services that cannot be adequately provided through nongovernmental arrangements (42 U.S.C. 10705(b)(3)).

E. Inter-agency Agreements

The Institute may enter into inter-agency agreements with Federal agencies (42 U.S.C. 10705(b)(4)) and private funders to support projects consistent with the purposes of the State Justice Institute Act.

V. Types of Projects and Grants; Size of Awards

A. Types of Projects

The Institute supports the following general types of projects:

1. Education and training;
2. Research and evaluation;
3. Demonstration; and
4. Technical assistance.

B. Types of Grants

The Institute supports the following types of grants:

1. Project Grants.

See sections II.B., C., and D.; VI.; and VII.A. The Institute places no annual limitations on the overall number of project grant awards or the number of awards in each special interest category.

2. Continuation Grants.

See sections III.F. and VII.B. In FY 2002, the Institute is allocating no more than 25% of available grant funds for continuation and ongoing support grants.

3. Ongoing Support Grants.

See sections III.Q. and VII.C. See Continuation Grants above for limitations on funding availability in FY 2002.

4. Technical Assistance Grants.

See section II.E. In FY 2002, the Institute is reserving up to $400,000 for these grants.

5. Judicial Branch Education Technical Assistance Grants.

See sections II.B.2.b.(2), III.H., III.O., and VII.E. In FY 2002, the Institute is reserving up to $200,000 for judicial branch education technical assistance grants, which includes adaptations of curricula previously developed with SJI funding.

6. Scholarships.

See section II.B.2.b.(3), III.U., and VII.F. In FY 2002, the Institute is reserving up to $200,000 for scholarships for judges and court employees. The Institute will reserve sufficient funds each quarter to assure the availability of scholarships throughout the year.

C. Maximum Size of Awards

1. Except as specified below, applicants for new project grants and continuation grants may request funding in amounts up to $200,000 for 15 months, although new and continuation awards in excess of $150,000 are likely to be rare and to be made, if at all, only for highly promising proposals that will have a significant impact nationally.

2. Applicants for ongoing support grants may request funding in amounts up to $600,000 over three years, although awards in excess of $450,000 are likely to be rare. The Institute will ordinarily release funds for the second and third years of ongoing support grants on the following conditions: (1) The project is performing satisfactorily; (2) appropriations are available to support the project that fiscal year; and (3) the Board of Directors determines that the project continues to fall within the Institute's priorities.

3. Applicants for technical assistance grants may request funding in amounts up to $30,000.

4. Applicants for judicial branch education technical assistance grants may request funding in amounts up to $20,000.

5. Applicants for scholarships may request funding in amounts up to $1,500.

D. Length of Grant Periods

1. Grant periods for all new and continuation projects ordinarily may not exceed 15 months.

2. Grant periods for ongoing support grants ordinarily may not exceed 36 months.

3. Grant periods for technical assistance grants and curriculum adaptation grants ordinarily may not exceed 12 months.

VI. Concept Papers

Concept papers are an extremely important part of the application process because they enable the Institute to learn the program areas of primary interest to the courts and to explore innovative ideas, without imposing heavy burdens on prospective applicants. The use of concept papers also permits the Institute to better project the nature and amount of grant awards. The concept paper requirement and the submission deadlines for concept papers and applications may be waived by the Executive Director for good cause (e.g., the proposed project could provide a significant benefit to the State courts or the opportunity to conduct the project did not arise until after the deadline). The On-Line Tutorials available on the Institute's web site (www.statejustice.org) walk potential applicants through the concept paper and application requirements for project grants.

A. Format and Content

All concept papers must include a cover sheet, a program narrative, and a preliminary budget.

1. The Cover Sheet

The cover sheet for all concept papers must contain:

a. A title that clearly describes the proposed project;

b. The name and address of the court, organization, or individual submitting the paper;

c. The name, title, address (if different from that in b.), and telephone number of a contact person who can provide further information about the paper;

d. The number of the statutory Program Area (see section II.A.) and the letter of the Special Interest Category (see section II.B.2.) that the proposed project addresses most directly; and

e. The estimated length of the proposed project.

Applicants requesting the Board to waive the application requirement and approve a grant of less than $40,000 based on the concept paper should add APPLICATION WAIVER REQUESTED to the information on the cover page.

2. The Program Narrative

The program narrative of a concept paper should be no longer than necessary, but must not exceed 8 double-spaced pages on 8½ by 11 inch paper. Margins must be at least 1 inch and type size must be at least 12 point and 12 cpi. The pages should be numbered. The narrative should describe:

a. Why is this project needed and how would it benefit State courts? If the project is to be conducted in a specific location(s), applicants should discuss the particular needs of the project site(s) to be addressed by the project, why those needs are not being met through the use of existing materials, programs, procedures, services, or other resources, and the benefits that would be realized by the proposed site(s).

If the project is not site-specific, applicants should discuss the problems that the proposed project would address; why existing materials, programs, procedures, services, or other resources cannot adequately resolve those problems; and the benefits that would be realized from the project by State courts generally.

b. What would be done if a grant is awarded? Applicants should include a summary description of the project to be conducted and the approach to be taken, including the anticipated length of the grant period. Applicants requesting a waiver of the application requirement for a grant of less than $40,000 should explain the proposed methods for conducting the project as fully as space allows, and include a detailed task schedule as an attachment to the concept paper.

c. How would the effects and quality of the project be determined? Applicants should include a summary description of how the project would be evaluated, including the criteria that would be used to measure its success or impact.

d. How would others find out about the project and be able to use the results? Applicants should describe the products that would result, the degree to which they would be applicable to courts across the nation, and to whom the products and results of the project would be disseminated in addition to the SJI-designated libraries (e.g., State chief justices, specified groups of trial judges, State court administrators, specified groups of trial court administrators, State judicial educators, or other audiences). Applicants proposing to develop web-based products should provide for sending a hard-copy document to the SJI-designated libraries and other appropriate audiences to alert them to the availability of the web site or electronic product (i.e., a written report with a reference to the web site).

3. The Budget

a. Preliminary Budget. A preliminary budget must be attached to the narrative that includes the information specified on Form E included in Appendix H of this Guideline. Applicants should be aware that prior written Institute approval is required for any consultant rate in excess of $300 per day and that Institute funds may not be used to pay a consultant in excess of $900 per day.

b. Concept Papers Requesting Accelerated Award of a Grant of Less than $40,000. Applicants requesting a waiver of the application requirement and approval of a grant based on a concept paper under C. in this section must attach to Form E (see Appendix H) a budget narrative that explains the basis for each of the items listed and indicates whether the costs would be paid from grant funds, through a matching contribution, or from other sources. Courts requesting an accelerated award must also attach a Certificate of State Approval—Form B (see Appendix I) signed by the Chief Justice of the State Supreme Court or the Chief Justice's designee.

4. Letters of Cooperation or Support

The Institute encourages concept paper applicants to attach letters of cooperation and support from the courts and related agencies that would be involved in or directly affected by the proposed project. Letters of support may be sent under separate cover; however, to ensure sufficient time to bring them to the Board's attention, support letters sent under separate cover must be received no later than January 4, 2002.

5. Page Limits

a. The Institute will not accept concept papers with program narratives exceeding eight double-spaced pages (see A.2. of this section). This page limit does not include the cover page, budget form, letters of cooperation or support, or, for papers requesting accelerated awards, the budget narrative and task schedule. Additional material should not be attached unless it is essential to impart a clear understanding of the project.

b. Applicants submitting more than one concept paper may include material that would be identical in each concept paper in a cover letter. This material will be incorporated by reference into each paper and counted against the eight-page limit for each. A copy of the cover letter should be attached to each copy of each concept paper.

6. Sample Concept Papers

Sample concept papers from previous funding cycles are available from the Institute upon request.

B. Submission Requirements

An original and three copies of all concept papers submitted for consideration in Fiscal Year 2002 must be sent by first class or overnight mail or by courier (but not by fax or e-mail) no later than November 21, 2001.

A postmark or courier receipt will constitute evidence of the submission date. All envelopes containing concept papers should be marked CONCEPT PAPER and sent to: State Justice Institute, 1650 King Street, Suite 600, Alexandria, Virginia 22314.

The Institute will acknowledge receipt of each concept paper in writing. Extensions of the deadline for submission of concept papers will not be granted without good cause.

C. Institute Review

1. Review Process

Concept papers will be reviewed competitively by the Institute's Board of Directors. Institute staff will prepare a narrative summary and a rating sheet assigning points for each relevant selection criterion for those concept papers which fall within the scope of the Institute's funding program and merit serious consideration by the Board. Staff will also prepare a list of those papers that, in the judgment of the Executive Director, propose projects that lie outside the scope of the Institute's program or are not likely to merit serious consideration by the Board. The narrative summaries, rating sheets, and list of non-reviewed papers will be presented to the Board for its review. Committees of the Board will review concept paper summaries within assigned program areas and prepare recommendations for the full Board. The full Board of Directors will then decide which concept paper applicants will be invited to submit formal applications for funding. The decision to invite an application is solely that of the Board of Directors.

The Board may waive the application requirement and approve a grant based on a concept paper for a project requiring less than $40,000 when the need for and benefits of the project are clear and the methodology and budget require little additional explanation. Applicants considering whether to request consideration for an accelerated award should make certain that the proposed budget is sufficient to accomplish the project objectives in a quality manner. Because the Institute's experience has been that projects to conduct empirical research or a program evaluation ordinarily require a more thorough explanation of the methodology to be used than can be provided within the space limitations of a concept paper, the Board is unlikely to waive the application requirement for such projects.

2. Selection Criteria a. All concept papers will be evaluated on the basis of the following criteria:

(1) The demonstration of need for the project;

(2) The soundness and innovativeness of the approach described;

(3) The benefits to be derived from the project;

(4) The reasonableness of the proposed budget;

(5) The proposed project's relationship to one of the ''Special Interest'' categories set forth in section II.B; and

(6) The degree to which the findings, procedures, training, technology, or other results of the project can be transferred to other jurisdictions.

Single jurisdiction concept papers will be rated on the proposed project's relation to one of the ''Special Interest'' categories set forth in section II.B. and the special requirements listed in sections II.D. and VII.A. b. In determining which concept papers will be approved for award or selected for development into full applications, the Institute will also consider the availability of financial assistance from other sources for the project; the amount and nature (cash or in-kind) of the applicant's anticipated match; whether the applicant is a State court, a national court support or education organization, a non-court unit of government, or another type of entity eligible to receive grants under the Institute's enabling legislation (see 42 U.S.C. 10705(b)), as amended, and section IV of this Grant Guideline); the extent to which the proposed project would also benefit the Federal courts or help the State courts enforce Federal constitutional and legislative requirements; and the level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

3. Notification to Applicants

The Institute will send written notice to all persons submitting concept papers, informing them of the Board's decisions regarding their papers and of the key issues and questions that arose during the review process. A decision by the Board not to invite an application may not be appealed, but applicants may resubmit the concept paper or a revision thereof in a subsequent funding cycle. The Institute will also notify the relevant State contact (see Appendix C) when the Board invites applications submitted by courts within that State or that specify a participating site within that State.

VII. Applications

For a summary of the application process, visit the Institute's web site (www.statejustice.org) and click on On-Line Tutorials, then Project Grant.

A. Project Grants

An application for a Project Grant must include an application form; budget forms (with appropriate documentation); a project abstract and program narrative; a disclosure of lobbying form, when applicable; and certain certifications and assurances. The Institute will send the required application forms to applicants invited to submit a full application.

1. Forms

a. Application Form (FORM A)

The application form requests basic information regarding the proposed project, the applicant, and the total amount of funding requested from the Institute. It also requires the signature of an individual authorized to certify on behalf of the applicant that the information contained in the application is true and complete; that submission of the application has been authorized by the applicant; and that if funding for the proposed project is approved, the applicant will comply with the requirements and conditions of the award, including the assurances set forth in Form D.

b. Certificate of State Approval (FORM B)

An application from a State or local court must include a copy of FORM B signed by the State's Chief Justice or Chief Judge, the director of the designated agency, or the head of the designated council. The signature denotes that the proposed project has been approved by the State's highest court or the agency or council it has designated. It denotes further that if funding for the project is approved by the Institute, the court or the specified designee will receive, administer, and be accountable for the awarded funds.

c. Budget Forms (FORM C or C1)

Applicants may submit the proposed project budget either in the tabular format of FORM C or in the spreadsheet format of FORM C1. Applicants requesting $100,000 or more are strongly encouraged to use the spreadsheet format. If the proposed project period is for more than a year, a separate form should be submitted for each year or portion of a year for which grant support is requested, as well as for the total length of the project.

In addition to FORM C or C1, applicants must provide a detailed budget narrative providing an explanation of the basis for the estimates in each budget category. (See section VII.A.4. below.)

If funds from other sources are required to conduct the project, either as match or to support other aspects of the project, the source, current status of the request, and anticipated decision date must be provided.

d. Assurances (FORM D)

This form lists the statutory, regulatory, and policy requirements with which recipients of Institute funds must comply.

e. Disclosure of Lobbying Activities

Applicants other than units of State or local government are required to disclose whether they, or another entity that is part of the same organization as the applicant, have advocated a position before Congress on any issue, and to identify the specific subjects of their lobbying efforts. (See section IX.A.7.)

2. Project Abstract

The abstract should highlight the purposes, goals, methods, and anticipated benefits of the proposed project. It should not exceed 1 single-spaced page on 8½ by 11 inch paper.

3. Program Narrative

The program narrative for an application may not exceed 25 double-spaced pages on 8½ by 11 inch paper. Margins must be at least 1 inch, and type size must be at least 12-point and 12 cpi. The pages should be numbered. This page limit does not include the forms, the abstract, the budget narrative, and any appendices containing resumes and letters of cooperation or endorsement. Additional background material should be attached only if it is essential to impart a clear understanding of the proposed project. Numerous and lengthy appendices are strongly discouraged.

The program narrative should address the following topics:

a. Project Objectives

The applicant should include a clear, concise statement of what the proposed project is intended to accomplish. In stating the objectives of the project, applicants should focus on the overall programmatic objective (e.g., to enhance understanding and skills regarding a specific subject, or to determine how a certain procedure affects the court and litigants) rather than on operational objectives (*e.g.,* provide training for 32 judges and court managers, or review data from 300 cases).

b. Program Areas To Be Covered

The applicant should note the Special Interest Category or Categories that are addressed by the proposed project (see section II.B.). If the proposed project does not fall within one of the Institute's Special Interest Categories, the applicant should list the Statutory Program Area or Areas that are addressed by the proposed project. (See section II.A.)

c. Need for the Project

If the project is to be conducted in a specific location(s), the applicant should discuss the particular needs of the project site(s) to be addressed by the project and why those needs are not being met through the use of existing materials, programs, procedures, services, or other resources.

If the project is not site-specific, the applicant should discuss the problems that the proposed project would address, and why existing materials, programs, procedures, services, or other resources cannot adequately resolve those problems. The discussion should include specific references to the relevant literature and to the experience in the field.

d. Tasks, Methods and Evaluation

(1) Tasks and Methods. The applicant should delineate the tasks to be performed in achieving the project objectives and the methods to be used for accomplishing each task. For example:

(a) For research and evaluation projects, the applicant should include the data sources, data collection strategies, variables to be examined, and analytic procedures to be used for conducting the research or evaluation and ensuring the validity and general applicability of the results. For projects involving human subjects, the discussion of methods should address the procedures for obtaining respondents' informed consent, ensuring the respondents' privacy and freedom from risk or harm, and the protection of others who are not the subjects of research but would be affected by the research. If the potential exists for risk or harm to the human subjects, a discussion should be included that explains the value of the proposed research and the methods to be used to minimize or eliminate such risk.

(b) For education and training projects, the applicant should include the adult education techniques to be used in designing and presenting the program, including the teaching/learning objectives of the educational design, the teaching methods to be used, and the opportunities for structured interaction among the participants; how faculty would be recruited, selected, and trained; the proposed number and length of the conferences, courses, seminars, or workshops to be conducted and the estimated number of persons who would attend them; the materials to be provided and how they would be developed; and the cost to participants.

(c) For demonstration projects, the applicant should include the demonstration sites and the reasons they were selected, or if the sites have not been chosen, how they would be identified and their cooperation obtained; and how the program or procedures would be implemented and monitored.

(d) For technical assistance projects, the applicant should explain the types of assistance that would be provided; the particular issues and problems for which assistance would be provided; how requests would be obtained and the type of assistance determined; how suitable providers would be selected and briefed; how reports would be reviewed; and the cost to recipients.

(2) Evaluation. Every project design must include an evaluation plan to determine whether the project met its objectives. The evaluation should be designed to provide an objective and independent assessment of the effectiveness or usefulness of the training or services provided; the impact of the procedures, technology, or services tested; or the validity and applicability of the research conducted. In addition, where appropriate, the evaluation process should be designed to provide ongoing or periodic feedback on the effectiveness or utility of the project in order to promote its continuing improvement. The plan should present the qualifications of the evaluator(s); describe the criteria that would be used to evaluate the project's effectiveness in meeting its objectives; explain how the evaluation would be conducted, including the specific data collection and analysis techniques to be used; discuss why this approach would be appropriate; and present a schedule for completion of the evaluation within the proposed project period.

The evaluation plan should be appropriate to the type of project proposed. For example:

(a) Research. An evaluation approach suited to many research projects is a review by an advisory panel of the research methodology, data collection instruments, preliminary analyses, and products as they are drafted. The panel should be comprised of independent researchers and practitioners representing the perspectives affected by the proposed project.

(b) Education and Training. The most valuable approaches to evaluating educational or training programs reinforce the participants' learning experience while providing useful feedback on the impact of the program and possible areas for improvement. One appropriate evaluation approach is to assess the acquisition of new knowledge, skills, attitudes, or understanding through participant feedback on the seminar or training event. Such feedback might include a self-assessment of what was learned along with the participant's response to the quality and effectiveness of faculty presentations, the format of sessions, the value or usefulness of the material presented, and other relevant factors. Another appropriate approach would be to use an independent observer who might request both verbal and written responses from participants in the program. When an education project involves the development of curricular materials, an advisory panel of relevant experts can be coupled with a test of the curriculum to obtain the reactions of participants and faculty as indicated above.

(c) Demonstration. The evaluation plan for a demonstration project should encompass an assessment of program effectiveness (e.g., how well did it work?); user satisfaction, if appropriate; the cost-effectiveness of the program; a process analysis of the program (e.g., was the program implemented as designed, and/or did it provide the services intended to the targeted population?); the impact of the program (e.g., what effect did the program have on the court, and/or what benefits resulted from the program?); and the replicability of the program or components of the program.

(d) Technical Assistance. For technical assistance projects, applicants should explain how the quality, timeliness, and impact of the assistance provided would be determined, and develop a mechanism for feedback from both the users and providers of the technical assistance.

Evaluation plans involving human subjects should include a discussion of the procedures for obtaining respondents' informed consent, ensuring the respondents' privacy and freedom from risk or harm, and the protection of others who are not the subjects of evaluation but would be affected by it. Other than the provision of confidentiality to respondents, human subject protection issues ordinarily are not applicable to participants evaluating an education program.

e. Project Management

The applicant should present a detailed management plan, including the starting and completion date for each task; the time commitments to the project of key staff and their responsibilities regarding each project task; and the procedures that would ensure that all tasks are performed on time, within budget, and at the highest level of quality. In preparing the project time line, Gantt Chart, or schedule, applicants should make certain that all project activities, including publication or reproduction of project products and their initial dissemination, would occur within the proposed project period. The management plan must also provide for the submission of Quarterly Progress and Financial Reports within 30 days after the close of each calendar quarter (i.e., no later than January 30, April 30, July 30, and October 30).

Applicants should be aware that the Institute is unlikely to approve more than one limited extension of the grant period. Therefore, the management plan should be as realistic as possible and fully reflect the time commitments of the proposed project staff and consultants.

f. Products

The program narrative in the application should contain a description of the products to be developed (e.g., training curricula and materials, videotapes, articles, manuals, or handbooks), including when they would be submitted to the Institute. The budget should include the cost of producing and disseminating the product to each in-State SJI library, State chief justice, State court administrator, and other appropriate judges or court personnel.

(1) Dissemination Plan. The application must explain how and to whom the products would be disseminated; describe how they would benefit the State courts, including how they could be used by judges and court personnel; identify development, production, and dissemination costs covered by the project budget; and present the basis on which products and services developed or provided under the grant would be offered to the courts community and the public at large (i.e., whether products would be distributed at no cost to recipients, or if costs are involved, the reason for charging recipients and the estimated price of the product) (see section IX.A.11.b.). Ordinarily, applicants should schedule all product preparation and distribution activities within the project period.

A copy of each product must be sent to the library established in each State to collect the materials developed with Institute support. (A list of these libraries is contained in Appendix D.) Applicants proposing to develop web-based products should provide for sending a hard-copy document to the SJI-designated libraries and other appropriate audiences to alert them to the availability of the web site or electronic product (i.e., a written report with a reference to the web site).

Seventeen (17) copies of all project products must be submitted to the Institute, along with an electronic version in .html format. A master copy of each videotape, in addition to 17 copies of each videotape product, must also be provided to the Institute.

(2) Types of Products and Press Releases. The type of product to be prepared depends on the nature of the project. For example, in most instances, the products of a research, evaluation, or demonstration project should include an article summarizing the project findings that is publishable in a journal serving the courts community nationally, an executive summary that would be disseminated to the project's primary audience, or both. Applicants proposing to conduct empirical research or evaluation projects with national import should describe how they would make their data available for secondary analysis after the grant period. (See section IX.A.14.a.).

The curricula and other products developed through education and training projects should be designed for use outside the classroom so that they may be used again by the original participants and others in the course of their duties.

In addition, recipients of project grants must prepare a press release describing the project and announcing the results, and distribute the release to a list of national and State judicial branch organizations. SJI will provide press release guidelines and a list of recipients to grantees at least 30 days before the end of the grant period.

(3) Institute Review. Applicants must submit a final draft of all written grant products to the Institute for review and approval at least 30 days before the products are submitted for publication or reproduction. For products in a videotape or CD-ROM format, applicants must provide for incremental Institute review of the product at the treatment, script, rough-cut, and final stages of development, or their equivalents. No grant funds may be obligated for publication or reproduction of a final grant product without the written approval of the Institute. (See section IX.A.11.e.)

(4) Acknowledgment, Disclaimer, and Logo. Applicants must also include in all project products a prominent acknowledgment that support was received from the Institute and a disclaimer paragraph based on the example provided in section IX.A.11.a.(2) of the Guideline. The ''SJI'' logo must appear on the front cover of a written product, or in the opening frames of a video, unless the Institute approves another placement.

g. Applicant Status

An applicant that is not a State or local court and has not received a grant from the Institute within the past two years should state whether it is either a national non-profit organization controlled by, operating in conjunction with, and serving the judicial branches of State governments, or a national non-profit organization for the education and training of State court judges and support personnel. See section IV. If the applicant is a nonjudicial unit of Federal, State, or local government, it must explain whether the proposed services could be adequately provided by non-governmental entities.

h. Staff Capability

The applicant should include a summary of the training and experience of the key staff members and consultants that qualify them for conducting and managing the proposed project. Resumes of identified staff should be attached to the application. If one or more key staff members and consultants are not known at the time of the application, a description of the criteria that would be used to select persons for these positions should be included. The applicant also should identify the person who would be responsible for managing and reporting on the finances of the proposed project.

i. Organizational Capacity

Applicants that have not received a grant from the Institute within the past two years should include a statement describing their capacity to administer grant funds, including the financial systems used to monitor project expenditures (and income, if any), and a summary of their past experience in administering grants, as well as any resources or capabilities that they have that would particularly assist in the successful completion of the project.

Unless requested otherwise, an applicant that has received a grant from the Institute within the past two years should describe only the changes in its organizational capacity, tax status, or financial capability that may affect its capacity to administer a grant.

If the applicant is a non-profit organization (other than a university), it must also provide documentation of its 501(c) tax-exempt status as determined by the Internal Revenue Service and a copy of a current certified audit report.

For purposes of this requirement, ''current'' means no earlier than two years prior to the present calendar year.

If a current audit report is not available, the Institute will require the organization to complete a financial capability questionnaire, which must be signed by a Certified Public Accountant. Other applicants may be required to provide a current audit report, a financial capability questionnaire, or both, if specifically requested to do so by the Institute.

j. Statement of Lobbying Activities

Non-governmental applicants must submit the Institute's Disclosure of Lobbying Activities Form, which documents whether they, or another entity that is a part of the same organization as the applicant, have advocated a position before Congress on any issue, and identifies the specific subjects of their lobbying efforts.

k. Letters of Cooperation or Support

If the cooperation of courts, organizations, agencies, or individuals other than the applicant is required to conduct the project, the applicant should attach written assurances of cooperation and availability to the application, or send them under separate cover. To ensure sufficient time to bring them to the Board's attention, letters of support sent under separate cover must be received by June 7, 2002.

4. Budget Narrative

The budget narrative should provide the basis for the computation of all project-related costs. When the proposed project would be partially supported by grants from other funding sources, applicants should make clear what costs would be covered by those other grants. Additional background or schedules may be attached if they are essential to obtaining a clear understanding of the proposed budget. Numerous and lengthy appendices are strongly discouraged.

The budget narrative should cover the costs of all components of the project and clearly identify costs attributable to the project evaluation. Under OMB grant guidelines incorporated by reference in this Guideline, grant funds may not be used to purchase alcoholic beverages.

a. Justification of Personnel Compensation

The applicant should set forth the percentages of time to be devoted by the individuals who would staff the proposed project, the annual salary of each of those persons, and the number of work days per year used for calculating the percentages of time or daily rates of those individuals. The applicant should explain any deviations from current rates or established written organizational policies. If grant funds are requested to pay the salary and related costs for a current employee of a court or other unit of government, the applicant should explain why this would not constitute a supplantation of State or local funds in violation of 42 U.S.C. 10706 (d)(1). An acceptable explanation may be that the position to be filled is a new one established in conjunction with the project or that the grant funds would support only the portion of the employee's time that would be dedicated to new or additional duties related to the project.

b. Fringe Benefit Computation

The applicant should provide a description of the fringe benefits provided to employees. If percentages are used, the authority for such use should be presented, as well as a description of the elements included in the determination of the percentage rate.

c. Consultant/Contractual Services and Honoraria

The applicant should describe the tasks each consultant would perform, the estimated total amount to be paid to each consultant, the basis for compensation rates (e.g., the number of days multiplied by the daily consultant rates), and the method for selection. Rates for consultant services must be set in accordance with section X.I.2.c. Honorarium payments must be justified in the same manner as other consultant payments. Prior written Institute approval is required for any consultant rate in excess of $300 per day; Institute funds may not be used to pay a consultant more than $900 per day.

d. Travel

Transportation costs and per diem rates must comply with the policies of the applicant organization. If the applicant does not have an established travel policy, then travel rates must be consistent with those established by the Institute or the Federal Government. (A copy of the Institute's travel policy is available upon request.) The budget narrative should include an explanation of the rate used, including the components of the per diem rate and the basis for the estimated transportation expenses. The purpose of the travel should also be included in the narrative.

e. Equipment

Grant funds may be used to purchase only the equipment necessary to demonstrate a new technological application in a court or that is otherwise essential to accomplishing the objectives of the project. Equipment purchases to support basic court operations ordinarily will not be approved. The applicant should describe the equipment to be purchased or leased and explain why the acquisition of that equipment is essential to accomplish the project's goals and objectives. The narrative should clearly identify which equipment is to be leased and which is to be purchased. The method of procurement should also be described. Purchases for automated data processing equipment must comply with section X.I.2.b.

f. Supplies

The applicant should provide a general description of the supplies necessary to accomplish the goals and objectives of the grant. In addition, the applicant should provide the basis for the amount requested for this expenditure category.

g. Construction

Construction expenses are prohibited except for the limited purposes set forth in section IX.A.16.b. Any allowable construction or renovation expense should be described in detail in the budget narrative.

h. Telephone

Applicants should include anticipated telephone charges, distinguishing between monthly charges and long distance charges in the budget narrative. Also, applicants should provide the basis used to calculate the monthly and long distance estimates.

i. Postage

Anticipated postage costs for project-related mailings, including distribution of the final product(s), should be described in the budget narrative. The cost of special mailings, such as for a survey or for announcing a workshop, should be distinguished from routine operational mailing costs. The bases for all postage estimates should be included in the budget narrative.

j. Printing/Photocopying

Anticipated costs for printing or photocopying project documents, reports, and publications should be included in the budget narrative, along with the bases used to calculate these estimates.

k. Indirect Costs

Applicants should describe the indirect cost rates applicable to the grant in detail. If costs often included within an indirect cost rate are charged directly (e.g., a percentage of the time of senior managers to supervise project activities), the applicant should specify that these costs are not included within its approved indirect cost rate. These rates must be established in accordance with section X.I.4. If the applicant has an indirect cost rate or allocation plan approved by any Federal granting agency, a copy of the approved rate agreement should be attached to the application.

l. Match

The applicant should describe the source of any matching contribution and the nature of the match provided. Any additional contributions to the project should be described in this section of the budget narrative as well. If in-kind match is to be provided, the applicant should describe how the amount and value of the time, services, or materials actually contributed would be documented for audit purposes. Applicants should be aware that the time spent by participants in education courses does not qualify as in-kind match.

Applicants that do not contemplate making matching contributions continuously throughout the course of the project or on a task-by-task basis must provide a schedule within 30 days after the beginning of the project period indicating at what points during the project period the matching contributions would be made. (See sections III.P., IX.A.8., and X.E.1.)

5. Submission Requirements

a. Every applicant must submit an original and four copies of the application package consisting of FORM A; FORM B, if the application is from a State or local court, or a Disclosure of Lobbying Form, if the applicant is not a unit of State or local government; the Budget Forms (either FORM C or C–1); the Application Abstract; the Program Narrative; the Budget Narrative; and any necessary appendices.

All applications invited by the Institute's Board of Directors must be sent by first class or overnight mail or by courier no later than May 8, 2002. A postmark or courier receipt will constitute evidence of the submission date. Please mark APPLICATION on the application package envelope and send it to: State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314.

Receipt of each application will be acknowledged in writing. Extensions of the deadline for submission of applications will not be granted without good cause.

b. Applicants submitting more than one application may include material that would be identical in each application in a cover letter. This material will be incorporated by reference into each application and counted against the 25-page limit for the program narrative. A copy of the cover letter should be attached to each copy of each application.

B. Continuation Grant Applications

1. Purpose and Scope

Continuation grants are intended to support projects with a limited duration that involve the same type of activities as the previous project. They are intended to enhance the specific program or service produced or established during the prior grant period. They may be used, for example, when a project is divided into two or more sequential phases, for secondary analysis of data obtained in an Institute-supported research project, or for more extensive testing of an innovative technology, procedure, or program developed with SJI grant support. Continuation grants should be distinguished from ongoing support grants, which are awarded to support critically needed long-term national scope projects. See section VII.C. below.

The award of an initial grant to support a project does not constitute a commitment by the Institute to continue funding. For a project to be considered for continuation funding, the grantee must have completed all project tasks and met all grant requirements and conditions in a timely manner, absent extenuating circumstances or prior Institute approval of changes to the project design. Continuation grants are not intended to provide support for a project for which the grantee has underestimated the amount of time or funds needed to accomplish the project tasks.

2. Letters of Intent

In lieu of a concept paper, a grantee seeking a continuation grant must inform the Institute, by letter, of its intent to submit an application for such funding as soon as the need for continued funding becomes apparent but no less than 120 days before the end of the current grant period.

a. A letter of intent must be no more than 3 single-spaced pages on 8½ by 11 inch paper and contain a concise but thorough explanation of the need for continuation; an estimate of the funds to be requested; and a brief description of anticipated changes in the scope, focus, or audience of the project.

b. Within 30 days after receiving a letter of intent, Institute staff will review the proposed activities for the next project period and inform the grantee of specific issues to be addressed in the continuation application and the date by which the application must be submitted.

3. Application Format

An application for a continuation grant must include an application form, budget forms (with appropriate documentation), a project abstract conforming to the format set forth in A.2. of this section, a program narrative, a budget narrative, a Certificate of State Approval—FORM B (Appendix I) if the applicant is a State or local court, a Disclosure of Lobbying Activities form (from applicants other than units of State or local government), and any necessary appendices.

The program narrative should conform to the length and format requirements set forth in section VII.A.3. However, rather than the topics listed there, the program narrative of a continuation application should include:

a. Project Objectives. The applicant should clearly and concisely state what the continuation project is intended to accomplish.

b. Need for Continuation. The applicant should explain why continuation of the project is necessary to achieve the goals of the project, and how the continuation would benefit the participating courts or the courts community generally, by explaining, for example, how the original goals and objectives of the project would be unfulfilled if it were not continued; or how the value of the project would be enhanced by its continuation.

c. Report of Current Project Activities. The applicant should discuss the status of all activities conducted during the previous project period. Applicants should identify any activities that were not completed, and explain why.

d. Evaluation Findings. The applicant should present the key findings, impact, or recommendations resulting from the evaluation of the project, if available, and how they would be addressed during the proposed continuation. If the findings are not yet available, the applicant should provide the date by which they would be submitted to the Institute. Ordinarily, the Board will not consider an application for continuation funding until the Institute has received the evaluator's report.

e. Tasks, Methods, Staff, and Grantee Capability. The applicant should fully describe any changes in the tasks to be performed, the methods to be used, the products of the project, and how and to whom those products would be disseminated, as well as any changes in the assigned staff or the grantee's organizational capacity. Applicants should include, in addition, the criteria and methods by which the proposed continuation project would be evaluated.

f. Task Schedule. The applicant should present a detailed task schedule and timeline for the next project period.

g. Other Sources of Support. The applicant should indicate why other sources of support would be inadequate, inappropriate, or unavailable.

4. Budget and Budget Narrative

The applicant should provide a complete budget and budget narrative conforming to the requirements set forth in VII.A.4. above. Changes in the funding level requested should be discussed in terms of corresponding increases or decreases in the scope of activities or services to be rendered. In addition, the applicant should estimate the amount of grant funds that would remain unobligated at the end of the current grant period.

5. References to Previously Submitted Material

A continuation application should not repeat information contained in a previously approved application or other previously submitted materials, but should provide specific references to such materials where appropriate.

6. Submission Requirements

The submission requirements set forth in section VII.A.5., other than the mailing deadline, apply to continuation applications.

C. Ongoing Support Grants

1. Purpose and Scope

Ongoing support grants are intended to support projects that are national in scope and provide the State courts with services, programs or products for which there is a continuing critical need. An ongoing support grant may also be used to fund longitudinal research that directly benefits the State courts. Ongoing support grants are subject to the limits on size and duration set forth in V.C.2. and V.D.2. The Board will consider awarding an ongoing support grant for a period of up to 36 months. The total amount of the grant will be fixed at the time of the initial award. Funds ordinarily will be made available in annual increments as specified in section V.C.2.

The award of an initial grant to support a project does not constitute a commitment by the Institute to provide ongoing support at the end of the original project period. A project is eligible for consideration for an ongoing support grant if:

a. The project is supported by and has been evaluated under a grant from the Institute;

b. The project is national in scope and provides a significant benefit to the State courts;

c. There is a continuing critical need for the services, programs or products provided by the project, indicated by the level of use and support by members of the court community;

d. The project is accomplishing its objectives in an effective and efficient manner; and

e. It is likely that the service or program provided by the project would be curtailed or significantly reduced without Institute support.

Each ongoing support application must include an evaluation component assessing its effectiveness and operation throughout the grant period. The evaluation should be independent but may be designed collaboratively by the evaluator and the grantee. The design should call for regular feedback from the evaluator to the grantee throughout the project period concerning recommendations for mid-course corrections or improvement of the project, as well as periodic reports to the Institute at relevant points in the project.

An interim evaluation report must be submitted 18 months into the 3-year grant period. The decision to release Institute funds to support the third year of the project will be based on the interim evaluation findings and the applicant's response to any deficiencies noted in the report, as well as the availability of appropriations and the project's consistency with the Institute's priorities.

A final evaluation assessing the effectiveness, operation of, and continuing need for the project must be submitted 90 days before the end of the 3-year project period. In addition, a detailed annual task schedule must be submitted not later than 45 days before the end of the first and second years of the grant period, along with an explanation of any necessary revisions in the projected costs for the remainder of the project period.

2. Letters of Intent

In lieu of a concept paper, an applicant seeking an ongoing support grant must inform the Institute, by letter, of its intent to submit an application for such funding as soon as the need for continuing funding becomes apparent but no less than 120 days before the end of the current grant period. The letter of intent should be in the same format as that prescribed for continuation grants in B.2. of this section.

3. Format

An application for an ongoing support grant must include an application form; budget forms (with appropriate documentation); a Certificate of State Approval—FORM B (Appendix I) if the applicant is a State or local court; a Disclosure of Lobbying Activities form (from applicants other than units of State or local government); a project abstract conforming to the format set forth in A.2. of this section; a program narrative; a budget narrative; and any necessary appendices.

The program narrative should conform to the length and format requirements set forth in A.3. of this section; however, rather than the topics listed there, the program narrative of applications for ongoing support grants should address:

a. Description of Need for and Benefits of the Project. The applicant should provide a detailed discussion of the benefits provided by the project to State courts around the country, including the degree to which State courts, State court judges, or State court managers and personnel are using the services or programs provided by the project.

b. Demonstration of Court Support. The applicant should demonstrate support for the continuation of the project from the courts community.

c. Report on Current Project Activities. The applicant should discuss the extent to which the project has met its goals and objectives, identify any activities that have not been completed, and explain why they have not been completed.

d. Evaluation Findings. The applicant should attach a copy of the final evaluation report regarding the effectiveness, impact, and operation of the project, specify the key findings or recommendations resulting from the evaluation, and explain how they would be addressed during the next three years. Ordinarily, the Board will not consider an application for ongoing support until the Institute has received the evaluator's report.

e. Objectives, Tasks, Methods, Staff, and Grantee Capability. The applicant should describe fully any changes in the objectives; tasks to be performed; the methods to be used; the products of the project; how and to whom those products would be disseminated; the assigned staff; and the grantee's organizational capacity. The grantee also should describe the steps it would take to obtain support from other sources for the continued operation of the project.

f. Task Schedule. The applicant should present a general schedule for the full proposed project period and a detailed task schedule for the first year of the proposed new project period.

g. Other Sources of Support. The applicant should describe what efforts it has taken to secure support for the project from other sources.

4. Budget and Budget Narrative

The applicant should provide a complete three-year budget and budget narrative conforming to the requirements set forth in A.4. of this section, and estimate the amount of grant funds that would remain unobligated at the end of the current grant period. Changes in the funding level requested should be discussed in terms of corresponding increases or decreases in the scope of activities or services to be rendered. A complete budget narrative should be provided for the full project as well as for each year, or portion of a year, for which grant support is requested. The budget should provide for realistic cost-of-living and staff salary increases over the course of the requested project period. Applicants should be aware that the Institute is unlikely to approve a supplemental budget increase for an ongoing support grant in the absence of well-documented, unanticipated factors that would clearly justify the requested increase.

5. References to Previously Submitted Material

An application for an ongoing support grant should not repeat information contained in a previously approved application or other previously submitted materials, but should provide specific references to such materials where appropriate.

6. Submission Requirements

The submission requirements set forth in section VII.A.5., other than the mailing deadline, apply to applications for ongoing support grants.

D. Technical Assistance Grants

1. Purpose and Scope

Technical assistance grants are awarded to State and local courts to obtain the assistance of outside experts in diagnosing, developing, and implementing a response to a particular problem in a jurisdiction.

2. Application Procedures

For a summary of the application procedures for Technical Assistance grants, visit the Institute's web site (www.statejustice.org) and click On-Line Tutorials, then Technical Assistance Grant.

In lieu of formal applications, applicants for Technical Assistance grants may submit, at any time, an original and three copies of a detailed letter describing the proposed project. Letters from an individual trial or appellate court must be signed by the presiding judge or manager of that court. Letters from the State court system must be signed by the Chief Justice or State Court Administrator.

3. Application Format

Although there is no prescribed form for the letter nor a minimum or maximum page limit, letters of application should include the following information:

a. Need for Funding. What is the critical need facing the court? How would the proposed technical assistance help the court meet this critical need? Why cannot State or local resources fully support the costs of the required consultant services?

b. Project Description. What tasks would the consultant be expected to perform, and how would they be accomplished? Which organization or individual would be hired to provide the assistance, and how was this consultant selected? If a consultant has not yet been identified, what procedures and criteria would be used to select the consultant? (Applicants are expected to follow their jurisdictions' normal procedures for procuring consultant services.) What specific tasks would the consultant(s) and court staff undertake? What is the schedule for completion of each required task? What is the time frame for completion of the entire project? How would the court oversee the project and provide guidance to the consultant, and who at the court would be responsible for coordinating all project tasks and submitting quarterly progress and financial status reports?

If the consultant has been identified, the applicant should provide a letter from that individual or organization documenting interest in and availability for the project, as well as the consultant's ability to complete the assignment within the proposed time frame and for the proposed cost. The consultant must agree to submit a detailed written report to the court and the Institute upon completion of the technical assistance.

c. Likelihood of Implementation. What steps have been or would be taken to facilitate implementation of the consultant's recommendations upon completion of the technical assistance? For example, if the support or cooperation of specific court officials or committees, other agencies, funding bodies, organizations, or a court other than the applicant would be needed to adopt the changes recommended by the consultant and approved by the court, how would they be involved in the review of the recommendations and development of the implementation plan?

d. Support for the Project from the State Supreme Court or its Designated Agency or Council. Written concurrence on the need for the technical assistance must be submitted. This concurrence may be a copy of SJI Form B (see Appendix I) signed by the Chief Justice of the State Supreme Court or the Chief Justice's designee, or a letter from the State Chief Justice or designee. The concurrence may be submitted with the applicant's letter or under separate cover prior to consideration of the application. The concurrence also must specify whether the State Supreme Court would receive, administer, and account for the grant funds, if awarded, or would designate the local court or a specified agency or council to receive the funds directly.

4. Budget and Matching State Contribution

A completed Form E, Preliminary Budget (see Appendix H) and budget narrative must be included with the letter requesting technical assistance. The estimated cost of the technical assistance services should be broken down into the categories listed on the budget form rather than aggregated under the Consultant/Contractual category.

The budget narrative should provide the basis for all project-related costs, including the basis for determining the estimated consultant costs, if compensation of the consultant is required (e.g., the number of days per task times the requested daily consultant rate). Applicants should be aware that consultant rates above $300 per day must be approved in advance by the Institute, and that no consultant will be paid more than $900 per day from Institute funds. In addition, the budget should provide for submission of two copies of the consultant's final report to the Institute.

Recipients of Technical Assistance grants do not have to submit an audit but must maintain appropriate documentation to support expenditures. (See section IX.A.3.)

5. Submission Requirements

Letters of application may be submitted at any time; however, all of the letters received during a calendar quarter will be considered at one time. Applicants submitting letters between:

October 1, 2001 and January 11, 2002 will be notified of the Board's decision by March 29, 2002;

January 14, 2002 and March 8, 2002 will be notified by May 31, 2002;

March 11, 2002 and June 7, 2002 will be notified by August 23, 2002; and

June 10 and September 27, 2002 will be notified of the Board's decision by December 6, 2002.

If the support or cooperation of agencies, funding bodies, organizations, or courts other than the applicant would be needed in order for the consultant to perform the required tasks, written assurances of such support or cooperation should accompany the application letter. Support letters also may be submitted under separate cover; however, to ensure that there is sufficient time to bring them to the attention of the Board's Technical Assistance Committee, letters sent under separate cover must be received not less than three weeks prior to the Board meeting at which the technical assistance requests will be considered (i.e., by October 26, 2001, and February 8, April 19, July 5, and October 18, 2002).

E. Judicial Branch Education Technical Assistance Grants

1. Purpose and Scope

Judicial Branch Education Technical Assistance (JBE TA) grants are awarded to State and local courts to support: (1) expert assistance in planning, developing, and administering State judicial branch education programs; and/or (2) replication or modification of a model training program originally developed with Institute funds. Ordinarily, the Institute will support the adaptation of a curriculum once (i.e., with one grant) in a given State.

JBE TA grants may support consultant assistance in developing systematic or innovative judicial branch educational programming. The assistance might include development of improved methods for assessing the need for, and evaluating the quality and impact of, court education programs and their administration by State or local courts; faculty development; and/or topical program presentations. Such assistance may be tailored to address the needs of a particular State or local court or specific categories of court employees throughout a State and, in certain cases, in a region, if sponsored by a court.

2. Application Procedures

For a summary of the application procedures for Judicial Branch Education Technical Assistance grants, visit the Institute's web site (www.statejustice.org) and click on On-Line Tutorials, then Judicial Branch Education Technical Assistance Grant.

In lieu of concept papers and formal applications, applicants should submit an original and three photocopies of a detailed letter.

3. Application Format

Although there is no prescribed format for the letter, or a minimum or maximum page limit, letters of application should include the following information:

a. For on-site consultant assistance:

(1) *Need for Funding.* What is the critical judicial branch educational need facing the court? How would the proposed technical assistance help the court meet this critical need? Why cannot State or local resources fully support the costs of the required consultant services?

(2) *Project Description.* What tasks would the consultant be expected to perform, and how would they be accomplished? Which organization or individual would be hired to provide the assistance, and how was this consultant selected? If a consultant has not yet been identified, what procedures and criteria would be used to select the consultant? (Applicants are expected to follow their jurisdictions' normal procedures for procuring consultant services.) What specific tasks would the consultant(s) and court staff undertake? What is the schedule for completion of each required task? What is the time frame for completion of the entire project? How would the court oversee the project and provide guidance to the consultant, and who at the court would be responsible for coordinating all project tasks and submitting quarterly progress and financial status reports?

If the consultant has been identified, the applicant should provide a letter from that individual or organization documenting interest in and availability for the project, as well as the consultant's ability to complete the assignment within the proposed time frame and for the proposed cost. The consultant must agree to submit a detailed written report to the court and the Institute upon completion of the technical assistance.

(3) *Likelihood of Implementation.* What steps have been or would be taken to facilitate implementation of the consultant's recommendations upon completion of the technical assistance? For example, if the support or cooperation of specific court officials or committees, other agencies, funding bodies, organizations, or a court other than the applicant would be needed to adopt the changes recommended by the consultant and approved by the court, how would they be involved in the review of the recommendations and development of the implementation plan?

(4) *Support for the Project from the State Supreme Court or its Designated Agency or Council.* Written concurrence on the need for the technical assistance must be submitted. This concurrence may be a copy of SJI Form B (see Appendix I) signed by the Chief Justice of the State Supreme Court or the Chief Justice's designee, or a letter from the State Chief Justice or designee. The concurrence may be submitted with the applicant's letter or under separate cover prior to consideration of the application. The concurrence also must specify whether the State Supreme Court would receive, administer, and account for the grant funds, if awarded, or would designate the local court or a specified agency or council to receive the funds directly.

b. For adaptation of a curriculum:

(1) *Project Description.* What is the title of the model curriculum to be adapted and who originally developed it with Institute funding? Why is this education program needed at the present time? What are the project's goals? What are the learning objectives of the adapted curriculum? What program components would be implemented, and what types of modifications, if any, are anticipated in length, format, learning objectives, teaching methods, or content? Who would be responsible for adapting the model curriculum? Who would the participants be, how many would there be, how would they be recruited, and from where would they come (e.g., from across the State, from a single local jurisdiction, from a multi-State region)?

(2) *Need for Funding.* Why are sufficient State or local resources unavailable to fully support the modification and presentation of the model curriculum? What is the potential for replicating or integrating the adapted curriculum in the future using State or local funds, once it has been successfully adapted and tested?

(3) *Likelihood of Implementation.* What is the proposed timeline, including the project start and end dates? On what date(s) would the judicial branch education program be presented? What process would be used to modify and present the program? Who would serve as faculty, and how

were they selected? What measures would be taken to facilitate subsequent presentations of the program? (Ordinarily, an independent evaluation of a curriculum adaptation project is not required; however, the results of any evaluation should be included in the final report.)

(4) *Expressions of Interest by Judges and/or Court Personnel.* Does the proposed program have the support of the court system leadership, and of judges, court managers, and judicial branch education personnel who are expected to attend? (This may be demonstrated by attaching letters of support.)

(5) *Chief Justice's Concurrence.* Local courts should attach a concurrence form signed by the Chief Justice of the State or his or her designee. (See Form B, Appendix I.)

4. Budget and Matching State Contribution

Applicants should attach a copy of budget Form E (see Appendix H) and a budget narrative (see A.4. in this section) that describes the basis for the computation of all project-related costs and the source of the match offered. As with other awards to State or local courts, cash or in-kind match must be provided in an amount equal to at least 50% of the grant amount requested.

5. Submission Requirements

Letters of application may be submitted at any time. However, applicants should allow at least 90 days between the date of submission of a curriculum adaptation request and the date of the proposed program to allow sufficient time for needed planning.

F. Scholarships

1. Purpose and Scope

The purposes of the Institute scholarship program are to enhance the skills, knowledge, and abilities of judges and court managers; enable State court judges and court managers to attend out-of-State educational programs sponsored by national and State providers that they could not otherwise attend because of limited State, local, and personal budgets; and provide States, judicial educators, and the Institute with evaluative information on a range of judicial and court-related education programs.

Scholarships will be granted to individuals only for the purpose of attending an educational program in another State. An applicant may apply for a scholarship for only one educational program during any one application cycle.

Scholarship funds may be used only to cover the costs of tuition and transportation expenses. Transportation expenses may include round-trip coach airfare or train fare. Scholarship recipients are strongly encouraged to take advantage of excursion or other special airfares (e.g., reductions offered when a ticket is purchased 21 days in advance of the travel date or because the traveler is staying over a Saturday night) when making their travel arrangements. Recipients who drive to a program site may receive $.345/mile up to the amount of the advanced-purchase round-trip airfare between their homes and the program sites. Funds to pay tuition and transportation expenses in excess of $1,500 and other costs of attending the program—such as lodging, meals, materials, transportation to and from airports, and local transportation (including rental cars)—at the program site must be obtained from other sources or borne by the scholarship recipient. Scholarship applicants are encouraged to check other sources of financial assistance and to combine aid from various sources whenever possible.

A scholarship is not transferable to another individual. It may be used only for the course specified in the application unless attendance at a different course that meets the eligibility requirements is approved in writing by the Institute. Decisions on such requests will be made within 30 days after the receipt of the request letter.

2. Eligibility Requirements

For a summary of the Scholarship award process, visit the Institute's web site at www.statejustice.org and click on On-Line Tutorials, then Scholarship.

a. Recipients. Scholarships can be awarded only to full-time judges of State or local trial and appellate courts; full-time professional, State, or local court personnel with management responsibilities; and supervisory and management probation personnel in judicial branch probation offices. Senior judges, part-time judges, quasi-judicial hearing officers including referees and commissioners, State administrative law judges, staff attorneys, law clerks, line staff, law enforcement officers, and other executive branch personnel are not eligible to receive a scholarship.

b. Courses. A Scholarship can be awarded only for a course presented in a State other than the one in which the applicant resides or works that is designed to enhance the skills of new or experienced judges and court managers; addresses any of the topics listed in the Institute's Special Interest categories; or is offered by a recognized graduate program for judges or court managers. The annual or mid-year meeting of a State or national organization of which the applicant is a member does not qualify as an out-of-State educational program for scholarship purposes, even though it may include workshops or other training sessions.

Applicants are encouraged not to wait for the decision on a scholarship to register for an educational program they wish to attend.

3. Forms

a. Scholarship Application—FORM S–1 (Appendix G)

The Scholarship Application requests basic information about the applicant and the educational program the applicant would like to attend. It also addresses the applicant's commitment to share the skills and knowledge gained with local court colleagues and to submit an evaluation of the program the applicant attends. The Scholarship Application must bear the original signature of the applicant. Faxed or photocopied signatures will not be accepted.

b. Scholarship Application Concurrence—FORM S–2 (Appendix G)

Judges and court managers applying for Scholarships must submit the written concurrence of the Chief Justice of the State's Supreme Court (or the Chief Justice's designee) on the Institute's Judicial Education Scholarship Concurrence form (see Appendix G). The signature of the presiding judge of the applicant's court cannot be substituted for that of the Chief Justice or the Chief Justice's designee. Court managers, other than elected clerks of court, also must submit a letter of support from their immediate supervisors.

4. Submission Requirements

Scholarship applications must be submitted during the periods specified below:

October 1 and December 3, 2001, for programs beginning between January 1 and March 31, 2002; January 4 and March 4, 2002, for programs beginning between April 1 and June 30, 2002; April 1 and June 3, 2002, for programs beginning between July 1 and September 30, 2002;

July 5 and August 30, 2002, for programs beginning between October 1 and December 31, 2002, and

October 1 and December 2, 2002, for programs beginning between January 1 and March 31, 2003.

No exceptions or extensions will be granted. Applications sent prior to the beginning of an application period will be treated as having been sent one week *after the beginning of that application period.* All the required items must be received for an application to be considered. If the Concurrence form or letter of support is sent separately from the application, the postmark date of the last item to be sent will be used in applying the above criteria.

All applications should be sent by mail or courier (not fax or e-mail) to: Scholarship Program Coordinator, State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314.

VIII. Application Review Procedures

A. Preliminary Inquiries

The Institute staff will answer inquiries concerning application procedures. The staff contact will be named in the Institute's letter acknowledging receipt of the application.

B. Selection Criteria

1. Project, Continuation, and Ongoing Support Grant Applications

a. All applications will be rated on the basis of the criteria set forth below. The Institute will accord the greatest weight to the following criteria:

(1) The soundness of the methodology;

(2) The demonstration of need for the project;

(3) The appropriateness of the proposed evaluation design;

(4) The applicant's management plan and organizational capabilities;

(5) The qualifications of the project's staff;

(6) The products and benefits resulting from the project, including the extent to which the project will have long-term benefits for State courts across the nation;

(7) The degree to which the findings, procedures, training, technology, or other results of the project can be transferred to other jurisdictions;

(8) The reasonableness of the proposed budget;

(9) The demonstration of cooperation and support of other agencies that may be affected by the project; and

(10) The proposed project's relationship to one of the ''Special Interest'' categories set forth in section II.B.

b. For continuation and ongoing support grant applications, the key findings and recommendations of evaluations and the proposed responses to those findings and recommendations also will be considered.

c. In determining which projects to support, the Institute will also consider whether the applicant is a State court, a national court support or education organization, a non-court unit of government, or other type of entity eligible to receive grants under the Institute's enabling legislation (see 42 U.S.C. 10705(6) (as amended) and Section IV. above); the availability of financial assistance from other sources for the project; the amount and nature (cash or in-kind) of the applicant's match; the extent to which the proposed project would also benefit the Federal courts or help State courts enforce Federal constitutional and legislative requirements; and the level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

2. Technical Assistance Grant Applications

Technical Assistance grant applications will be rated on the basis of the following criteria:

a. Whether the assistance would address a critical need of the court;

b. The soundness of the technical assistance approach to the problem;

c. The qualifications of the consultant(s) to be hired, or the specific criteria that will be used to select the consultant(s);

d. The court's commitment to act on the consultant's recommendations; and

e. The reasonableness of the proposed budget.

The Institute also will consider factors such as the level and nature of the match that would be provided, diversity of subject matter, geographic diversity, the level of appropriations available to the Institute in the current year, and the amount expected to be available in succeeding fiscal years.

3. Judicial Branch Education Technical Assistance Grant Applications

Judicial Branch Education Technical Assistance grant applications will be rated on the basis of the following criteria:

a. For on-site consultant assistance:

(1) Whether the assistance would address a critical need of the court;

(2) The soundness of the technical assistance approach to the problem;

(3) The qualifications of the consultant(s) to be hired, or the specific criteria that will be used to select the consultant(s);

(4) The court's commitment to act on the consultant's recommendations; and

(5) The reasonableness of the proposed budget.

b. For curriculum adaptation projects:

(1) The goals and objectives of the proposed project;

(2) The need for outside funding to support the program;

(3) The appropriateness of the approach in achieving the project's educational objectives;

(4) The likelihood of effective implementation and integration of the modified curriculum into the State's or local jurisdiction's ongoing educational programming; and

(5) Expressions of interest by the judges and/or court personnel who would be directly involved in or affected by the project.

The Institute will also consider factors such as the reasonableness of the amount requested, compliance with match requirements, diversity of subject matter, geographic diversity, the level of appropriations available in the current year, and the amount expected to be available in succeeding fiscal years.

4. Scholarships

Scholarships will be awarded on the basis of:

a. The date on which the application and concurrence (and support letter, if required) were received;

b. The unavailability of State or local funds to cover the costs of attending the program or scholarship funds from another source;

c. The absence of educational programs in the applicant's State addressing the topic(s) covered by the educational program for which the scholarship is being sought;

d. Geographic balance among the recipients;

e. The balance of scholarships among educational programs;

f. The balance of scholarships among the types of courts represented; and

g. The level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

The postmark or courier receipt will be used to determine the date on which the application form and other required items were sent.

C. Review and Approval Process

1. Project, Continuation, and Ongoing Support Grant Applications

Applications will be reviewed competitively by the Board of Directors. The Institute staff will prepare a narrative summary of each application and a rating sheet assigning points for each relevant selection criterion. When necessary, applications may also be reviewed by outside experts. Committees of the Board will review applications within assigned program categories and prepare recommendations to the full Board. The full Board of Directors will then decide which applications to approve for grants. The decision to award a grant is solely that of the Board of Directors.

Awards approved by the Board will be signed by the Chairman of the Board on behalf of the Institute.

2. Technical Assistance and Judicial Branch Education Technical Assistance Grant Applications

The Institute staff will prepare a narrative summary of each application and a rating sheet assigning points for each relevant selection criterion. Applications will be reviewed competitively by a committee of the Board of Directors. The Board of Directors has delegated its authority to approve Technical Assistance and Judicial Branch Education Technical Assistance grants to the committee established for each program.

Approved awards will be signed by the Chairman of the Board on behalf of the Institute.

3. Scholarships

Scholarship applications are reviewed quarterly by a committee of the Institute's Board of Directors. The Board of Directors has delegated its authority to approve Scholarships to the committee established for the program.

Approved awards will be signed by the Chairman of the Board on behalf of the Institute.

D. Return Policy

Unless a specific request is made, unsuccessful applications will not be returned. Applicants are advised that Institute records are subject to the provisions of the Federal Freedom of Information Act, 5 U.S.C. 552.

E. Notification of Board Decision

1. The Institute will send written notice to applicants concerning all Board decisions to approve, defer, or deny their respective applications. For all applications (except Scholarships), the Institute also will convey the key issues and questions that arose during the review process. A decision by the Board to deny an application may not be appealed, but it does not prohibit resubmission of a proposal based on that application in a subsequent funding cycle. With respect to awards other than Scholarships, the Institute will also notify the designated State contact listed in Appendix C when grants are approved by the Board to support projects that will be conducted by or involve courts in that State.

2. The Board anticipates acting upon Judicial Branch Education Technical Assistance grant applications requesting adaptations of curricula within 45 days after receipt. Grant funds will be available only after Board approval and negotiation of the final terms of the grant.

3. The Institute intends to notify each Scholarship applicant of the Board committee's decision within 30 days after the close of the relevant application period.

F. Response to Notification of Approval

With the exception of those approved for Scholarships, applicants have 30 days from the date of the letter notifying them that the Board has approved their application to respond to any revisions requested by the Board. If the requested revisions (or a reasonable schedule for submitting such revisions) have not been submitted to the Institute within 30 days after notification, the approval may be automatically rescinded and the application presented to the Board for reconsideration.

IX. Compliance Requirements

The State Justice Institute Act contains limitations and conditions on grants, contracts, and cooperative agreements awarded by the Institute. The Board of Directors has approved additional policies governing the use of Institute grant funds. These statutory and policy requirements are set forth below.

A. Recipients of Project Grants

1. Advocacy

No funds made available by the Institute may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities. 42 U.S.C. 10706(b).

2. Approval of Key Staff

If the qualifications of an employee or consultant assigned to a key project staff position are not described in the application or if there is a change of a person assigned to such a position, the recipient must submit a description of the qualifications of the newly assigned person to the Institute. Prior written approval of the qualifications of the new person assigned to a key staff position must be received from the Institute before the salary or consulting fee of that person and associated costs may be paid or reimbursed from grant funds.

3. Audit

Recipients of project grants must provide for an annual fiscal audit which includes an opinion on whether the financial statements of the grantee present fairly its financial position and its financial operations are in accordance with generally accepted accounting principles. (See section X.K. of the Guideline for the requirements of such audits.) Recipients of scholarships or judicial branch education technical assistance or technical assistance grants are not required to submit an audit, but must maintain appropriate documentation to support all expenditures.

4. Budget Revisions

Budget revisions among direct cost categories that (i) transfer grant funds to an unbudgeted cost category or (ii) individually or cumulatively exceed five percent of the approved original budget or the most recently approved revised budget require prior Institute approval.

5. Conflict of Interest

Personnel and other officials connected with Institute-funded programs must adhere to the following requirements:

a. No official or employee of a recipient court or organization shall participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, grant, cooperative agreement, claim, controversy, or other particular matter in which Institute funds are used, where, to his or her knowledge, he or she or his or her immediate family, partners, organization other than a public agency in which he or she is serving as officer, director, trustee, partner, or employee or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

b. In the use of Institute project funds, an official or employee of a recipient court or organization shall avoid any action which might result in or create the appearance of:

(1) Using an official position for private gain; or

(2) Affecting adversely the confidence of the public in the integrity of the Institute program.

c. Requests for proposals or invitations for bids issued by a recipient of Institute funds or a subgrantee or subcontractor will provide notice to prospective bidders that the contractors who develop or draft specifications, requirements, statements of work, and/or requests for proposals for a proposed procurement will be excluded from bidding on or submitting a proposal to compete for the award of such procurement.

6. Inventions and Patents

If any patentable items, patent rights, processes, or inventions are produced in the course of Institute-sponsored work, such fact shall be promptly and fully reported to the Institute. Unless there is a prior agreement between the grantee and the Institute on disposition of such items, the Institute shall determine whether protection of the invention or discovery shall be sought. The Institute will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administered in order to protect the public interest consistent with ''Government Patent Policy'' (President's Memorandum for Heads of Executive Departments and Agencies, February 18, 1983, and statement of Government Patent Policy).

7. Lobbying

a. Funds awarded to recipients by the Institute shall not be used, indirectly or directly, to influence Executive Orders or similar promulgations by Federal, State or local agencies, or to influence the passage or defeat of any legislation by Federal, State or local legislative bodies. 42 U.S.C. 10706(a).

b. It is the policy of the Board of Directors to award funds only to support applications submitted by organizations that would carry out the objectives of their applications in an unbiased manner. Consistent with this policy and the provisions of 42 U.S.C. 10706, the Institute will not knowingly award a grant to an applicant that has, directly or through an entity that is part of the same organization as the applicant, advocated a position before Congress on the specific subject matter of the application.

8. Matching Requirements

a. All awards to courts or other units of State or local government (not including publicly supported institutions of higher education) require a match from private or public sources of not less than 50% of the total amount of the Institute's award. For example, if the total cost of a project is anticipated to be $150,000, a State court or executive branch agency may request up to $100,000 from the Institute to implement the project. The remaining $50,000 (50% of the $100,000 requested from SJI) must be provided as match. Cash match, non-cash match, or both may be provided, but the Institute will give preference to those applicants that provide a cash match to the Institute's award. (For a further definition of match, see section III.P.)

b. The requirement to provide match may be waived in exceptionally rare circumstances upon the request of the Chief Justice of the highest court in the State and approval by the Board of Directors. 42 U.S.C. 10705(d).

c. Other eligible recipients of Institute funds are not required to provide match, but are encouraged to contribute to meeting the costs of the project. In instances where match is proposed, the grantee is responsible for ensuring that the total amount proposed is actually contributed. If a proposed contribution is not fully met, the Institute may reduce the award amount accordingly, in order to maintain the ratio originally provided for in the award agreement (see section X.E).

9. Nondiscrimination

No person may, on the basis of race, sex, national origin, disability, color, or creed be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity supported by Institute funds. Recipients of Institute funds must immediately take any measures necessary to effectuate this provision.

10. Political Activities

No recipient may contribute or make available Institute funds, program personnel, or equipment to any political party or association, or the campaign of any candidate for public or party office. Recipients are also prohibited from using funds in advocating or opposing any ballot measure, initiative, or referendum. Officers and employees of recipients shall not intentionally identify the Institute or recipients with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office. 42 U.S.C. 10706(a).

11. Products

a. Acknowledgment, Logo, and Disclaimer

(1) Recipients of Institute funds must acknowledge prominently on all products developed with grant funds that support was received from the Institute. The ''SJI'' logo must appear on the front cover of a written product, or in the opening frames of a video product, unless another placement is approved in writing by the Institute. This includes final products printed or otherwise reproduced during the grant period, as well as reprintings or reproductions of those materials following the end of the grant period. A camera-ready logo sheet is available from the Institute upon request.

(2) Recipients also must display the following disclaimer on all grant products: ''This [document, film, videotape, etc.] was developed under [grant/cooperative agreement] number SJI—[insert number] from the State Justice Institute. The points of view expressed are those of the [author(s), filmmaker(s), etc.] and do not necessarily represent the official position or policies of the State Justice Institute.''

b. Charges for Grant-Related Products/ Recovery of Costs

(1) When Institute funds fully cover the cost of developing, producing, and disseminating a product (e.g., a report, curriculum, videotape, or software), the product should be distributed to the field without charge. When Institute funds only partially cover the development, production, or dissemination costs, the grantee may, with the Institute's prior written approval, recover its costs for developing, producing, and disseminating the material to those requesting it, to the extent that those costs were not covered by Institute funds or grantee matching contributions.

(2) Applicants should disclose their intent to sell grant-related products in both the concept paper and the application. Grantees must obtain the written prior approval of the Institute of their plans to recover project costs through the sale of grant products. Written requests to recover costs ordinarily should be received during the grant period and should specify the nature and extent of the costs to be recouped, the reason that such costs were not budgeted (if the rationale was not disclosed in the approved application), the number of copies to be sold, the intended audience for the products to be sold, and the proposed sale price. If the product is to be sold for more than $25, the written request also should include a detailed itemization of costs that will be recovered and a certification that the costs were not supported by either Institute grant funds or grantee matching contributions.

(3) In the event that the sale of grant products results in revenues that exceed the costs to develop, produce, and disseminate the product, the revenue must continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act that have been approved by the Institute. See sections III.T. and X.G. for requirements regarding project-related income realized during the project period.

c. Copyrights

Except as otherwise provided in the terms and conditions of an Institute award, a recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of an Institute-supported project, but the Institute shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the materials for purposes consistent with the State Justice Institute Act.

d. Distribution

In addition to the distribution specified in the grant application, grantees shall send:

(1) Seventeen (17) copies of each final product developed with grant funds to the Institute, unless the product was developed under either a Technical Assistance or a Judicial Branch Education Technical Assistance grant, in which case submission of 2 copies is required;

(2) An electronic version of the product in .html format to the Institute;

(3) A master copy of each videotape produced with grant funds to the Institute; and

(4) One copy of each final product developed with grant funds to the library established in each State to collect materials prepared with Institute support. (A list of the libraries is contained in Appendix D. Labels for these libraries are available on the Institute's web site, www.statejustice.org.) Grantees that develop web-based electronic products must send a hard-copy document to the SJI-designated libraries and other appropriate audiences to alert them to the availability of the web site or electronic product. Recipients of judicial branch education technical assistance and technical assistance grants are not required to submit final products to State libraries.

(5) A press release describing the project and announcing the results to a list of national and State judicial branch organizations provided by the Institute.

e. Institute Approval

No grant funds may be obligated for publication or reproduction of a final product developed with grant funds without the written approval of the Institute. Grantees shall submit a final draft of each written product to the Institute for review and approval. These drafts shall be submitted at least 30 days before the product is scheduled to be sent for publication or reproduction to permit Institute review and incorporation of any appropriate changes agreed upon by the grantee and the Institute. Grantees shall provide for timely reviews by the Institute of videotape or CD–ROM products at the treatment, script, rough cut, and final stages of development or their equivalents, prior to initiating the next stage of product development.

f. Original Material

All products prepared as the result of Institute-supported projects must be originally-developed material unless otherwise specified in the award documents. Material not originally developed that is included in such products must be properly identified, whether the material is in a verbatim or extensive paraphrase format.

12. Prohibition Against Litigation Support

No funds made available by the Institute may be used directly or indirectly to support legal assistance to parties in litigation, including cases involving capital punishment.

13. Reporting Requirements

a. Recipients of Institute funds other than Scholarships must submit Quarterly Progress and Financial Status Reports within 30 days of the close of each calendar quarter (that is, no later than January 30, April 30, July 30, and October 30). Two copies of each report must be sent. The Quarterly Progress Reports shall include a narrative description of project activities during the calendar quarter, the relationship between those activities and the task schedule and objectives set forth in the approved application or an approved adjustment thereto, any significant problem areas that have developed and how they will be resolved, and the activities scheduled during the next reporting period.

b. The quarterly Financial Status Report must be submitted in accordance with section X.H.2. of this Guideline. A final project Progress Report and Financial Status Report shall be submitted within 90 days after the end of the grant period in accordance with section X.L.1. of this Guideline.

14. Research

a. Availability of Research Data for Secondary Analysis

Upon request, grantees must make available for secondary analysis a diskette(s) or data tape(s) containing research and evaluation data collected under an Institute grant and the accompanying code manual. Grantees may recover the actual cost of duplicating and mailing or otherwise transmitting the data set and manual from the person or organization requesting the data. Grantees may provide the requested data set in the format in which it was created and analyzed.

b. Confidentiality of Information

Except as provided by Federal law other than the State Justice Institute Act, no recipient of financial assistance from SJI may use or reveal any research or statistical information furnished under the Act by any person and identifiable to any specific private person for any purpose other than the purpose for which the information was obtained. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

c. Human Subject Protection

All research involving human subjects shall be conducted with the informed consent of those subjects and in a manner that will ensure their privacy and freedom from risk or harm and the protection of persons who are not subjects of the research but would be affected by it, unless such procedures and safeguards would make the research impractical. In such instances, the Institute must approve procedures designed by the grantee to provide human subjects with relevant information about the research after their involvement and to minimize or eliminate risk or harm to those subjects due to their participation.

15. State and Local Court Applications

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council. The Supreme Court or its designee shall receive, administer, and be accountable for all funds awarded on the basis of such an application. 42 U.S.C. 10705(b)(4). Appendix C to this Guideline lists the person to contact in each State regarding the administration of Institute grants to State and local courts.

16. Supplantation and Construction

To ensure that funds are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used for the following purposes:

a. To supplant State or local funds supporting a program or activity (such as paying the salary of court employees who would be performing their normal duties as part of the project, or paying rent for space which is part of the court's normal operations);

b. To construct court facilities or structures, except to remodel existing facilities or to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program; or

c. Solely to purchase equipment.

17. Suspension of Funding

After providing a recipient reasonable notice and opportunity to submit written documentation demonstrating why fund termination or suspension should not occur, the Institute may terminate or suspend funding of a project that fails to comply substantially with the Act, the Guideline, or the terms and conditions of the award. 42 U.S.C. 10708(a).

18. Title to Property

At the conclusion of the project, title to all expendable and nonexpendable personal property purchased with Institute funds shall vest in the recipient court, organization, or individual that purchased the property if certification is made to and approved by the Institute that the property will continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act. If such certification is not made or the Institute disapproves such certification, title to all such property with an aggregate or individual value of $1,000 or more shall vest in the Institute, which will direct the disposition of the property.

B. Recipients of Judicial Branch Education Technical Assistance and Technical Assistance Grants

In addition to the compliance requirements in section IX.A., recipients of Judicial Branch Education Technical Assistance and Technical Assistance grants must comply with the following requirements.

1. Judicial Branch Education Technical Assistance Grantees

Recipients of Judicial Branch Education Technical Assistance grants must:

a. Submit one copy of the manuals, handbooks, conference packets, or consultant's report developed under the grant at the conclusion of the grant period, along with a final report that includes any evaluation results and explains how the grantee intends to present the educational program in the future and/or implement the consultant's recommendations, as well as two copies of the consultant's report; and

b. Complete a Technical Assistance Evaluation Form at the conclusion of the grant period, if appropriate.

2. Technical Assistance Grantees

Recipients of Technical Assistance grants must:

a. Submit to the Institute one copy of a final report that explains how it intends to act on the consultant's recommendations, as well as two copies of the consultant's written report; and

b. Complete a Technical Assistance Evaluation Form at the conclusion of the grant period.

C. Scholarship Recipients

1. Scholarship recipients are responsible for disseminating the information received from the course to their court colleagues locally and, if possible, throughout the State (e.g., by developing a formal seminar, circulating the written material, or discussing the information at a meeting or conference).

Recipients also must submit to the Institute a certificate of attendance at the program, an evaluation of the educational program they attended, and a copy of the notice of any scholarship funds received from other sources. A copy of the evaluation must be sent to the Chief Justice of the Scholarship recipient's State. A State or local jurisdiction may impose additional requirements on scholarship recipients.

2. To receive the funds authorized by a scholarship award, recipients must submit a Scholarship Payment Voucher (Form S3) together with a tuition statement from the program sponsor, and a transportation fare receipt (or statement of the driving mileage to and from the recipient's home to the site of the educational program).

Scholarship Payment Vouchers should be submitted within 90 days after the end of the course which the recipient attended.

3. Scholarship recipients are encouraged to check with their tax advisors to determine whether the scholarship constitutes taxable income under Federal and State law.

X. Financial Requirements

A. Purpose

The purpose of this section is to establish accounting system requirements and offer guidance on procedures to assist all grantees, subgrantees, contractors, and other organizations in:

1. Complying with the statutory requirements for the award, disbursement, and accounting of funds;

2. Complying with regulatory requirements of the Institute for the financial management and disposition of funds;

3. Generating financial data to be used in planning, managing, and controlling projects; and

4. Facilitating an effective audit of funded programs and projects.

B. References

Except where inconsistent with specific provisions of this Guideline, the following circulars are applicable to Institute grants and cooperative agreements under the same terms and conditions that apply to Federal grantees. The circulars supplement the requirements of this section for accounting systems and financial record-keeping and provide additional guidance on how these requirements may be satisfied. (Circulars may be obtained from OMB by calling 202–395–3080 or visiting the OMB website at www.whitehouse.gov/OMB.)

1. Office of Management and Budget (OMB) Circular A–21, Cost Principles for Educational Institutions.

2. Office of Management and Budget (OMB) Circular A–87, Cost Principles for State and Local Governments.

3. Office of Management and Budget (OMB) Circular A–88 (revised), Indirect Cost Rates, Audit and Audit Follow-up at Educational Institutions.

4. Office of Management and Budget (OMB) Circular A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

5. Office of Management and Budget (OMB) Circular A–110, Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

6. Office of Management and Budget (OMB) Circular A–122, Cost Principles for Non-profit Organizations.

7. Office of Management and Budget (OMB) Circular A–128, Audits of State and Local Governments.

8. Office of Management and Budget (OMB) Circular A–133, Audits of Institutions of Higher Education and Other Non-profit Institutions.

C. Supervision and Monitoring Responsibilities

1. Grantee Responsibilities

All grantees receiving awards from the Institute are responsible for the management and fiscal control of all funds. Responsibilities include accounting for receipts and expenditures, maintaining adequate financial records, and refunding expenditures disallowed by audits.

2. Responsibilities of State Supreme Court

a. Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council. (See section III.I.)

b. The State Supreme Court or its designee shall receive all Institute funds awarded to such courts; be responsible for assuring proper administration of Institute funds; and be responsible for all aspects of the project, including proper accounting and financial record-keeping by the subgrantee. These responsibilities include:

(1) Reviewing Financial Operations. The State Supreme Court or its designee should be familiar with, and periodically monitor, its subgrantees' financial operations, records system, and procedures. Particular attention should be directed to the maintenance of current financial data.

(2) Recording Financial Activities. The subgrantee's grant award or contract obligation, as well as cash advances and other financial activities, should be recorded in the financial records of the State Supreme Court or its designee in summary form. Subgrantee expenditures should be recorded on the books of the State Supreme Court OR evidenced by report forms duly filed by the subgrantee. Non-Institute contributions applied to projects by subgrantees should likewise be recorded, as should any project income resulting from program operations.

(3) Budgeting and Budget Review. The State Supreme Court or its designee should ensure that each subgrantee prepares an adequate budget as the basis for its award commitment. The detail of each project budget should be maintained on file by the State Supreme Court.

(4) Accounting for Non-Institute Contributions. The State Supreme Court or its designee will ensure, in those instances where subgrantees are required to furnish non-Institute matching funds, that the requirements and limitations of the SJI Grant Guideline are applied to such funds.

(5) Audit Requirement. The State Supreme Court or its designee is required to ensure that subgrantees have met the necessary audit requirements set forth by the Institute (see sections K. below and IX.A.3.)

(6) Reporting Irregularities. The State Supreme Court, its designees, and its subgrantees are responsible for promptly reporting to the Institute the nature and circumstances surrounding any financial irregularities discovered.

D. Accounting System

The grantee is responsible for establishing and maintaining an adequate system of accounting and internal controls for itself and for ensuring that an adequate system exists for each of its subgrantees and contractors. An acceptable and adequate accounting system:

1. Properly accounts for receipt of funds under each grant awarded and the expenditure of funds for each grant by category of expenditure (including matching contributions and project income);

2. Assures that expended funds are applied to the appropriate budget category included within the approved grant;

3. Presents and classifies historical costs of the grant as required for budgetary and evaluation purposes;

4. Provides cost and property controls to assure optimal use of grant funds;

5. Is integrated with a system of internal controls adequate to safeguard the funds and assets covered, check the accuracy and reliability of the accounting data, promote operational efficiency, and assure conformance with any general or special conditions of the grant;

6. Meets the prescribed requirements for periodic financial reporting of operations; and

7. Provides financial data for planning, control, measurement, and evaluation of direct and indirect costs.

E. Total Cost Budgeting and Accounting

Accounting for all funds awarded by the Institute must be structured and executed on a total project cost basis. That is, total project costs, including Institute funds, State and local matching shares, and any other fund sources included in the approved project budget serve as the foundation for fiscal administration and accounting. Grant applications and financial reports require budget and cost estimates on the basis of total costs.

1. Timing of Matching Contributions

Matching contributions need not be applied at the exact time of the obligation of Institute funds. Ordinarily, the full matching share must be obligated during the award period; however, with the prior written permission of the Institute, contributions made following approval of the grant by the Institute's Board of Directors but before the beginning of the grant may be counted as match. Grantees that do not contemplate making matching contributions continuously throughout the course of a project, or on a task-by-task basis, are required to submit a schedule within 30 days after the beginning of the project period indicating at what points during the project period the matching contributions will be made. If a proposed cash match is not fully met, the Institute may reduce the award amount accordingly to maintain the ratio of grant funds to matching funds stated in the award agreement.

2. Records for Match

All grantees must maintain records which clearly show the source, amount, and timing of all matching contributions. In addition, if a project has included, within its approved budget, contributions which exceed the required matching portion, the grantee must maintain records of those contributions in the same manner as it does Institute funds and required matching shares. For all grants made to State and local courts, the State Supreme Court has primary responsibility for grantee/subgrantee compliance with the requirements of this section. (See section X.C.2. above.)

F. Maintenance and Retention of Records

All financial records, supporting documents, statistical records, and all other records pertinent to grants, subgrants, cooperative agreements, or contracts under grants must be retained by each organization participating in a project for at least three years for purposes of examination and audit. State Supreme Courts may impose record retention and maintenance requirements in addition to those prescribed in this section.

1. Coverage

The retention requirement extends to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, canceled checks, and related documents and records. Source documents include copies of all grant and subgrant awards, applications, and required grantee/subgrantee financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under a grant, subgrant or contract, whether they are employed full-time or part-time. Time and effort reports will be required for consultants.

2. Retention Period

The three-year retention period starts from the date of the submission of the final expenditure report or, for grants which are renewed annually, from the date of submission of the annual expenditure report.

3. Maintenance

Grantees and subgrantees are expected to see that records of different fiscal years are separately identified and maintained so that requested information can be readily located. Grantees and subgrantees are also obligated to protect records adequately against fire or other damage. When records are stored away from the grantee's/subgrantee's principal office, a written index of the location of stored records should be on hand, and ready access should be assured.

4. Access

Grantees and subgrantees must give any authorized representative of the Institute access to and the right to examine all records, books, papers, and documents related to an Institute grant.

G. Project-Related Income

Records of the receipt and disposition of project-related income must be maintained by the grantee in the same manner as required for the project funds that gave rise to the income and must be reported to the Institute. (See section X.H.2. below.) The policies governing the disposition of the various types of project-related income are listed below.

1. Interest

A State and any agency or instrumentality of a State, including institutions of higher education and hospitals, shall not be held accountable for interest earned on advances of project funds. When funds are awarded to subgrantees through a State, the subgrantees are not held accountable for interest earned on advances of project funds. Local units of government and nonprofit organizations that are grantees must refund any interest earned. Grantees shall ensure minimum balances in their respective grant cash accounts.

2. Royalties

The grantee/subgrantee may retain all royalties received from copyrights or other works developed under projects or from patents and inventions, unless the terms and conditions of the grant provide otherwise.

3. Registration and Tuition Fees

Registration and tuition fees shall be used to pay project-related costs not covered by the grant, or to reduce the amount of grant funds needed to support the project. Registration and tuition fees may be used for other purposes only with the prior written approval of the Institute. Estimates of registration and tuition fees, and any expenses to be offset by the fees, should be included in the application budget forms and narrative.

4. Income

From the Sale of Grant Products a. When grant funds fully cover the cost of producing and disseminating a limited number of copies of a product, the grantee may, with the written prior approval of the Institute, sell additional copies reproduced at its expense at a reasonable market price, as long as the income is applied to court improvement projects consistent with the State Justice Institute Act. When grant funds only partially cover the costs of developing, producing, and disseminating a product, the grantee may, with the written prior approval of the Institute, recover costs for developing, reproducing, and disseminating the material to the extent that those costs were not covered by Institute grant funds or grantee matching contributions. If the grantee recovers its costs in this manner, then amounts expended by the grantee to develop, produce, and disseminate the material may not be considered match.

b. If the sale of products occurs during the project period, the costs and income generated by the sales must be reported on the Quarterly Financial Status Reports and documented in an auditable manner. Whenever possible, the intent to sell a product should be disclosed in the concept paper and application or reported to the Institute in writing once a decision to sell products has been made. The grantee must request approval to recover its product development, reproduction, and dissemination costs as specified in section IX.A.11.b.

5. Other

Other project income shall be treated in accordance with disposition instructions set forth in the grant's terms and conditions.

H. Payments and Financial Reporting Requirements

1. Payment of Grant Funds

The procedures and regulations set forth below are applicable to all Institute grant funds and grantees.

a. Request for Advance or Reimbursement of Funds. Grantees will receive funds on a ''check-issued'' basis. Upon receipt, review, and approval of a Request for Advance or Reimbursement by the Institute, a check will be issued directly to the grantee or its designated fiscal agent. A request must be limited to the grantee's immediate cash needs. The Request for Advance or Reimbursement, along with the instructions for its preparation, will be included in the official Institute award package.

b. Continuation and Ongoing Support Awards. For purposes of submitting Requests for Advance or Reimbursement, recipients of continuation and ongoing support grants should treat each grant as a new project and number the requests accordingly (i.e., on a grant rather than a project basis). For example, the first request for payment from a continuation grant or each year of an ongoing support grant would be number 1, the second number 2, etc. (See Appendix B, Questions Frequently Asked by Grantees, for further guidance.)

c. Termination of Advance and Reimbursement Funding. When a grantee organization receiving cash advances from the Institute:

(1) Demonstrates an unwillingness or inability to attain program or project goals, or to establish procedures that will minimize the time elapsing between cash advances and disbursements, or cannot adhere to guideline requirements or special conditions;

(2) Engages in the improper award and administration of subgrants or contracts; or

(3) Is unable to submit reliable and/or timely reports;

The Institute may terminate advance financing and require the grantee organization to finance its operations with its own working capital. Payments to the grantee shall then be made by check to reimburse the grantee for actual cash disbursements. In the event the grantee continues to be deficient, the Institute may suspend reimbursement payments until the deficiencies are corrected.

d. Principle of Minimum Cash on Hand. Grantees should request funds based upon immediate disbursement requirements. Grantees should time their requests to ensure that cash on hand is the minimum needed for disbursements to be made immediately or within a few days. Idle funds in the hands of subgrantees impair the goals of good cash management.

2. Financial Reporting

a. General Requirements. To obtain financial information concerning the use of funds, the Institute requires that grantees/subgrantees submit timely reports for review.

b. Two copies of the Financial Status Report are required from all grantees, other than scholarship recipients, for each active quarter on a calendar-quarter basis. This report is due within 30 days after the close of the calendar quarter. It is designed to provide financial information relating to Institute funds, State and local matching shares, project income, and any other sources of funds for the project, as well as information on obligations and outlays. A copy of the Financial Status Report, along with instructions for its preparation, is included in each official Institute Award package. If a grantee requests substantial payments for a project prior to the completion of a given quarter, the Institute may request a brief summary of the amount requested, by object class, to support the Request for Advance or Reimbursement.

c. Additional Requirements for Continuation and Ongoing Support Grants. Grantees receiving continuation or ongoing support grants should number their quarterly Financial Status Reports on a grant rather than a project basis. For example, the first quarterly report for a continuation grant or each year of an ongoing support award should be number 1, the second number 2, etc.

3. Consequences of Non-Compliance With Submission Requirement

Failure of the grantee to submit required financial and progress reports may result in suspension or termination of grant payments.

I. Allowability of Costs

1. General

Except as may be otherwise provided in the conditions of a particular grant, cost allowability is determined in accordance with the principles set forth in OMB Circular A–21, Cost Principles Applicable to Grants and Contracts with Educational Institutions; A–87, Cost Principles for State and Local Governments; and A–122, Cost Principles for Non-profit Organizations. No costs may be recovered to liquidate obligations incurred after the approved grant period. Circulars may be obtained from OMB by calling 202–395–3080 or visiting the OMB website at www.whitehouse.gov/OMB.

2. Costs Requiring Prior Approval

a. Pre-agreement Costs. The written prior approval of the Institute is required for costs considered necessary but which occur prior to the start date of the project period.

b. Equipment. Grant funds may be used to purchase or lease only that equipment essential to accomplishing the goals and objectives of the project. The written prior approval of the Institute is required when the amount of automated data processing (ADP) equipment to be purchased or leased exceeds $10,000 or software to be purchased exceeds $3,000.

c. Consultants. The written prior approval of the Institute is required when the rate of compensation to be paid a consultant exceeds $300 a day. Institute funds may not be used to pay a consultant more than $900 per day.

d. Budget Revisions. Budget revisions among direct cost categories that (i) transfer grant funds to an unbudgeted cost category or (ii) individually or cumulatively exceed five percent of the approved original budget or the most recently approved revised budget require prior Institute approval. See section XI.A.1.

3. Travel Costs

Transportation and per diem rates must comply with the policies of the grantee. If the grantee does not have an established written travel policy, then travel rates must be consistent with those established by the Institute or the Federal Government. Institute funds may not be used to cover the transportation or per diem costs of a member of a national organization to attend an annual or other regular meeting of that organization.

4. Indirect Costs

These are costs of an organization that are not readily assignable to a particular project but are necessary to the operation of the organization and the performance of the project. The cost of operating and maintaining facilities, depreciation, and administrative salaries are examples of the types of costs that are usually treated as indirect costs. The Institute's policy requires all costs to be budgeted directly; however, if a grantee has an indirect cost rate approved by a Federal agency as set forth below, the Institute will accept that rate.

a. Approved Plan Available. (1) The Institute will accept an indirect cost rate or allocation plan approved for a grantee during the preceding two years by any Federal granting agency on the basis of allocation methods substantially in accord with those set forth in the applicable cost circulars. A copy of the approved rate agreement must be submitted to the Institute.

(2) Where flat rates are accepted in lieu of actual indirect costs, grantees may not also charge expenses normally included in overhead pools, e.g., accounting services, legal services, building occupancy and maintenance, etc., as direct costs.

(3) When utilizing total direct costs as the base, organizations with approved indirect cost rates usually exclude contracts under grants from any overhead recovery. The negotiated agreement will stipulate that contracts are excluded from the base for overhead recovery.

b. Establishment of Indirect Cost Rates. To be reimbursed for indirect costs, a grantee must first establish an appropriate indirect cost rate. To do this, the grantee must prepare an indirect cost rate proposal and submit it to the Institute within three months after the start of the grant period to assure recovery of the full amount of allowable indirect costs. The rate must be developed in accordance with principles and procedures appropriate to the type of grantee institution involved as specified in the applicable OMB Circular.

c. No Approved Plan. If an indirect cost proposal for recovery of actual indirect costs is not submitted to the Institute within three months after the start of the grant period, indirect costs will be irrevocably disallowed for all months prior to the month that the indirect cost proposal is received.

J. Procurement and Property Management Standards

1. Procurement Standards

For State and local governments, the Institute has adopted the standards set forth in Attachment O of OMB Circular A–102. Institutions of higher education, hospitals, and other non-profit organizations will be governed by the standards set forth in Attachment O of OMB Circular A–110.

2. Property Management Standards

The property management standards as prescribed in Attachment N of OMB Circulars A–102 and A–110 apply to all Institute grantees and subgrantees except as provided in section IX.A.18. All grantees/subgrantees are required to be prudent in the acquisition and management of property with grant funds. If suitable property required for the successful execution of projects is already available within the grantee or subgrantee organization, expenditures of grant funds for the acquisition of new property will be considered unnecessary.

K. Audit Requirements

1. Implementation

Each recipient of a grant from the Institute other than a scholarship, technical assistance grant, or judicial branch education technical assistance grant, must provide for an annual fiscal audit. This requirement also applies to a State or local court receiving a subgrant from the State Supreme Court. The audit may be of the entire grantee or subgrantee organization or of the specific project funded by the Institute. Audits conducted in accordance with the Single Audit Act of 1984 and OMB Circular A–128, or OMB Circular A–133, will satisfy the requirement for an annual fiscal audit. The audit must be conducted by an independent Certified Public Accountant, or a State or local agency authorized to audit government agencies. Grantees must send two copies of the audit report to the Institute. Grantees that receive funds from a Federal agency and satisfy audit requirements of the cognizant Federal agency must submit two copies of the audit report prepared for that Federal agency to the Institute in order to satisfy the provisions of this section.

2. Resolution and Clearance of Audit Reports

Timely action on recommendations by responsible management officials is an integral part of the effectiveness of an audit. Each grantee must have policies and procedures for acting on audit recommendations by designating officials responsible for: Follow-up; maintaining a record of the actions taken on recommendations and time schedules; responding to and acting on audit recommendations; and submitting periodic reports to the Institute on recommendations and actions taken.

3. Consequences of Non-Resolution of Audit Issues

Ordinarily, the Institute will not make a new grant award to an applicant that has an unresolved audit report involving Institute awards. Failure of the grantee to resolve audit questions may also result in the suspension or termination of payments for active Institute grants to that organization.

L. Close-Out of Grants

1. Grantee Close-Out Requirements

Within 90 days after the end date of the grant or any approved extension thereof (see section X.L.2. below), the following documents must be submitted to the Institute by grantees (other than scholarship recipients):

a. Financial Status Report. The final report of expenditures must have no unliquidated obligations and must indicate the exact balance of unobligated funds. Any unobligated/unexpended funds will be deobligated from the award by the Institute. Final payment requests for obligations incurred during the award period must be submitted to the Institute prior to the end of the 90-day close-out period. Grantees on a check-issued basis, who have drawn down funds in excess of their obligations/expenditures, must return any unused funds as soon as it is determined that the funds are not required. In no case should any unused funds remain with the grantee beyond the submission date of the final Financial Status Report.

b. Final Progress Report. This report should describe the project activities during the final calendar quarter of the project and the close-out period, including to whom project products have been disseminated; provide a summary of activities during the entire project; specify whether all the objectives set forth in the approved application or an approved adjustment have been met and, if any of the objectives have not been met, explain why not; and discuss what, if anything, could have been done differently that might have enhanced the impact of the project or improved its operation.

These reporting requirements apply at the conclusion of any non-scholarship grant, even when the project will continue under a continuation or ongoing support grant.

2. Extension of Close-out Period

Upon the written request of the grantee, the Institute may extend the close-out period to assure completion of the grantee's close-out requirements. Requests for an extension must be submitted at least 14 days before the end of the close-out period and must explain why the extension is necessary and what steps will be taken to assure that all the grantee's responsibilities will be met by the end of the extension period.

XI. Grant Adjustments

All requests for programmatic or budgetary adjustments requiring Institute approval must be submitted in a timely manner (ordinarily 30 days prior to the implementation of the adjustment being requested) by the project director. All requests for changes from the approved application will be carefully reviewed for both consistency with this Guideline and the enhancement of grant goals and objectives.

A. Grant Adjustments Requiring Prior Written Approval

There are several types of grant adjustments that require the prior written approval of the Institute. Examples of these adjustments include:

1. Budget revisions among direct cost categories that (i) transfer grant funds to an unbudgeted cost category or (ii) individually or cumulatively exceed five percent of the approved original budget or the most recently approved revised budget. See section X.I.2.d.

For continuation and ongoing support grants, funds from the original award may be used during the new grant period and funds awarded through a continuation or ongoing support grant may be used to cover project-related expenditures incurred during the original award period, with the prior written approval of the Institute.

2. A change in the scope of work to be performed or the objectives of the project (see D. below in this section).

3. A change in the project site.

4. A change in the project period, such as an extension of the grant period and/or extension of the final financial or progress report deadline (see E. below).

5. Satisfaction of special conditions, if required.

6. A change in or temporary absence of the project director (see F. and G. below).

7. The assignment of an employee or consultant to a key staff position whose qualifications were not described in the application, or a change of a person assigned to a key project staff position (see section IX.A.2.).

8. A change in or temporary absence of the person responsible for managing and reporting on the grant's finances.

9. A change in the name of the grantee organization.

10. A transfer or contracting out of grant-supported activities (see H. below).

11. A transfer of the grant to another recipient.

12. Preagreement costs (see section X.I.2.a.).

13. The purchase of automated data processing equipment and software (see section X.I.2.b.).

14. Consultant rates (see section X.I.2.c.).

15. A change in the nature or number of the products to be prepared or the manner in which a product would be distributed.

B. Requests for Grant Adjustments

All grantees must promptly notify their SJI program managers, in writing, of events or proposed changes that may require adjustments to the approved project design. In requesting an adjustment, the grantee must set forth the reasons and basis for the proposed adjustment and any other information the program manager determines would help the Institute's review.

C. Notification of Approval/Disapproval

If the request is approved, the grantee will be sent a Grant Adjustment signed by the Executive Director or his designee. If the request is denied, the grantee will be sent a written explanation of the reasons for the denial.

D. Changes in the Scope of the Grant

Major changes in scope, duration, training methodology, or other significant areas must be approved in advance by the Institute. A grantee may make minor changes in methodology, approach, or other aspects of the grant to expedite achievement of the grant's objectives with subsequent notification of the SJI program manager.

E. Date Changes

A request to change or extend the grant period must be made at least 30 days in advance of the end date of the grant. A revised task plan should accompany a request for a no-cost extension of the grant period, along with a revised budget if shifts among budget categories will be needed. A request to change or extend the deadline for the final financial report or final progress report must be made at least 14 days in advance of the report deadline (see section X.L.2.).

F. Temporary Absence of the Project Director

Whenever an absence of the project director is expected to exceed a continuous period of one month, the plans for the conduct of the project director's duties during such absence must be approved in advance by the Institute. This information must be provided in a letter signed by an authorized representative of the grantee/subgrantee at least 30 days before the departure of the project director, or as soon as it is known that the project director will be absent. The grant may be terminated if arrangements are not approved in advance by the Institute.

G. Withdrawal of/Change in Project Director

If the project director relinquishes or expects to relinquish active direction of the project, the Institute must be notified immediately. In such cases, if the grantee/subgrantee wishes to terminate the project, the Institute will forward procedural instructions upon notification of such intent. If the grantee wishes to continue the project under the direction of another individual, a statement of the candidate's qualifications should be sent to the Institute for review and approval. The grant may be terminated if the qualifications of the proposed individual are not approved in advance by the Institute.

H. Transferring or Contracting Out of Grant-Supported Activities

No principal activity of a grant-supported project may be transferred or contracted out to another organization without specific prior approval by the Institute. All such arrangements must be formalized in a contract or other written agreement between the parties involved. Copies of the proposed contract or agreement must be submitted for prior approval of the Institute at the earliest possible time. The contract or agreement must state, at a minimum, the activities to be performed, the time schedule, the policies and procedures to be followed, the dollar limitation of the agreement, and the cost principles to be followed in determining what costs, both direct and indirect, will be allowed. The contract or other written agreement must not affect the grantee's overall responsibility for the direction of the project and accountability to the Institute.

David I. Tevelin,

Executive Director.

Appendix A—Recommendations to Grant Writers

Over the past 15 years, the Institute staff has reviewed approximately 4,000 concept papers and 1,750 applications. On the basis of those reviews, inquiries from applicants, and the views of the Board, the Institute offers the following recommendations to help potential applicants present workable, understandable proposals that can meet the funding criteria set forth in this Guideline.

The Institute suggests that applicants make certain that they address the questions and issues set forth below when preparing a concept paper or application. Concept papers and applications should, however, be presented in the formats specified in sections VI. and VII. of the Guideline, respectively.

1. What is the subject or problem you wish to address?

Describe the subject or problem and how it affects the courts and the public. Discuss how your approach will improve the situation or advance the state of the art or knowledge, and explain why it is the most appropriate approach to take. When statistics or research findings are cited to support a statement or position, the source of the citation should be referenced in a footnote or a reference list.

2. What do you want to do?

Explain the goal(s) of the project in simple, straightforward terms. The goals should describe the intended consequences or expected overall effect of the proposed project (e.g., to enable judges to sentence drug-abusing offenders more effectively, or to dispose of civil cases within 24 months), rather than the tasks or activities to be conducted (e.g., hold 3 training sessions, or install a new computer system).

To the greatest extent possible, an applicant should avoid a specialized vocabulary that is not readily understood by the general public. Technical jargon does not enhance a paper, nor does a clever but uninformative title.

3. How will you do it?

Describe the methodology carefully so that what you propose to do and how you would do it are clear. All proposed tasks should be set forth so that a reviewer can see a logical progression of tasks, and relate those tasks directly to the accomplishment of the project's goal(s). When in doubt about whether to provide a more detailed explanation or to assume a particular level of knowledge or expertise on the part of the reviewers, provide the additional information. A description of project tasks also will help identify necessary budget items. All staff positions and project costs should relate directly to the tasks described. The Institute encourages applicants to attach letters of cooperation and support from the courts and related agencies that will be involved in or directly affected by the proposed project.

4. How will you know it works?

Include an evaluation component that will determine whether the proposed training, procedure, service, or technology accomplished the objectives it was designed to meet. Concept papers and applications should present the criteria that will be used to evaluate the project's effectiveness; identify program elements that will require further modification; and describe how the evaluation will be conducted, when it will occur during the project period, who will conduct it, and what specific measures will be used. In most instances, the evaluation should be conducted by persons not connected with the implementation of the procedure, training, service, or technique, or the administration of the project.

The Institute has also prepared a more thorough list of recommendations to grant writers regarding the development of project evaluation plans. Those recommendations are available from the Institute upon request.

5. How will others find out about it?

Include a plan to disseminate the results of the training, research, or demonstration beyond the jurisdictions and individuals directly affected by the project. The plan should identify the specific methods which will be used to inform the field about the project, such as the publication of law review or journal articles, or the distribution of key materials. A statement that a report or research findings ''will be made available to'' the field is not sufficient. The specific means of distribution or dissemination as well as the types of recipients should be identified. Reproduction and dissemination costs are allowable budget items.

6. What are the specific costs involved?

The budget in both concept papers and applications should be presented clearly. Major budget categories such as personnel, benefits, travel, supplies, equipment, and indirect costs should be identified separately. The components of ''Other'' or ''Miscellaneous'' items should be specified in the application budget narrative, and should not include set-asides for undefined contingencies.

7. What, if any, match is being offered?

Courts and other units of State and local government (not including publicly-supported institutions of higher education) are required by the State Justice Institute Act to contribute a match (cash, non-cash, or both) of at least 50 percent of the grant funds requested from the Institute. All other applicants also are encouraged to provide a matching contribution to assist in meeting the costs of a project.

The match requirement works as follows: If, for example, the total cost of a project is anticipated to be $150,000, a State or local court or executive branch agency may request up to $100,000 from the Institute to implement the project. The remaining $50,000 (50% of the $100,000 requested from SJI) must be provided as match.

Cash match includes funds directly contributed to the project by the applicant, or by other public or private sources. It does not include income generated from tuition fees or the sale of project products. Non-cash match refers to in-kind contributions by the applicant, or other public or private sources. This includes, for example, the monetary value of time contributed by existing personnel or members of an advisory committee (but not the time spent by participants in an educational program attending program sessions). When match is offered, the nature of the match (cash or in-kind) should be explained and, at the application stage, the tasks and line items for which costs will be covered wholly or in part by match should be specified.

8. Which of the two budget forms should be used?

Section VII.A.1.c. of the SJI Grant Guideline encourages use of the spreadsheet format of Form C1 if the application requests $100,000 or more. Form C1 also works well for projects with discrete tasks, regardless of the dollar value of the project. Form C, the tabular format, is preferred for projects lacking a number of discrete tasks, or for projects requiring less than $100,000 of Institute funding. Generally, use the form that best lends itself to representing most accurately the budget estimates for the project.

9. How much detail should be included in the budget narrative?

The budget narrative of an application should provide the basis for computing all project-related costs, as indicated in section VII.A.4. of the Guideline. To avoid common shortcomings of application budget narratives, applicants should include the following information:

Personnel estimates that accurately provide the amount of time to be spent by personnel involved with the project and the total associated costs, including current salaries for the designated personnel (e.g., Project Director, 50% for one year, annual salary of $50,000 = $25,000). If salary costs are computed using an hourly or daily rate, the annual salary and number of hours or days in a work-year should be shown.

Estimates for supplies and expenses supported by a complete description of the supplies to be used, the nature and extent of printing to be done, anticipated telephone charges, and other common expenditures, with the basis for computing the estimates included (e.g., 100 reports x 75 pages each x .05/page = $375.00). Supply and expense estimates offered simply as ''based on experience'' are not sufficient.

In order to expedite Institute review of the budget, make a final comparison of the amounts listed in the budget narrative with those listed on the budget form. In the rush to complete all parts of the application on time, there may be many last-minute changes; unfortunately, when there are discrepancies between the budget narrative and the budget form or the amount listed on the application cover sheet, it is not possible for the Institute to verify the amount of the request. A final check of the numbers on the form against those in the narrative will preclude such confusion.

10. What travel regulations apply to the budget estimates?

Transportation costs and per diem rates must comply with the policies of the applicant organization, and a copy of the applicant's travel policy should be submitted as an appendix to the application. If the applicant does not have a travel policy established in writing, then travel rates must be consistent with those established by the Institute or the Federal Government (a copy of the Institute's travel policy is available upon request). The budget narrative should state which policies apply to the project.

The budget narrative also should include the estimated fare, the number of persons traveling, the number of trips to be taken, and the length of stay. The estimated costs of travel, lodging, ground transportation, and other subsistence should be listed and explained separately. It is preferable for the budget to be based on the actual costs of traveling to and from the project or meeting sites. If the points of origin or destination are not known at the time the budget is prepared, an average airfare may be used to estimate the travel costs. For example, if it is anticipated that a project advisory committee will include members from around the country, a reasonable airfare from a central point to the meeting site, or the average of airfares from each coast to the meeting site, may be used. Applicants should arrange travel so as to be able to take advantage of advanced-purchase price discounts whenever possible.

11. May grant funds be used to purchase equipment?

Generally, grant funds may be used to purchase only the equipment that is necessary to demonstrate a new technological application in a court, or that is otherwise essential to accomplishing the objectives of the project. The budget narrative must list the equipment to be purchased and explain why the equipment is necessary to the success of the project. The Institute's written prior approval is required when the amount of computer hardware to be purchased or leased exceeds $10,000, or the software to be purchased exceeds $3,000.

12. To what extent may indirect costs be included in the budget estimates?

If an indirect cost rate has been approved by a Federal agency within the last two years, an indirect cost recovery estimate may be included in the budget. A copy of the approved rate agreement should be submitted as an appendix to the application.

If an applicant does not have an approved rate agreement and cannot budget directly for all costs, an indirect cost rate proposal should be prepared in accordance with section X.I.4. of the Guideline, based on the applicant's audited financial statements for the prior fiscal year. (Applicants lacking an audit should budget all project costs directly.)

13. What meeting costs may be covered with grant funds?

SJI grant funds may cover the reasonable cost of meeting rooms, necessary audio-visual equipment, meeting supplies, and working meals.

14. Does the budget truly reflect all costs required to complete the project?

After preparing the program narrative portion of the application, applicants may find it helpful to list all the major tasks or activities required by the proposed project, including the preparation of products, and note the individual expenses, including personnel time, related to each. This will help to ensure that, for all tasks described in the application (e.g., development of a videotape, research site visits, distribution of a final report), the related costs appear in the budget and are explained correctly in the budget narrative.

Appendix B—Questions Frequently Asked by Grantees

The Institute's staff works with grantees to help assure the smooth operation of the project and compliance with the Guideline. On the basis of monitoring more than 1,500 grants, the Institute staff offers the following suggestions to aid grantees in meeting the administrative and substantive requirements of their grants.

1. After the grant has been awarded, when are the first quarterly reports due?

Quarterly Progress Reports and Financial Status Reports must be submitted within 30 days after the end of every calendar quarter—i.e., no later than January 30, April 30, July 30, and October 30—regardless of the project's start date. The reporting periods covered by each quarterly report end 30 days before the respective deadline for the report. When an award period begins December 1, for example, the first quarterly progress report describing project activities between December 1 and December 31 will be due on January 30. A Financial Status Report should be submitted even if funds have not been obligated or expended.

By documenting what has happened over the past three months, quarterly progress reports provide an opportunity for project staff and Institute staff to resolve any questions before they become problems, and make any necessary changes in the project time schedule, budget allocations, etc. The quarterly progress report should describe project activities, their relationship to the approved timeline, and any problems encountered and how they were resolved, and outline the tasks scheduled for the coming quarter. It is helpful to attach copies of relevant memos, draft products, or other requested information. An original and one copy of a quarterly progress report and attachments should be submitted to the Institute.

Additional quarterly progress report or Financial Status Report forms may be obtained from the grantee's Program Manager at SJI, or photocopies may be made from the supply received with the award.

2. Do reporting requirements differ for continuation and ongoing support grants?

Recipients of continuation or ongoing support grants are required to submit quarterly progress and Financial Status Reports on the same schedule and with the same information as recipients of grants for single new projects.

A continuation grant and each yearly grant under an ongoing support award should be considered as a separate phase of the project. The reports should be numbered on a grant rather than project basis. Thus, the first quarterly report filed under a continuation grant or a yearly increment of an ongoing support award should be designated as number one, the second as number two, and so on, through the final progress and Financial Status Reports due within 90 days after the end of the grant period.

3. What information about project activities should be communicated to SJI?

In general, grantees should provide prior notice of critical project events such as advisory board meetings or training sessions so that the Institute Program Manager can attend, if possible. If methodological, schedule, staff, budget allocations, or other significant changes become necessary, the grantee should contact the Program Manager prior to implementing any of these changes, so that possible questions may be addressed in advance. Questions concerning the financial requirements, quarterly financial reporting, or payment requests should be addressed to the Institute's Grants Financial Manager listed in the award letter.

It is helpful to include the grant number assigned to the award on all correspondence to the Institute.

4. Why are special conditions attached to the award document?

Special conditions may be imposed to establish a schedule for reporting certain key information, assure that the Institute has an opportunity to offer suggestions at critical stages of the project, and provide reminders of some (but not necessarily all) of the requirements contained in the Grant Guideline. Accordingly, it is important for grantees to check the special conditions carefully and discuss with their Program Managers any questions or problems they may have with the conditions. Most concerns about timing, response time, and the level of detail required can be resolved in advance through a telephone conversation. The Institute's primary concern is to work with grantees to assure that their projects accomplish their objectives, not to enforce rigid bureaucratic requirements. However, if a grantee fails to comply with a special condition or with other grant requirements, the Institute may, after proper notice, suspend payment of grant funds or terminate the grant.

Sections IX., X., and XI. of the Grant Guideline contain the Institute's administrative and financial requirements. Institute Finance Division staff are always available to answer questions and provide assistance regarding these provisions.

5. What is a Grant Adjustment?

A Grant Adjustment is the Institute's form for acknowledging the satisfaction of special conditions, or approving changes in grant activities, schedule, staffing, sites, or budget allocations requested by the project director. It also may be used to correct errors in grant documents or deobligate funds from the grant.

6. What schedule should be followed in submitting requests for reimbursements or advance payments?

Requests for reimbursements or advance payments may be made at any time after the project start date and before the end of the 90-day close-out period. However, the Institute follows the U.S. Treasury's policy limiting advances to the minimum amount required to meet immediate cash needs. Given normal processing time, grantees should not seek to draw down funds for periods greater than 30 days from the date of the request.

7. Do procedures for submitting requests for reimbursement or advance payment differ for continuation or ongoing support grants?

The basic procedures are the same for any grant. A continuation grant or the yearly grant under an ongoing support award should be considered as a separate phase of the project. Payment requests should be numbered on a grant rather than a project basis. The first request for funds from a continuation grant or a yearly increment under an ongoing support award should be designated as number one, the second as number two, and so on through the final payment request for that grant.

8. If things change during the grant period, can funds be reallocated from one budget category to another?

The Institute recognizes that some flexibility is required in implementing a project design and budget. Thus, grantees may shift funds among direct cost budget categories. When any one reallocation or the cumulative total of reallocations is expected to allocate funds to a previously unbudgeted cost category or to exceed five percent of the approved project budget, a grantee must specify the proposed changes, explain the reasons for the changes, and request prior Institute approval.

The same standard applies to continuation and ongoing support grants. In addition, prior written Institute approval is required to shift leftover funds from the original award to cover activities to be conducted under the renewal award, or to use renewal grant monies to cover costs incurred during the original grant period.

9. What is the 90-day close-out period?

Following the last day of the grant, a 90-day period is provided to allow for all grant-related bills to be received and posted, and grant funds drawn down to cover these expenses. No obligations of grant funds may be incurred during this period. The last day on which an expenditure of grant funds can be obligated is the end date of the grant period. Similarly, the 90-day period is not intended as an opportunity to finish and disseminate grant products. This should occur before the end of the grant period.

During the 90 days following the end of the award period, all monies that have been obligated should be expended. All payment requests must be received by the end of the 90-day ''close-out-period.'' Any unexpended monies held by the grantee that remain after the 90-day follow-up period must be returned to the Institute. Any funds remaining in the grant that have not been drawn down by the grantee will be deobligated.

10. Are funds granted by SJI "Federal" funds?

The State Justice Institute Act provides that, except for purposes unrelated to this question, "the Institute shall not be considered a department, agency, or instrumentality of the Federal Government." 42 U.S.C.10704(c)(1). Because SJI receives appropriations from Congress, some grantee auditors have reported SJI grant funds as "Other Federal Assistance." This classification is acceptable to SJI but is not required.

11. If SJI is not a Federal Agency, do OMB circulars apply with respect to audits?

Unless they are inconsistent with the express provisions of the SJI Grant Guideline, Office of Management and Budget (OMB) Circulars A–110, A–21, A–87, A–88, A–102, A–122, A–128, and A–133 are incorporated into the Grant Guideline by reference. Because the Institute's enabling legislation specifically requires the Institute to "conduct, or require each recipient to provide for, an annual fiscal audit" (see 42 U.S.C. 10711(c)(1)), the Grant Guideline sets forth options for grantees to comply with this statutory requirement. (See Section X.K.)

SJI will accept audits conducted in accordance with the Single Audit Act of 1984 and OMB Circulars A–128 or A–133 to satisfy the annual fiscal audit requirement. Grantees that are required to undertake these audits in conjunction with Federal grants may include SJI funds as part of the audit even if the receipt of SJI funds would not require such audits. This approach gives grantees an option to fold SJI funds into the governmental audit rather than to undertake a separate audit to satisfy SJI's Guideline requirements.

In sum, educational and nonprofit organizations that receive payments from the Institute that are sufficient to meet the applicability thresholds of OMB Circular A–133 must have their annual audit conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States rather than with generally accepted auditing standards. Grantees in this category that receive amounts below the minimum threshold referenced in Circular A–133 must also submit an annual audit to SJI, but they would have the option to conduct an audit of the entire grantee organization in accordance with generally accepted auditing standards; include SJI funds in an audit of Federal funds conducted in accordance with the Single Audit Act of 1984 and OMB Circulars A–128 or A–133; or conduct an audit of only the SJI funds in accordance with generally accepted auditing standards. (See Guideline section X.K.) Circulars may be obtained from OMB by calling 202–395–3080 or visiting the OMB website at www.whitehouse.gov/OMB.

12. Does SJI have a CFDA number?

Auditors often request that a grantee provide the Institute's Catalog of Federal Domestic Assistance (CFDA) number for guidance in conducting an audit in accordance with Government Accounting Standards.

Because SJI is not a Federal agency, it has not been issued such a number, and there are no additional compliance tests to satisfy under the Institute's audit requirements beyond those of a standard governmental audit.

Moreover, because SJI is not a Federal agency, SJI funds should not be aggregated with Federal funds to determine if the applicability threshold of Circular A–133 has been reached. For example, if in fiscal year 1999 grantee "X" received $10,000 in Federal funds from a Department of Justice (DOJ) grant program and $20,000 in grant funds from SJI, the minimum A–133 threshold would not be met. The same distinction would preclude an auditor from considering the additional SJI funds in determining what Federal requirements apply to the DOJ funds.

Grantees who are required to satisfy either the Single Audit Act or OMB Circulars A–128 or A–133, and who include SJI grant funds in those audits, need to remember that because of its status as a private non-profit corporation, SJI is not on routing lists of cognizant Federal agencies. Therefore, the grantee needs to submit a copy of the audit report prepared for such a cognizant Federal agency directly to SJI. The Institute's audit requirements may be found in section X.K. of the Grant Guideline.

Appendix C

List of State Contacts Regarding Administration of Institute Grants to State and Local Courts

Mr. Rich Hobson
Administrative Director of the Courts
Administrative Office of the Courts
300 Dexter Avenue
Montgomery, AL 36104
(334) 242–0825

Ms. Stephanie J. Cole
Administrative Director of the Courts
Alaska Court System
303 K Street
Anchorage, AK 99501
(907) 264–0547

Mr. Eliu F. Paopao
Court Administrator
High Court of American Samoa
P.O. Box 309
Pago Pago, AS 96799
011 (684) 633–1150

Mr. David K. Byers
Administrative Director of the Courts
Supreme Court of Arizona
1501 West Washington Street
Suite 411
Phoenix, AZ 85007
(602) 542–9301

Mr. James D. Gingerich
Director
Administrative Office of the Courts
Supreme Court of Arkansas
Justice Building
Little Rock, AR 72201
(501) 682–9400

Mr. William C. Vickrey
State Court Administrator
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94102
(415) 865–4235

Honorable Gerald (Jerry) A. Marroney
State Court Administrator
Office of the State Court Administrator
Colorado Judicial Department
1301 Pennsylvania Street
Suite 300
Denver, CO 80203
(303) 837–3668

Honorable Joseph H. Pellegrino
Chief Court Administrator
Supreme Court of Connecticut
231 Capitol Avenue
Hartford, CT 06106
(860) 757–2100

Dennis B. Jones
State Court Administrator
Administrative Office of the Courts
820 N. French Street, 11th Floor
Wilmington, DE 19801
(302) 577–8271

Ms. Anne B. Wicks
Executive Officer
District of Columbia Courts
500 Indiana Avenue, N.W., Suite 1500
Washington, D.C. 20001
(202) 879–1700

State Courts Administrator
Florida Supreme Court Building
500 South Duval Street
Tallahassee, FL 32399–1900
(850) 922–5081

Mr. David L. Ratley
Director
Administrative Office of the Courts
244 Washington Street, S.W., Suite 300
Atlanta, GA 30334
(404) 656–5171

Mr. Daniel J. Tydingco
Executive Officer
Supreme Court of Guam
Guam Judicial Center
120 West O'Brien Drive
Hagatna, Guam 96910–5174 011 (671) 475–3278

Mr. Michael F. Broderick
Administrative Director of the Courts
The Judiciary, State of Hawaii
417 S. King Street, Room 206
Honolulu, HI 96813
(808) 539–4900

Ms. Patricia Tobias
Administrative Director of the Courts
Supreme Court Building
451 West State Street (Zip Code 83702)
Post Office Box 83720
Boise, ID 83720–0101
(208) 334–2246

Mr. Joseph A. Schillaci
Director
Administrative Office of the Illinois Courts
222 N. LaSalle Street, 13th Floor
Chicago, IL 60601
(312) 793–3250

Ms. Lilia G. Judson
Executive Director
Division of State Court Administration
Indiana Supreme Court
115 W. Washington, Suite 1080
Indianapolis, IN 46204–3417
(317) 232–2542

Mr. William J. O'Brien
State Court Administrator
Supreme Court of Iowa

State House
Des Moines, IA 50319
(515) 281–5241

Dr. Howard P. Schwartz
Judicial Administrator
Kansas Judicial Center
301 S.W. Tenth Street
Topeka, KS 66612
(785) 296–4873

Ms. Cicely Jaracz Lambert
Director
Administrative Office of the Courts
100 Millcreek Park
Frankfort, KY 40601
(502) 573–2350

Dr. Hugh M. Collins
Judicial Administrator
Supreme Court of Louisiana
1555 Poydras Street, Suite 1540
New Orleans, LA 70112–3701
(504) 568–5747

Mr. James T. Glessner
State Court Administrator
Administrative Office of the Courts
P.O. Box 4820
62 Elm Street
Portland, ME 04112–4820
(207) 822–0792

Mr. Frank Broccolina
State Court Administrator
Administrative Office of the Courts
Maryland Judicial Center
580 Taylor Avenue
Annapolis, MD 21401
(410) 260–1290

Honorable Barbara A. Dortch-Okara
Chief Justice for Administration and Management
Administrative Office of the Trial Courts
Two Center Plaza, Fifth Floor, Room 540
Boston, MA 02108
(617) 742–8575

Mr. John D. Ferry, Jr.
State Court Administrator
State Court Administrative Office
309 N. Washington Square
P.O. Box 30048
Lansing, MI 48909
(517) 373–2222

Ms. Sue K. Dosal
State Court Administrator
Supreme Court of Minnesota
135 Minnesota Judicial Center
25 Constitution Avenue
St. Paul, MN 55155
(651) 296–2474

Mr. Stephen J. Kirchmayr
Director
Administrative Office of the Courts
450 High Street
4th Floor, Gartin Building (Zip Code 39201)
P.O. Box 117
Jackson, MS 39205–0117
(601) 359–3697

Mr. Michael L. Buenger
State Court Administrator
Supreme Court of Missouri
P.O. Box 104480
Jefferson City, MO 65110
(573) 751–4377

Ms. Lisa D. Smith
Acting Supreme Court Administrator
Supreme Court of Montana
215 North Sanders, Room 315
Post Office Box 203002
Helena, MT 59620
(406) 444–2621

Mr. Joseph C. Steele
State Court Administrator
Administrative Office of the Courts/Probation
State Capitol Building, Room 1220
Post Office Box 98910
Lincoln, NE 68509–8910
(404) 471–3730

Ms. Karen Kavanau
State Court Administrator
Administrative Office of the Courts
Supreme Court Building
201 South Carson Street, Suite 250
Carson City, NV 89701–4702
(775) 684–1717

Mr. Donald Goodnow
Director
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(603) 271–2521

Honorable Richard J. Williams
Administrative Director
Administrative Office of the Courts
Post Office Box 037 RJH Justice Complex
25 Market Street
Trenton, NJ 08625
(609) 292–1747

Mr. Michael Hall
Interim Director
Administrative Office of the Courts
237 Don Gaspar, Room 25
Sante Fe, NM 87501–2178
(505) 827–4800

Honorable Jonathan Lippman
Chief Administrative Judge
New York State Unified Court System
Office of Court Administration
25 Beaver Street
New York, NY 10004
(212) 428–2100

Honorable Robert Hobgood
Director
North Carolina Administrative Office of the Courts
2 East Morgan Street (Zip Code 27601)
Post Office Box 2448
Raleigh, NC 27602
(919) 733–7107

Mr. Keithe E. Nelson
State Court Administrator
Supreme Court of North Dakota
State Capitol Building
600 East Boulevard Avenue, Dept. 180
Bismarck, ND 58505–0530
(701) 328–4216

Ms. Margarita M. Palacios
Director of Courts
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Guma Hustisia, First Floor
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Saipan, MP 96950
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Mr. Steven C. Hollon
Administrative Director
Supreme Court of Ohio
State Office Tower
30 East Broad Street
Columbus, OH 43266–0419
(614) 466–2653

Mr. Howard W. Conyers
Administrative Director of the Courts
1925 N. Stiles, Suite 305
Oklahoma City, OK 73105
(405) 521–2450

Ms. Kingsley W. Click
State Court Administrator
Office of the State Court Administrator
Supreme Court Building
Salem, OR 97301–2563
(503) 986–5500

Mr. Zygmont A. Pines
Court Administrator
Administrative Office of Pennsylvania Courts
Supreme Court of Pennsylvania
1515 Market Street, Suite 1414
Philadelphia, PA 19102
(215) 560–6337

Ms. Mercedes M. Bauermeister
Administrative Director of the Courts
General Court of Justice
Office of Court Administration
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San Juan, PR 00919–0917
(787) 641–6623

Mr. John Barrette
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Ms. Rosalyn Woodson Frierson
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1015 Sumter Street, Suite 200
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Mr. D. J. Hanson
State Court Administrator
Unified Judicial System
500 East Capitol Avenue
Pierre, SD 57501–5070
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Ms. Cornelia A. Clark
Director
Administrative Office of the Courts
Tennessee Supreme Court
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Nashville, TN 37219
(615) 741–2687

Mr. Jerry L. Benedict
Director
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Tom C. Clark State Courts Building
Post Office Box 12066 (Zip Code 78711–2066)
205 West 14th Street, Suite 600
Austin, TX 78701
(512) 463–1625

Mr. Daniel Becker
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Post Office Box 140241
Salt Lake City, UT 84114–0241
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Mr. Lee Suskin
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Ms. Glenda L. Lake
Territorial Court of the Virgin Islands
Alexander A. Farrelly Justice Center

P.O. Box 70
Charlotte Amalie
St. Thomas, VI 00804
(340) 774–6680

Mr. Robert N. Baldwin
State Court Administrator
Supreme Court of Virginia
100 North Ninth Street, 3rd Floor
Richmond, VA 23219
(804) 786–6455

Ms. Mary Campbell McQueen
State Court Administrator
Supreme Court of Washington
Temple of Justice
P.O. Box 41174
Olympia, WA 98504–1174
(360) 357–2120

Ms. Barbara H. Allen
Administrative Director
West Virginia Supreme Court of Appeals
Building 1, Room E–100
State Capitol
1900 Kanawha Boulevard East
Charleston, WV 25305
(304) 558–0145

Mr. J. Denis Moran
Director of State Courts
119 Martin Luther King Jr. Blvd., Room LL2 (Zip Code 53703)
P.O. Box 1688
Madison, WI 53701–1688b
(608) 266–6828

Ms. Holly A. Hansen
State Court Administrator
Supreme Court of Wyoming
Supreme Court Building
2301 Capital Avenue
Cheyenne, WY 82002
(307) 777–7480

Appendix D

SJI Libraries: Designated Sites and Contacts

Alabama

Supreme Court Library

Mr. Timothy A. Lewis
State Law Librarian
Alabama Supreme Court Bldg.
300 Dexter Avenue
Montgomery, AL 36104
(334) 242–4347

Alaska

Anchorage Law Library

Ms. Cynthia S. Fellows
State Law Librarian
Alaska Court Libraries
820 W. Fourth Ave.

Anchorage, AK 99501

(907) 264–0583

Arizona

State Law Library

Ms. Gladys Ann Wells
Collection Development, Research Division
Arizona Dept. of Library,
Archives and Public Records
State Law Library
1501 W. Washington
Phoenix, AZ 85007
(602) 542–4035

Arkansas

Administrative Office of the Courts

Mr. James D. Gingerich
Director
Administrative Office of the Courts
Supreme Court of Arkansas
Justice Building
Little Rock, AR 72201
(501) 682–9400

California

Administrative Office of the Courts

Mr. William C. Vickrey
Administrative Director of the Courts
Administrative Office of the Courts
455 Golden Gate Avenue
San Francisco, CA 94107
(415) 865–4200

Colorado

Supreme Court Library

Ms. Lois Calvert
Supreme Court Law Librarian
Colorado State Judicial Building
2 East 14th Avenue
Denver, CO 80203
(303) 837–3720

Connecticut

State Library

Ms. Denise D. Jernigan
State Librarian
Connecticut State Library 231 Capital Avenue
Hartford, CT 06106
(860) 566–2516

Delaware

Administrative Office of the Courts

Mr. Michael E. McLaughlin
Deputy Director
Administrative Office of the Courts
Carvel State Office Building
820 North French Street
11th Floor
P.O. Box 8911
Wilmington, DE 19801
(302) 577–8481

District of Columbia

Executive Office, District of Columbia Courts

Ms. Anne B. Wicks
Executive Officer
District of Columbia Courts
500 Indiana Avenue, N.W., Suite 1500
Washington, D.C. 20001
(202) 879–1700

Florida

Administrative Office of the Courts

Ms. Dee Beranek
Deputy State Courts Administrator
Florida Supreme Court Building
500 South Duval Street
Tallahassee, FL 32399–1900
(850) 922–5081

Georgia

Administrative Office of the Courts

Mr. David Ratley
Director
Administrative Office of the Courts
47 Trinity Avenue, Suite 414
Atlanta, GA 30334
(404) 656–5171

Hawaii

Supreme Court Library

Ms. Ann Koto
State Law Librarian
The Supreme Court Law Library
417 South King St., Room 119
Honolulu, HI 96813
(808) 539–4965

Idaho

AOC Judicial Education Library/State Law Library

Ms. Beth Peterson
State Law Librarian
Idaho State Law Library
Supreme Court Building
451 West State St.
Boise, ID 83720
(208) 334–3316

Illinois

Supreme Court Library

Ms. Brenda Larison
Supreme Court of Illinois Library
200 East Capitol Avenue
Springfield, IL 62701–1791
(217) 782–2425

Indiana

Supreme Court Library

Mr. Dennis Lager
Supreme Court Librarian
Supreme Court Library
State House, Room 316
Indianapolis, IN 46204
(317) 232–2557

Iowa

Administrative Office of the Court

Dr. Jerry K. Beatty
Executive Director
Judicial Education & Planning
Office of the State Court Administrator
State Capital Building
Des Moines, IA 50319–0001
(515) 281–8279

Kansas

Supreme Court Library

Mr. Fred Knecht
Law Librarian
Kansas Supreme Court Library
301 West 10th Street
Topeka, KS 66612
(913) 296–3257

Kentucky

State Law Library

Ms. Marge Jones
State Law Librarian
State Law Library
State Capital, Room 200–A
Frankfort, KY 40601
(502) 564–4848

Louisiana

State Law Library

Ms. Carol Billings
Director
Louisiana Law Library
301 Loyola Avenue
New Orleans, LA 70112

(504) 568–5705

Maine

State Law and Legislative Reference Library

Ms. Lynn E. Randall
State Law Librarian
43 State House Station
Augusta, ME 04333
(207) 287–1600

Maryland

State Law Library

Mr. Michael S. Miller
Director
Maryland State Law Library
Court of Appeal Building
361 Rowe Boulevard
Annapolis, MD 21401
(410) 260–1430

Massachusetts

Middlesex Law Library

Ms. Sandra Lindheimer
Librarian
Middlesex Law Library
Superior Court House
40 Thorndike Street
Cambridge, MA 02141
(617) 494–4148

Michigan

Michigan Judicial Institute

Mr. Kevin Bowling
Director
Michigan Judicial Institute
222 Washington Square North
P.O. Box 30205
Lansing, MI 48909
(517) 334–7805

Minnesota

State Law Library (Minnesota Judicial Center)

Mr. Marvin R. Anderson
State Law Librarian
Supreme Court of Minnesota
25 Constitution Avenue
St. Paul, MN 55155
(612) 297–2084

Mississippi

Mississippi Judicial College

Mr. Leslie Johnson
Director
University of Mississippi
P.O. Box 8850
University, MS 38677
(601) 232–5955

Montana

State Law Library

Ms. Judith Meadows
State Law Librarian
State Law Library of Montana
215 North Sanders
Helena, MT 59620
(406) 444–3660

Nebraska

Administrative Office of the Courts

Mr. Joseph C. Steele
State Court Administrator
Administrative Office of the Courts/Probation
State Capitol Building, Room 1220
Post Office Box 98910
Lincoln, NE 68509–8910
(402) 471–3730

Nevada

National Judicial College

Mr. Randall Snyder
Law Librarian
National Judicial College
Judicial College Building
University of Nevada
Reno, NV 89550
(775) 784–6747

New Hampshire

New Hampshire Law Library

Ms. Christine Swan
Law Librarian
New Hampshire Law Library
Supreme Court Building
One Noble Drive
Concord, NH 03301–6160
(603) 271–3777

New Jersey

New Jersey State Library

Ms. Marjorie Garwig
Supervising Law Librarian
New Jersey State Law Library
185 West State Street
P.O. Box 520
Trenton, NJ 08625–0250
(609) 292–6230

New Mexico

Supreme Court Library

Mr. Thaddeus Bejnar
Librarian
Supreme Court Library
Post Office Drawer L
Santa Fe, NM 87504
(505) 827–4850

New York

Supreme Court Library

Ms. Colleen Stella
Principal Law Librarian
New York State Supreme Court Law Library
Onondaga County Court House
401 Montgomery Street
Syracuse, NY 13202
(315) 435–2063

North Carolina

Supreme Court Library

Mr. Thomas P. Davis
Librarian
North Carolina Supreme Court Library
P.O. Box 28006
2 East Morgan Street
Raleigh, NC 27601
(919) 733–3425

North Dakota

Supreme Court Library

Ms. Marcella Kramer
Assistant Law Librarian
Supreme Court Law Library
600 East Boulevard Avenue, Dept. 182
2nd Floor, Judicial Wing
Bismarck, ND 58505–0540
(701) 328–2229

Northern Mariana Islands

Supreme Court of the Northern Mariana Islands

Honorable Miguel Sablan Demapan
Chief Justice
Supreme Court of the Commonwealth of the Northern Mariana Islands
P.O. Box 2165 CK
Saipan, MP 96950
(670) 236–9700

Ohio

Supreme Court Library

Mr. Paul S. Fu
Law Librarian
Supreme Court Law Library
Supreme Court of Ohio
30 East Broad Street
Columbus, OH 43266–0419
(614) 466–2044

Oklahoma

Administrative Office of the Courts

Mr. Howard W. Conyers
Administrative Director of the Courts
1915 North Stiles, Suite 305
Oklahoma City, OK 73105
(405) 521–2450

Oregon

Administrative Office of the Courts

Ms. Kingsley W. Click
State Court Administrator
Office of the State Court Administrator
Supreme Court Building
Salem, OR 97310
(503) 986–5900

Pennsylvania

State Library of Pennsylvania

Ms. Kathy Hale
State Justice Depository
State Library of Pennsylvania
Collection Management
Room G–48 Forum Building
P.O. Box 1601
Harrisburg, PA 17105–1601
(717) 787–5718

Puerto Rico

Office of Court Administration

Alfredo Rivera-Mendoza, Esq.
Director, Area of Planning and Management
Office of Court Administration
P.O. Box 917
Hato Rey, PR 00919

Rhode Island

Roger Williams University

Ms. Gail Winson
Director of the Library
Roger Williams University
School of Law Library
10 Metacom Avenue
Bristol, RI 02809

South Carolina

Coleman Karesh Law Library (University of South Carolina School of Law)

Mr. Steve Hinckley
Library Director
Coleman Karesh Law Library
U. S. C. Law Center
University of South Carolina

Columbia, SC 29208
(803) 777–5944

South Dakota

State Law Library

Librarian
500 East Capitol
Pierre, South Dakota 57501
(605) 773–4898

Tennessee

Tennessee State Law Library

Honorable Cornelia A. Clark
Director
Administrative Office of the Courts
Tennessee Supreme Court
511 Union
Nashville, TN 37243–0607
(615) 741–2687

Texas

State Law Library

Ms. Kay Schleuter
Director, State Law Library
P.O. Box 12367
Austin, TX 78711
(512) 463–1722

U.S. Virgin Islands

Library of the Territorial Court of the Virgin Islands (St. Thomas)

Ms. Glenda L. Lake
Court Administrator
Territorial Court of the Virgin Islands
Post Office Box 70
Charlotte Amalie, St. Thomas
U.S. Virgin Islands 00804

Utah

Utah State Judicial Administration Library

Ms. Debbie Christiansen
Utah State Judicial Administration Library
Administrative Office of the Courts
450 South State
P.O. Box 140241
Salt Lake City, UT 84114–0241
(801) 533–6371

Vermont

Supreme Court of Vermont

Mr. Paul J. Donovan
Law Librarian
Department of Libraries
109 State Street
Montpelier, VT 05609
(802) 828–3278

Virginia

Administrative Office of the Courts

Mr. Robert N. Baldwin
State Court Administrator
Supreme Court of Virginia
100 North Ninth Street, 3rd Floor
Richmond, VA 23219
(804) 786–6455

Washington

Washington State Law Library

Ms. Deborah Norwood
State Law Librarian
Washington State Law Library
Temple of Justice
P.O. Box 40751
Olympia, WA 98504–0751
(360) 357–2136

West Virginia

Administrative Office of the Courts

Law Librarian
West Virginia Supreme Court of Appeals
State Capitol
1900 Kanawha Boulevard East
Building 1, Room E–100
Charleston, WV 25305
(304) 558–2607

Wisconsin

State Law Library

Ms. Jane Colwin
Director of Public Services
State Law Library
310 E. State Capitol
P.O. Box 7881
Madison, WI 53707
(608) 261–2340

Wyoming

Wyoming State Law Library

Ms. Kathleen B. Carlson
Law Librarian
Wyoming State Law Library
Supreme Court Building
2301 Capitol Avenue
Cheyenne, WY 82002
(307) 777–7509

NATIONAL

American Judicature Society

Ms. Clara Wells
Assistant for Information and Library Services
180 North Michigan Avenue, #600
Chicago, IL 60601
(312) 558–6900

National Center for State Courts

Ms. Peggy Rogers
Acquisitions/Serials Librarian
300 Newport Avenue
Williamsburg, VA 23187–8798
(757) 259–1857

JERITT

Dr. Maureen E. Conner
Executive Director
The JERITT Project
1407 S. Harrison
Suite 330 Nisbet
East Lansing, MI 48823–5239
(517) 353–8603
(517) 432–3965 (fax)
e-mail: *connerm@msu.edu*
website: *http://jeritt.msu.edu*

Appendix E—Illustrative List of Technical Assistance Grants

The following list presents examples of the types of technical assistance for which State and local courts can request Institute funding. Please check with the JERITT project (517/353–8603 or *jeritt@msu.edu* for information about other SJI-supported technical assistance projects.

Application of Technology

Technology Plan (Office of the South Dakota State Court Administrator: SJI–99–066)

Children and Families in Court

Expanded Unified Family Court (Ventura County, CA, Superior Court: SJI–01–122)
Trial Court Performance Standards for the Unified Family Court of Delaware (Family Court of Delaware: SJI–98–205)

Court Planning, Management, and Financing

Job Classification and Pay Study of the New Hampshire Courts (New Hampshire Administrative Office of the Courts: SJI–98–011)
A Model for Building and Institutionalizing Judicial Branch Strategic Planning (12th Judicial Circuit, Sarasota, FL: SJI–98–266)
Strategic Planning (Fourth Judicial District Court, Hennepin County, MN: SJI–99–221)
Differentiated Case Management for the Improvement of Civil Case Processing in the Trial Courts of Texas (Texas Office of Court Administration: SJI–99–222)

Dispute Resolution and the Courts

Evaluating the New Mexico Court of Appeals Mediation Program (New Mexico Supreme Court: SJI–00–122)

Improving Public Confidence in the Courts

Mississippi Task Force on Gender Fairness in the Courts (Mississippi Administrative Office of the Courts: SJI–00–108)
Analysis of the Juror Debriefing Project (King County, WA, Superior Court: SJI–00–049)

Improving the Court's Response to Family Violence

New Hampshire Fatality Reviews (New Hampshire Administrative Office of the Courts: SJI–99–142)

Education and Training for Judges and Other Court Personnel

Iowa Supreme Court Advisory Committee on Judicial Branch Education (Iowa State Court Administrator's Office: SJI–01–200)

Appendix F—Illustrative List of Model Curricula

The following list includes examples of model SJI-supported curricula that State judicial educators may wish to adapt for presentation in education programs for judges and other court personnel with the assistance of a Judicial Branch Education Technical Assistance Grant. Please refer to section VII.E. for information on submitting a letter application for a Judicial Branch Education Technical Assistance Grant. A list of all SJI-supported education projects is available on the SJI web site (http://www.statejustice.org). Please also check with the JERITT project (517/353–8603 or http://jeritt.msu.edu) and your State SJI-designated library (see Appendix D) for information on other SJI-supported curricula that may be appropriate for in-State adaptation.

Alternative Dispute Resolution

Judicial Settlement Manual (National Judicial College: SJI–89–089)
Improving the Quality of Dispute Resolution (Ohio State University College of Law: SJI–93–277)
Comprehensive ADR Curriculum for Judges (American Bar Association: SJI–95–002)
Domestic Violence and Custody Mediation (American Bar Association: SJI–96–038)

Court Coordination

Bankruptcy Issues for State Trial Court Judges (American Bankruptcy Institute: SJI–91–027)
Intermediate Sanctions Handbook: Experiences and Tools for Policymakers (Center for Effective Public Policy: IAA–88-NIC–001)
Regional Conference Cookbook: A Practical Guide to Planning and Presenting a Regional Conference on State-Federal Judicial Relationships (U.S. Court of Appeals for the 9th Circuit: SJI–92–087)
Bankruptcy Issues and Domestic Relations Cases (American Bankruptcy Institute: SJI–96–175)

Court Management

Managing Trials Effectively: A Program for State Trial Judges (National Center for State Courts/National Judicial College: SJI–87–066/067, SJI–89–054/055, SJI–91–025/026)
Caseflow Management Principles and Practices (Institute for Court Manage-ment/National Center for State Courts: SJI–87–056)
A Manual for Workshops on Processing Felony Dispositions in Limited Jurisdiction Courts (National Center for State Courts: SJI–90–052)
Managerial Budgeting in the Courts; Performance Appraisal in the Courts; Managing Change in the Courts; Court Automation Design; Case Management for Trial Judges; Trial Court Performance Standards (Institute for Court Management/National Center for State Courts: SJI–91–043)
Strengthening Rural Courts of Limited Jurisdiction and Team Training for Judges and Clerks (Rural Justice Center: SJI–90–014, SJI–91–082)
Interbranch Relations Workshop (Ohio Judicial Conference: SJI–92–079)
Integrating Trial Management and Caseflow Management (Justice Management Institute: SJI–93–214)
Leading Organizational Change (California Administrative Office of the Courts: SJI–94–068)
Privacy Issues in Computerized Court Record Keeping: An Instructional Guide for Judges and Judicial Educators (National Judicial College: SJI–94–015)
Managing Mass Tort Cases (National Judicial College: SJI–94–141)
Employment Responsibilities of State Court Judges (National Judicial College: SJI–95–025)
Caseflow Management; Resources, Budget, and Finance; Visioning and Strategic Planning; Leadership; Purposes and Responsibilities of Courts; Information Management Technology; Human Resources Management; Education, Training, and Development; Public Information and the Media from ''NACM Core Competency Curriculum Guidelines'' (National Association for Court Management: SJI–96–148)
Dealing with the Common Law Courts: A Model Curriculum for Judges and Court Staff (Institute for Court Management/National Center for State Courts: SJI–96–159)
Caseflow Management from ''Innovative Educational Programs for Judges and Court Managers'' (Justice Management Institute: SJI–98–041)

Courts and Communities

Reporting on the Courts and the Law (American Judicature Society: SJI–88–014)
Victim Rights and the Judiciary: A Training and Implementation Project (National Organization for Victim Assistance: SJI–89–083)
National Guardianship Monitoring Project: Trainer and Trainee's Manual (American Association of Retired Persons: SJI–91–013)
Access to Justice: The Impartial Jury and the Justice System and When Implementing the Court-Related Needs of Older People and Persons with Disabilities: An Instructional Guide (National Judicial College: SJI–91–054)
You Are the Court System: A Focus on Customer Service (Alaska Court System: SJI–94–048)
Serving the Public: A Curriculum for Court Employees (American Judicature Society: SJI–96–040)
Courts and Their Communities: Local Planning and the Renewal of Public Trust and Confidence: A California Statewide Conference (California Administrative Office of the Courts: SJI–98–008)
Charting the Course of Public Trust and Confidence in Our Courts (Mid-Atlantic Association for Court Management: SJI–98–208)
Trial Court Judicial Leadership Program: Judges and Court Administrators Serving the Courts and Community (National Center for State Courts: SJI–98–268)
Public Trust and Confidence (Arizona Courts Association: SJI–99–063)

Criminal Process

Search Warrants: A Curriculum Guide for Magistrates (American Bar Association Criminal Justice Section: SJI–88–035)

Diversity, Values, and Attitudes

Troubled Families, Troubled Judges (Brandeis University: SJI–89–071)
The Crucial Nature of Attitudes and Values in Judicial Education (National Council of Juvenile and Family Court Judges: SJI–90–058)
Enhancing Diversity in the Court and Community (Institute for Court Management/National Center for State Courts: SJI–91–043)
Cultural Diversity Awareness in Nebraska Courts from Native American Alternatives to Incarceration Project (Nebraska Urban Indian Health Coalition: SJI–93–028)
Race Fairness and Cultural Awareness Faculty Development Workshop (National Judicial College: SJI–93–063)
A Videotape Training Program in Ethics and Professional Conduct for Nonjudicial Court Personnel and The Ethics Fieldbook: Tool For Trainers (American Judicature Society: SJI–93–068)
Court Interpreter Training Course for Spanish Interpreters (International Institute of Buffalo: SJI–93–075)
Doing Justice: Improving Equality Before the Law Through Literature-Based Seminars for Judges and Court Personnel (Brandeis University: SJI–94–019)
Multi-Cultural Training for Judges and Court Personnel (St. Petersburg Junior College: SJI–95–006)
Ethical Standards for Judicial Settlement: Developing a Judicial Education Module (American Judicature Society: SJI–95–082)
Code of Ethics for the Court Employees of California (California Administrative Office of the Courts: SJI 95–245)
Workplace Sexual Harassment Awareness and Prevention (California Administrative Office of the Courts: SJI 96–089)
Just Us On Justice: A Dialogue on Diversity Issues Facing Virginia Courts (Virginia Supreme Court: SJI–96–150)
When Bias Compounds: Insuring Equal Treatment for Women of Color in the Courts (National Judicial Education Program: SJI 96–161)
When Judges Speak Up: Ethics, the Public, and the Media (American Judicature Society: SJI–96–152)

Family Violence and Gender-Related Violent Crime

National Judicial Response to Domestic Violence: Civil and Criminal Curricula (Family Violence Prevention Fund: SJI–87–061, SJI–89–070, SJI–91–055).
Domestic Violence: A Curriculum for Rural Courts (Rural Justice Center: SJI–88–081)
Judicial Training Materials on Spousal Support; Judicial Training Materials on Child Custody and Visitation (Women Judges' Fund for Justice: SJI–89–062)
Understanding Sexual Violence: The Judicial Response to Stranger and Nonstranger Rape and Sexual Assault (National Judicial Education Program: SJI–92–003, SJI–98–133 [video curriculum])
Domestic Violence & Children: Resolving Custody and Visitation Disputes (Family Violence Prevention Fund: SJI–93–255)
Adjudicating Allegations of Child Sexual Abuse When Custody Is In Dispute (National Judicial Education Program: SJI 95–019)
Handling Cases of Elder Abuse: Interdisciplinary Curricula for Judges and Court Staff (American Bar Association: SJI–93–274)

Health and Science

Environmental Law Resource Handbook (University of New Mexico Institute for Public Law: SJI–92–162)
A Judge's Deskbook on the Basic Philosophies and Methods of Science: Model Curriculum (University of Nevada, Reno: SJI–97–030)

Judicial Education for Appellate Court Judges

Career Writing Program for Appellate Judges (American Academy of Judicial Education: SJI–88–086)
Civil and Criminal Procedural Innovations for Appellate Courts (National Center for State Courts: SJI–94–002)

Judicial Branch Education: Faculty and Program Development

The Leadership Institute in Judicial Education and The Advanced Leadership Institute in Judicial Education (University of Memphis: SJI–91–021)

Faculty Development Instructional Program'' from Curriculum Review (National Judicial College: SJI–91–039)
Resource Manual and Training for Judicial Education Mentors (National Association of State Judicial Educators: SJI–95–233)
Institute for Faculty Excellence in Judicial Education (National Council of Juvenile and Family Court Judges: SJI–96–042; University of Memphis: SJI–01–202)

Orientation, Mentoring, and Continuing Professional Education of Judges and Court Personnel

Legal Institute for Special and Limited Jurisdiction Judges (National Judicial College: SJI–89–043, SJI–91–040)
Pre-Bench Training for New Judges (American Judicature Society: SJI–90–028)
A Unified Orientation and Mentoring Program for New Judges of All Arizona Trial Courts (Arizona Supreme Court: SJI–90–078)
Court Organization and Structure (Institute for Court Management/National Center for State Courts: SJI–91–043)
Judicial Review of Administrative Agency Decisions (National Judicial College: SJI–91–080)
New Employee Orientation Facilitators Guide (Minnesota Supreme Court: SJI–92–155)
Magistrates Correspondence Course (Alaska Court System: SJI–92–156)
Computer-Assisted Instruction for Court Employees (Utah Administrative Office of the Courts: SJI–94–012)
Bench Trial Skills and Demeanor: An Interactive Manual (National Judicial College: SJI 94–058)
Ethical Issues in the Election of Judges (National Judicial College: SJI–94–142)
Caseflow Management; Resources, Budget, and Finance; Visioning and Strategic Planning; Leadership; Purposes and Responsibilities of Courts; Information Management Technology; Human Resources Management; Education, Training, and Development; Public Information and the Media from ''NACM Core Competency Curriculum Guidelines'' (National Association for Court Management: SJI–96–148)
Innovative Approaches to Improving Competencies of General Jurisdiction Judges (National Judicial College: SJI–98–001)
Caseflow Management from ''Innovative Educational Programs for Judges and Court Managers'' (Justice Management Institute: SJI–98–041

Juveniles and Families in Court

Fundamental Skills Training Curriculum for Juvenile Probation Officers (National Council of Juvenile and Family Court Judges: SJI–90–017)
Child Support Across State Lines: The Uniform Interstate Family Support Act from Uniform Interstate Family Support Act: Development and Delivery of a Judicial Training Curriculum (ABA Center on Children and the Law: SJI 94–321)
Juvenile Justice at the Crossroads: Literature-Based Seminars for Judges, Court Personnel, and Community Leaders (Brandeis University: SJI–99–150)

Strategic and Futures Planning

Minding the Courts into the Twentieth Century (Michigan Judicial Institute: SJI–89–029)
An Approach to Long-Range Strategic Planning in the Courts (Center for Public Policy Studies: SJI–91–045)

Substance Abuse

Effective Treatment for Drug-Involved Offenders: A Review & Synthesis for Judges and Court Personnel (Education Development Center, Inc.: SJI–90–051)
Good Times, Bad Times: Drugs, Youth, and the Judiciary (Professional Development and Training Center, Inc.: SJI–91–095)
Gaining Momentum: A Model Curriculum for Drug Courts (Florida Office of the State Courts Administrator: SJI–94–291)
Judicial Response to Substance Abuse: Children, Adolescents, and Families (National Council of Juvenile and Family Court Judges: SJI–95–030)

BILLING CODE 6820–SC–P

Appendix G

SJI Scholarship Application

This application does not serve as a registration for the course. Please contact the education provider.

APPLICANT INFORMATION:

1. Applicant Name: ______________________________
(Last) (First) (MI)

2. Position: ______________________________

3. Name of Court: ______________________________

4. Address: ______________________________
Street/P.O. Box
____
City State Zip Code

5. Telephone No. ______________________________

6. Congressional District: ______________________________

PROGRAM INFORMATION:

7. Course Name: ______________________________

8. Course Dates: ______________________________

9. Course Provider: ______________________________

10. Location Offered: ______________________________

ESTIMATED EXPENSES:

(Please note: Scholarships are limited to tuition and transportation expenses to and from the site of the course up to a maximum of $1,500.)

Tuition: $ ______________ Transportation: $ ______________
(Airfare, train fare, or if you plan to drive, an amount equal to the approximate distance and mileage rate.)

Amount Requested: $______________

Are you seeking/have you received a scholarship for this course from another source?

❑ Yes ❑ No. If so, please specify the source(s) and amounts(s) ______________________________

______________________________.

Form S1 (9/99)

SJI SCHOLARSHIP APPLICATION PAGE 2

ADDITIONAL INFORMATION:

Please attach a current resume or professional summary, and provide the information requested below.
(You may attach additional pages if necessary.)

1. Please describe your need to acquire the skills and knowledge taught in this course.

2. Please describe how this course will benefit you, your court, and the State's courts generally.

3. Is there an educational program currently available through your State on this topic?

4. Are State or local funds available to support your attendance at the proposed course?
   If so, what amount(s) will be provided?

5. How long have you served as a judge or court manager? ____________________

6. How long do you anticipate serving as a judge or court manager, assuming reelection or reappointment?

   ❑ 0-1 year ❑ 2-4 years ❑ 5-7 years ❑ 8-10 years ❑ 11+ years

7. What continuing professional education programs have you attended in the past year? Please indicate which were mandatory (M) and which were non-mandatory (V).

STATEMENT OF APPLICANT'S COMMITMENT

If a scholarship is awarded, I will share the skills and knowledge I have gained with my court colleagues locally, and if possible, Statewide, and I will submit an evaluation of the educational program to the State Justice Institute and to the Chief Justice of my State.

______________________________ Signature ______________ Date

Please return this form and Form S-2 to:

Scholarship Coordinator, State Justice Institute, 1650 King Street, Suite 600, Alexandria Virginia 22314

SJI Scholarship Application

Concurrence

I, ____,
Name of Chief Justice (or Chief Justice's Designee)

have reviewed the application for a scholarship to attend the program entitled

____,

prepared by ____
Name of Applicant

and concur in its submission to the State Justice Institute. The applicant's participation in the program would benefit the State; the applicant's absence to attend the program would not present an undue hardship to the court; public funds are not available to enable the applicant to attend this course; and receipt of a scholarship would not diminish the amount of funds made available by the State for judicial branch education.

____
Signature

____
Name

____
Title

____
Date

Form S2 (9/99)

Appendix H

(Form E)

STATE JUSTICE INSTITUTE

LINE-ITEM BUDGET FORM

For Concept Papers, Judicial Branch Education Technical Assistance & Technical Assistance Grant Requests

Category	**SJI Funds**	**Cash Match**	**In-Kind Match**
Personnel	$__________	$__________	$__________
Fringe Benefits	$__________	$__________	$__________
Consultant/Contractual	$__________	$__________	$__________
Travel	$__________	$__________	$__________
Equipment	$__________	$__________	$__________
Supplies	$__________	$__________	$__________
Telephone	$__________	$__________	$__________
Postage	$__________	$__________	$__________
Printing/Photocopying	$__________	$__________	$__________
Audit	$__________	$__________	$__________
Other	$__________	$__________	$__________
Indirect Costs (%)	$__________	$__________	$__________
TOTAL	$__________	$__________	$__________

PROJECT TOTAL **$**____________

Financial assistance has been or will be sought for this project from the following other sources:

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* Concept papers requesting an accelerated award, Judicial Branch Education Technical Assistance grant requests, and Technical Assistance grant requests should be accompanied by a budget narrative explaining the basis for each line-item listed in the proposed budget.

Appendix I

(Form B)

STATE JUSTICE INSTITUTE

Certificate of State Approval

The ____
Name of State Supreme Court or Designated Agency or Council

has reviewed the application entitled ______________________________

prepared by ____
Name of Applicant

approves its submission to the State Justice Institute, and

[ ] agrees to receive and administer and be accountable for all funds awarded by the Institute pursuant to the application.

[ ] designates ______________________________________
Name of Trial or Appellate Court or Agency

as the entity to receive, administer, and be accountable for all funds awarded by the Institute pursuant to the application.

______________________ ______________________
Signature *Date*

____
Name

____
Title

INSTRUCTIONS

The State Justice Act requires that:

Each application for funding by a State or local court shall be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts. 42 U.S.C. 10705(b)(4).

FORM B should be signed by the Chief Judge or Chief Justice of the State Supreme Court, or by the director of the designated agency or chair of the designated council. If the designated agency or council differs from the designee listed in Appendix I to the State Justice Institute grant Guideline, evidence of the new or additional designation should be attached.

The term "State Supreme Court' refers to the court of last resort of a State. "Designated agency or council" refers to the office or judicial body which is authorized under State law or by delegation from the State Supreme Court to approve applications for funds and to receive, administer and be accountable for those funds.

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BILLING CODE 6820–SC–C

Federal Register

Wednesday,
October 10, 2001

Part IV

Department of Health and Human Services

Administration for Children and Families

Administration for Native Americans; Availability of Financial Assistance; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93587–2002]

Administration for Native Americans: Availability of Financial Assistance

AGENCY: Administration for Native Americans, ACF, DHHS.

ACTION: Announcement of availability of competitive financial assistance to assist eligible applicants in assuring the survival and continuing vitality of their Native American languages.

SUMMARY: The Administration for Native Americans (ANA) announces the availability of Fiscal Year 2002 funds and other available funds for Native American language projects. Financial assistance provided by ANA is designed to assist applicants in designing projects which will promote the survival and continuing vitality of Native American languages. The Administration for Native Americans advises all applicants that grant awards made under this announcement will have a September 30, 2002 project Start Date. Applicants should, therefore develop projects that begin no earlier than this date. The closing date for this announcement is April 5, 2002.

Application Kit: Application kits, approved by the OMB under control number 0980–0204, which expires April 30, 2003. The application kit contains the necessary forms and instructions to apply for a grant under this program announcement. Application kits may be obtained from ANA training and technical assistance providers. ANA employs contractors to provide short-term training and technical assistance (T/TA) to eligible applicants. T/TA is available under these contracts for a wide range of grant application needs; however, the contractors are not authorized to write applications. The (T/TA) is provided at no cost. The ANA Providers serve six areas divided as follows:

Area I—Eastern serves federally recognized Tribes in AL, AR, CT, DC, DE, FL, GA, IL, IN, KY, LA, MA, MD, ME, MI, MN, MS, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WI and WV.

Area II—Central serves federally recognized Tribes in AZ, CO, IA, KS, ND, NE, NM, MO, MT, OK, SD, UT, WY, NV, ID and TX.

Area III—Western serves federally recognized Tribes in CA, OR and WA.

Area IV-Alaska serves all eligible applicants in AK.

Area V—Pacific serves all eligible applicants in Hawaii (HI) and the Pacific Islands of American Samoa (AS), Guam (GU), Northern Mariana Islands (MP), and Palau (PW).

Area VI—National serves all eligible applicants on the mainland United States not served by providers for areas 1 through 5. This includes non-federally recognized Tribes, Urban Indians, off-reservation rural Indian communities, Native Americans served through non-federally recognized urban and consortia arrangements and organizations serving Native Hawaiians and Pacific Island Natives living on the Mainland.

ANA employs contracting firms to provide short-term training and technical assistance (T/TA) to clients in the six identified, geographical regions which are served by ANA. The ANA training and technical assistance (T/TA) contractors and their Geographic Areas are:

Geographic Area I

Eastern

Native American Management Services, Inc., Tonya Parker, Project Director, 6858 Old Dominion Drive, Suite 302, McLean, Va. 22101, (703) 821–2226, Fax (703) 821–3680 or (703) 821–8626, Toll-free 1 (800) 388–7670, E-mail: nams@namsinc.org

Geographic Area II

Central

RJS & Associates, Inc., Dr. Robert J. Swan, C.E.O., RR1, Box 694, BoxElder, Mt. 59521, (406) 395–4727, Fax (406) 395–4759, Toll free 1 (888) 838–4757, Website: http://www.rjsinc.org/region2.html, E-mail: rjsinc@rjsinc.org

Geographic Area III

Western

Development Associates, Inc., E. Robles, Project Director, 1475 North Broadway, Suite 200, Walnut Creek, Ca. 94596, (925) 935–9711, Toll-free 1 (800) 666–9711, Fax (925) 935–0413, Website: http://www.devassoc.com/ana/index.htm, E-mail: ana3@devassoc.com

Geographic Area IV

Alaska

Native American Management Services, Inc., P.J. Wilkins-Bell, Project Director, 11723 Old Glenn Highway, Suite 201, Eagle River, AK (907) 694–5711, Fax (907) 694–5775 Toll-free 1 (877) 770–6230, E-mail: pjbell@gci.com, http://www.anaalaska.org

Geographic Area V

Pacific

Development Associates, Inc., Tom Torres, Project Director 33 South King Street, Suite 315, Honolulu, Hawaii 96813, (808) 536–7767, Fax (808) 536–7797 Toll-free numbers: Inter-island 1 (888) 950–7747, American Samoa 633–1719, Guam 1 (866) 505–1551, Email: ana5@devassoc.com

Geographic Area VI

National

RJS & Associates, Inc., Dr. Robert J. Swan, C.E.O., RR 1, Box 694, Box Elder, Mt. 59521, (406) 395–4757, Fax (406) 395–4759, Toll-free 1 (888) 838–4757, Website:http://www.rjsinc.org/region6.html, E-mail: rjsinc@rjsinc.org

The printed **Federal Register** notice is the only official program announcement. Although reasonable efforts are taken to assure that the files on the ANA World Wide Web Page containing electronic copies of this Program Announcement are accurate and complete; they are provided for information only. The applicant bears sole responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete.

DATES: The closing date for submission of applications is April 5, 2002.

FOR FURTHER INFORMATION CONTACT: Sheila Cooper, Native American Program Specialist, Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, 370 L'Enfant Promenade, Mail Stop HHH 348F, Washington, DC 20447, telephone: (202) 690–5787 or 1–877–922–9262, Fax: (202) 690–7441, or e-mail: scooper@acf.dhhs.gov.

Part I: Supplementary Information

A. Purpose and Availability of Funds

The purpose of this notice is to announce the availability of fiscal year 2002 financial assistance to eligible applicants for the purpose of assisting Native Americans in assuring the survival and continuing vitality of their languages. Financial assistance awards made under this program announcement will be on a competitive basis and the proposals will be reviewed against the evaluation criteria in this announcement. Approximately $2,000,000 in Fiscal Year 2002 has been allocated for category I and II grants. For Category I, Planning Grants (project length: 12 months), the funding level for a budget period of 12 months will be up to $60,000. For Category II, Design and/or Implementation Grants (project length: up to 36 months), the funding level for a budget period of 12 months will be up to $150,000. In accordance with current agency policies, ANA may fund additional highly ranked applications if additional funds become available prior to the next competition.

ANA continues a variety of requirements directed towards enforcing its policy that an eligible grant recipient may only have one active ANA grant awarded from a competitive area at any time. Therefore, while eligible applicants may compete for a Native American language grant in either of the two categories, an applicant may only submit one application and no applicant may receive more than one Native American language grant. All applicants are strongly encouraged to provide a retirement plan fringe benefit for grant-funded employees' salaries up to five (5) percent. Applicants must include sufficient funds for principal representatives, for example; the chief financial officer or project director, from the applicant organization to travel to one post-award grant training and technical assistance conference. This expenditure is mandatory for new grant recipients and optional for grantees that have had ANA grants in the past.

Continuing for fiscal year 2002, under the goals of the Executive Order on tribally controlled colleges and universities (TCU's), TCU's may now independently apply for an ANA Grant without impacting the eligibility of the Tribe to apply. Previously, only one application was accepted, either from the Tribe or the TCU. Now both the Tribe and the TCU may compete for and receive ANA grants at the same time, in the same program(s). Ongoing for fiscal year 2002, are two White House Initiatives relating to Hawaiians and Pacific Islanders, and People with Disabilities. In accordance with the Executive Order on Asian American and Pacific Islanders, ANA encourages greater participation from Hawaiian and Pacific Islander communities. The Executive Order on People with Disabilities encourages all communities to address the needs of people with disabilities in all programs in accordance with the Americans with Disabilities Act (ADA). ANA encourages all Native communities to address the needs of People with Disabilities in all aspects of their programs. ANA also encourages greater participation from Native organizations serving People with Disabilities

B. Background

The Congress has recognized that the history of past policies of the United States toward Indian and other Native American languages has resulted in a dramatic decrease in the number of Native American languages that have survived over the past 500 years. Consequently, the Native American Languages Act (Title 1, Pub. L. 101–477) was enacted to address this decline. This legislation invested the United States government with the responsibility to work together with Native Americans to ensure the survival of cultures and languages unique to Native America. This law declared that it is the policy of the United States to ''preserve, protect and promote the rights and freedom of Native Americans to use, practice and develop Native American languages.'' While the Congress made a significant first step in passing this legislation in 1990, it served only as a declaration of policy. No program initiatives were proposed, nor any funds authorized to enact any significant programs in furtherance of this policy. In 1992, Congressional testimony provided estimates that of the several hundred languages that once existed, about 150 are still spoken or remembered today. However, only 20 are spoken by persons of all ages, 30 are spoken by adults of all ages, about 60 are spoken by middle-aged adults, and 45 are spoken by the most elderly. In response to this testimony, the Congress passed the Native American Languages Act of 1992 (the Act), Pub. L. 102–524, to assist Native Americans in assuring the survival and continuing vitality of their languages. Passage of the Act was an important second step in attempting to ensure the survival and continuation of Native languages, as it provides the basic foundation upon which the tribal nations can rebuild their economic strength and rich cultural diversity. While the Federal government recognizes that substantial loss of Native American languages over the past several hundred years, the nature and magnitude of the status of Native American languages will be better defined when eligible applicants under the Act have completed language assessments. The Administration for Native Americans (ANA) believes that the responsibility for achieving self-sufficiency rests with the governing bodies of Indian Tribes, Alaska Native villages, and in the leadership of Native American groups. This belief supports the ANA principle that the local community and its leadership are responsible for determining goals, setting priorities, and planning and implementing programs that support the community's long-range goals. Therefore, since preserving a language and ensuring its continuation is generally one of the first steps taken toward strengthening a group's identity, activities proposed under this program announcement will contribute to the social development of Native communities and significantly contribute to their efforts toward self-sufficiency.

The Administration for Native Americans recognizes that eligible applicants must have the opportunity to develop their own language plans, technical capabilities, and access to the necessary financial and technical resources in order to assess, plan, develop and implement programs to assure the survival and continuing vitality of their languages. ANA also recognizes that potential applicants may have specialized knowledge and capabilities to address specific language concerns at various levels. This program announcement reflects these special needs and circumstances.

C. ANA Program and Administrative Policies

Applicants must comply with the following programmatic policies:

• Funds will not be awarded for projects addressing dead languages. For purposes of this announcement, dead languages are those languages that are no longer spoken by any tribal member or community member.

• The Commissioner shall determine the repository for copies of products from Native American language grants funded under this program announcement. At the end of the project period, products or project models of Native American languages grants funded by this program announcement should be sent to the designated repository. Federally recognized Indian Tribes are not required to comply with this condition.

Applicants must comply with the following administrative policies:

• Current Native American language grantees whose grant project period extends beyond September 30, 2002, or who have requested an extension of the grant project beyond that date, are not eligible to apply for a grant under the same program area. Current Native American language grantees with project periods beyond September 30, 2002, may not compete for additional Native American language grants.

• Applicants for Category I may propose 12-to 17-month projects; applicants for Category II may propose up to 36-month projects.

- Applicants must describe a locally determined strategy to carry out a proposed project with fundable objectives and activities.
- An application from a federally recognized Tribe, Alaska Native Village or Native American organization must be from the governing body of the Tribe or organization.
- ANA will not accept applications from tribal components which are tribally-authorized divisions of a larger Tribe, unless the application includes a tribal resolution which clearly demonstrates the Tribe's support of the project and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under the Native American languages program both for the current competition and for the duration of the approved grant period, should the application be funded.
- If a federally recognized Tribe or Alaska Native village chooses not to apply, it may support another applicant's project (e.g., a tribal organization) which serves or impacts their reservation. In this case, the applicant must include a tribal resolution that clearly demonstrates the Tribe's approval of the project and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under the Native American languages program both for the current competition and for the duration of the approved grant period, should the application be funded.
- ANA will only accept one application that serves or impacts a reservation, Tribe, or Native American community.
- Any non-profit organization submitting an application must submit proof of its non-profit status in the application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax exempt organizations described in Section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.
- If the applicant, other than a Tribe or an Alaska Native Village government, is proposing a project benefiting Native Americans or Native Alaskans, or both, it must provide assurance that its duly elected or appointed board of directors is representative of the community, to be served. To establish compliance with the requirement in the regulations for a Board representative of the community, applicants should provide information establishing that at least ninety (90) percent of the individuals serving on a non-profit applicant's board fall into one or more of the following categories: (1) a current or past member of the community to be served; (2) a prospective participant or beneficiary of the project to be funded; or (3) have a cultural relationship with the community to be served.
- Organizations incorporating in American Samoa are cautioned that the Samoan government relies exclusively upon IRS determinations of non-profit status; therefore, articles of incorporation approved by the Samoan government do not establish non-profit status for these organizations for the purpose of eligibility for ANA funds.
- Grantees must provide at least 20 percent of the total approved cost of the project. The total approved cost of the project is the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions. Therefore, a project requesting $100,000 in Federal funds must provide a match of at least $25,000 (20% of the total approved $125,000 project cost). Grantees will be held accountable for commitments of non-Federal resources even if over the amount of the required match. Failure to provide the amount will result in disallowance of Federal match.

As per 45 CFR part 74.2, In-Kind contributions are defined as "the value of non-cash contributions provided by non-Federal third parties. Third party in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program."

In addition it may include other Federal funding sources where legislation or regulations authorize using specific types of funds for match; examples follow: Indian Child Welfare funds, through the Department of Interior; Indian Self-Determination and Education Assistance funds, through the Department of Interior and the Department of Health and Human Services; and Community Development Block Grant funds, through the Department of Housing and Urban Development. An itemized budget detailing the applicant's non-Federal share, and its source(s), must be included in an application.

If an applicant plans to charge or otherwise seek credit for indirect costs in its ANA application, a current copy of its Indirect Cost Agreement must be included in the application.

A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program Regulations.

Applications originating from American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands are covered under Section 501(d) of Public Law 95–134, as amended (48 U.S.C. 1469a) under which HHS waives any requirement for matching funds under $200,000 (including in-kind contributions). Therefore, for the grants under this Native American language program, no match is required for grants to these insular areas.

D. Proposed Projects To Be Funded

Category I—Planning Grants

The purpose of a Planning Grant is to conduct an assessment and to develop the plan needed to describe the current status of the language(s) to be addressed and to establish community long-range goal(s) to ensure its survival. Project activities may include, but are not limited to:

- Data collection, compilation, organization and description of current language status through a "formal" method (*e.g.* work performed by a linguist, and/or a language survey conducted by community members) or an "informal" method (e.g. a community consensus of the language status based on elders, tribal scholars, and/or other community members);
- Establishment of community long-range language goals; and
- Acquisition of necessary training and technical assistance to administer the project and achieve project goal(s).

Category II—Design and/or Implementation Grants

The purposes of Design and/or Implementation Grants are (1) so Tribes or communities may design and/or implement a language program to achieve their long-range goal(s); and (2) to accommodate where the Tribe or community is in reaching their long-term language goal(s). Applicants under Category II must be able to document that:

(a) Language information has been collected and analyzed, and that it is current (compiled within 36 months prior to the grant application);

(b) The community has established long-range language goals; and

(c) Community representatives are adequately trained so that the proposed project goals can be achieved.

Category II applications may include purchasing specialized equipment (including audio and video recording equipment, computers, and software) necessary to achieve the project objectives. The applicant must fully justify the need for this equipment and explain how it will be used to achieve the project objectives. The types of projects ANA may fund under Category II include, but are not limited to:

- Establishment and support of a community Native American language project to bring older and younger Native Americans together to facilitate and encourage the teaching of Native American language skills from one generation to another;
- Establishment of a project to train Native Americans to teach Native American languages to others or to enable them to serve as interpreters or translators of such languages;
- Development, printing, and dissemination of materials to be used for the teaching and enhancement of Native American languages;
- Establishment or support of a project to train Native Americans to produce or participate in television or radio programs to be broadcast in Native American languages; and
- Compilation, transcription and analysis of oral testimony to record and preserve Native American languages.

E. Eligible Applicants

- The following organizations are eligible to apply under this competitive area:
- Federally recognized Indian Tribes;
- Consortia of Indian Tribes;
- Incorporated non-federally recognized Tribes;
- Incorporated nonprofit multi-purpose community-based Indian organizations;
- Urban Indian Centers;
- National or regional incorporated nonprofit Native American organizations with Native American community-specific objectives;
- Alaska Native villages as defined in the Alaska Native Claims Settlement Act (ANCSA) and/or nonprofit village consortia;
- Incorporated nonprofit Alaska Native multi-purpose community-based organizations;
- Nonprofit Alaska Native Regional Corporations/Associations in Alaska with village specific projects;
- Nonprofit Native organizations in Alaska with village specific projects;
- Public and nonprofit private agencies serving Native Hawaiians (The populations served may be located on these islands or on the continental United States);
- Public and nonprofit private agencies serving native peoples from Guam, American Samoa, Palau, or the Commonwealth of the Northern Mariana Islands. The populations served may be located on these islands or in the United States; and
- Tribally controlled community colleges, tribally controlled post-secondary vocational institutions; and,
- Native controlled colleges and universities located in Hawaii, Guam, American Samoa, Palau, or the Commonwealth of the Northern Mariana Islands which serve Native American Pacific Islanders.
- Non-profit Alaska Native community entities or tribal governing bodies (Indian Reorganization Act or traditional Councils) as recognized by the Bureau of Indian Affairs.

Further information on eligibility requirements is presented in Part I–C. ANA Program and Administrative Policy. Some important policies found in Part I are highlighted as follows:

Current ANA Native American language grantees whose grant project period ends on or before September 30, 2002 are eligible to apply for a grant award under this program announcement. The Project Period is noted in Block 9 of the ‘‘Financial Assistance Award’’ document.

Applicants for new grants may not have a pending request to extend their existing grant beyond September 30, 2002.

Any non-profit organization submitting an application must submit proof of its non-profit status in the application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax exempt organizations described in Section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State or Tribe in which the corporation or association is domiciled.

If the applicant, other than a Tribe or an Alaska Native Village government, is proposing a project benefiting Native Americans or Alaska Natives, or both, it must provide assurance that its duly elected or appointed board of directors is representative of the community, to be served. To establish compliance with the requirement in the regulations for a Board representative of the community applicants should provide information establishing that at least ninety (90) percent of the individuals serving on a non-profit applicant's board fall into one or more of the following categories: (1) A current or past member of the community to be served; (2) a prospective participant or beneficiary of the project to be funded; or (3) have a cultural relationship with the community to be served. A list of board members with this information including tribal or Village affiliation, is one of the most suitable approaches for demonstrating compliance with this requirement.

Under each competitive area, ANA will only accept one application that serves or impacts a reservation, Tribe, or Native American community. If a federally recognized Tribe or Alaska Native village chooses not to apply, it may support another applicant's project (e.g., a tribal organization) which serves or impacts their reservation. In this case, the applicant must include a tribal resolution which clearly demonstrates the Tribe's approval of the project and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under that specific competitive area both for the current competition and for the duration of the approved grant period.

Participating Organizations: If a tribal organization, or other eligible applicant, decides that the objective of its proposed Native American language project would be accomplished more effectively through a partnership arrangement with a tribal school, college, or university, the applicant shall identify such school, college or university as a participating organization in its application. Under a partnership agreement, the applicant will be responsible for the fiscal, administrative and programmatic management of the grant.

F. Grantee Share of the Project

Grantees must provide at least 20 percent of the total approved cost of the project. The total approved cost of the project is the sum of the Federal share and the non-Federal share. Further information on this requirement is presented in Part I–C. ANA Program and Administrative Policy.

Applications originating from American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands are covered under Section 501(d) of Public Law 95–134, as amended (78 U.S.C. 1469a) under which HHS waives any requirement for matching funds under $200,000 (including in-kind contributions). Therefore, for the ANA grants under these announced programs, no match is required for grants to these insular areas.

G. Review Criteria

The proposed project should address the purposes of the Native American languages stated and described in the section I.B, ''Background'' of this announcement.

The evaluation criteria below are closely inter-related. Points are awarded only to applications which respond to these criteria. Proposed projects will be reviewed on a competitive basis using the following separate sets of evaluation criteria; one set for planning grant applications, the other for design and/or implementation grant applications:

H. Planning Grants

(1) Current Status of Native American Language(s) (15 points)

The application fully describes the current status of Native American language(s) in the community. Since obtaining this data may be part of the planning grant application being reviewed, applicants can meet this requirement by explaining their current language status and providing a detailed description of any circumstances or barriers which have prevented the collection of community language data. If documentation exists, describe it in terms of current language status.

(2) Goals and Available Resources (25 points)

(a) The application describes the proposed project's long-range goals and strategies, including:

- How the specific Native American long-range community goal(s) relate to the proposed project; and
- How the goal(s) fit within the context of the current language status.

(b) The application explains how the community and the tribal government (where one exists) intends to achieve these goals. The type of community served will determine the type of documentation necessary to demonstrate participation. All Tribes and communities, however, must indicate in their application how they intend to involve elders and other community members in their projects and include them in development of language goals and strategies and in evaluation of project outcomes. Ways to demonstrate community and tribal government support for the project include:

- A resolution from Tribes or tribal organizations stating that community involvement has occurred in project planning;
- Community surveys and questionnaires, including those developed to determine the level of community support for tribal resolutions; and
- Minutes of community meetings, tribal presentations and discussion forums;

Applications from National Indian and Native organizations must clearly demonstrate a need for the project, explain how the project was originated, state who the intended beneficiaries will be, and describe how the recipients will actually benefit from the project. National Indian and Native organizations should describe their membership and define how the organization operates.

(c) Available resources (other than ANA and the non-federal share) which will assist and be coordinated with the project are described. These resources should be documented by letters of commitment of resources, and not ''letters of support''.

- ''Letters of support'' merely express another organization's endorsement of a proposed project. Such support letters and related documentation do not indicate a binding commitment, do not establish the authenticity of other resources, and do not offer or bind specific resources to the project.
- ''Letters of commitment'' are binding and specify the nature, amount and conditions under which another agency or organization will support a project funded with ANA funds. These resources may be human, natural or financial, and may include other Federal and non-Federal resources. Applicant statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resources.
- Non-ANA resources should be leveraged to strengthen and broaden the impact of the proposed project in the community. Project designs should explain how those parts of projects which ANA does not fund will be financed through other sources. For example, ANA does not fund construction. Applicants must show the relationship of non-ANA funded activities to those objectives and activities that are funded with ANA grant funds.

If the applicant proposes to enter into a partnership arrangement with a school, college or university, documentation of this commitment must be included in the application.

(3) Project Objectives, Approach and Activities (30 points)

The proposed objectives in the Objective Work Plan(s) relate to the goal to ensure the survival and continuing vitality of Native American language(s). More specifically, together they will achieve for the Tribe or community's language goals for the proposed project. Each Objective Work Plan clearly describes:

- The tribal government's and community's active involvement in the continuing participation of Native American language speakers;
- Measurable or quantifiable results or outcomes;
- How the results or outcomes relate to the community's long-range goals or the establishment of those goals;
- How the project can be accomplished with the available or expected resources during the project period;
- How the main activities will be accomplished;
- Who specifically will conduct the activities under each objective; and
- What the next steps may be after the Planning project is completed.

(4) Organizational Capabilities/ Qualifications (20 points)

(a) The management and administrative structure of the applicant is explained. Evidence of the applicant's ability to manage a project of the proposed scope is well defined. The application clearly demonstrates the successful management of projects of similar scope by the organization and or by the individual designated to manage the project.

(b) Position descriptions and/or resumes of key personnel, including those of consultants, are presented. The position descriptions and/or resumes relate specifically to the staff proposed in the Approach Page and in the proposed budget of the application. Position descriptions very clearly describe the position and its duties and clearly relate to the personnel staffing required to achieve the project objectives. Resumes demonstrate that the proposed staff are qualified to carry out the proposed activities. Either the position descriptions or the resumes contain the qualifications, and/or specialized skills, necessary for overall quality management of the project. Resumes must be included if individuals have been identified for positions in the application.

Note: Applicants are encouraged to give preference to Native Americans in hiring staff and contracting services under an approved ANA grant.

(5) Budget (10 points)

A detailed and fully explained budget is provided for each budget period requested which:

- Identifies and explains each line item, with a well-written justification, in the budget categories in Section B of the Budget Information of the application, including the applicant's non-Federal share and its source. Applicants from American Samoa, Guam, and the Northern Mariana Islands are not required to provide a 20% match for the non-Federal share since the level of funding available for the grants would not invoke a required match for grants to these insular areas. Therefore, applicants from these insular areas may not have points reduced for the lack of matching funds. They are, however, expected to coordinate and organize the delivery of any non-ANA resources they propose for the project, as are all ANA applicants.

• Includes and justifies sufficient cost and other necessary details to facilitate the determination of cost allowability and the relevance of these costs to the proposed project; and

• Requests funds which are appropriate and necessary for the scope of the proposed project.

• Includes sufficient funds for principal representatives from the applicant organization to travel to one post-award grant training and technical assistance conference. This expenditure is mandatory for new grantees and optional for grantees that have had an ANA grant in the past. This travel and training should occur as soon as practical.

• Where implemented, includes an employee fringe benefit budget that provides grant-funded employees with a retirement plan in addition to Social Security. The applicant is strongly encouraged to provide a retirement plan fringe benefit for grant-funded employees' salaries up to five (5) percent.

ANA supports a retirement plan to be a necessary, reasonable and allowable cost in accordance with OMB rules. Minimum standards for an acceptable retirement fringe benefit plan are:

• The plan exists for the exclusive benefit of the participants; funds are to be used for retirement and certain other pre-retirement needs, not for the organization's needs.

• The plan must have a vesting schedule that does not exceed the initial budget period of the ANA grant.

• An alternate proposal may be submitted for review and approval during grant award negotiations. Alternate proposals may include the use of Individual Retirement Accounts, Money Purchase Pension Plans, Defined Benefit Pension Plans, Combination Plans, etc.

II. Design and/or Implementation Grants

(1) Current Status of Native American language(s) (10 points)

(a) The application fully describes the current status of the Native American language to be addressed; current status is defined as data compiled within the previous 48 months. The description of the current status minimally includes the following information:

• Number of speakers.
• Age of speakers.
• Gender of speakers.
• Level(s) of fluency.
• Number of first language speakers (Native language as the first language acquired).
• Number of second language speakers (Native language as the second language acquired).
• Where Native language is used (*e.g.* home, court system, religious ceremonies; church, media, school, governance and cultural activities).
• Source of data (formal and/or informal).
• Rate of language loss or gain.

(b) The application fully describes existing community language or language training programs and projects, if any, in support of the Native American language to be addressed by the proposed project. Existing programs and projects may be formal (*e.g.,* work by a linguist, and/or language survey conducted by community members) or "informal" (*e.g.,* a community consensus of the language status based on elders, tribal scholars, and/or other community members).

The description should answer the following: (1) Has applicant had a community language or language training program within the last 48 months? (2) Within the last 10 years? If so, fully describe the program(s), and include the following:

• Program goals.
• Number of program participants.
• Number of speakers.
• Age range of participants (*e.g.,* 0–5, 6–10, 11–18, etc.).
• Number of language teachers.
• Criteria used to acknowledge competency of language teachers.
• Resources available to the applicant (*e.g.* valid grammars, dictionaries, and orthographies or describe other suitable resources).
• Program achievements.

If applicant has never had a language program, a detailed explanation of what barriers or circumstances prevented the establishment of a community language program should be included.

(2) Goals and Available Resources (20 points)

(a) The application describes the proposed project's long-range goals and strategies, including:

• How the specific Native American long-range community goal(s) relate to the proposed project; and
• How the goal(s) fit within the context of the current language status;
• A clearly delineated strategy to assist in assuring the survival and continued vitality of the Native American languages addressed in the community.

(b) The application explains how the community and the tribal government (where one exists) intend to achieve these goals. The type of community served will determine the type of documentation necessary to demonstrate participation. All Tribes and communities, however, must indicate in their application how they intend to involve elders and other community members in their projects and include them in development of language goals and strategies and in evaluation of project outcomes. Ways to demonstrate community and tribal government support for the project include:

• A resolution from Tribes or tribal organizations stating that community involvement has occurred in project planning;
• Community surveys and questionnaires, including those developed to determine the level of community support for tribal resolutions; and
• Minutes of community meetings, tribal presentations and discussion forums.

Applications from National Indian and Native organizations must clearly demonstrate a need for the project, explain how the project was originated, state who the intended beneficiaries will be, and describe how the recipients will actually benefit from the project. National Indian and Native organizations should describe their membership and define how the organization operates. (c) Available resources (other than ANA and the non-federal share) which will assist and be coordinated with the project are described. These resources should be documented by letters of commitment of resources, and not "letters of support".

• "Letters of support" merely express another organization's endorsement of a proposed project. Such support letters and related documentation do not indicate a binding commitment, do not establish the authenticity of other resources, and do not offer or bind specific resources to the project.

• ‘‘Letters of commitment’’ are binding and specify the nature, amount and conditions under which another agency or organization will support a project funded with ANA funds. These resources may be human, natural or financial, and may include other Federal and non-Federal resources. Applicant statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resources.

• Non-ANA resources should be leveraged to strengthen and broaden the impact of the proposed project in the community. Project designs should explain how those parts of projects which ANA does not fund will be financed through other sources. For example, ANA does not fund construction. Applicants must show the relationship of non-ANA funded activities to those objectives and activities that are funded with ANA grant funds.

If the applicant proposes to enter into a partnership arrangement with a school, college or university, documentation of this commitment must be included in the application.

(3) Project Objectives, Approach and Activities (30 points)

The proposed objectives in the Objective Work Plan(s) relate to the goal to ensure the survival and continuing vitality of Native American language(s). More specifically, together they will achieve for the Tribe or community’s language goals for the proposed project. If the project is for more than one year, the application includes Objective Work Plans for each year (budget period) proposed. Each Objective Work Plan clearly describes:

• The tribal government’s and community’s active involvement in the continuing participation of Native American language speakers;

• Measurable or quantifiable results or outcomes;

• How they relate to the community’s long-range goals or the establishment of those goals;

• How the project can be accomplished with the available or expected resources during the project period;

• How the main activities will be accomplished;

• Who specifically will conduct the activities under each objective; and

• How the project will be completed, become self-sustaining, or be financed by other than ANA funds at the end of the project period.

(4) Organizational capabilities/ Qualifications (15 points)

The management and administrative structure of the applicant is explained. Evidence of the applicant’s ability to manage a project of the proposed scope is well defined. The application clearly demonstrates the successful management of projects of similar scope by the organization and or by the individual designated to manage the project.

Position descriptions and/or resumes of key personnel, including those of consultants, are presented. The position descriptions and/or resumes relate specifically to the staff proposed in the Approach Page and in the proposed budget of the application. Position descriptions very clearly describe the position and its duties and clearly relate to the personnel staffing required to achieve the project objectives.

Resumes demonstrate that the proposed staff are qualified to carry out the proposed activities. Either the position descriptions or the resumes contain the qualifications, and/or specialized skills, necessary for overall quality management of the project. Resumes must be included if individuals have been identified for positions in the application.

Note: Applicants are encouraged to give preference to Native Americans in hiring staff and contracting services under an approved ANA grant.

(5) Budget (10 points)

A detailed and fully explained budget is provided for each budget period requested which: Identifies and explains each line item, with a well-written justification, in the budget categories in Section B of the Budget Information of the application, including the applicant’s non-Federal share and its source. Applicants from American Samoa, Guam, and the Northern Mariana Islands are not required to provide a 20% match for the non-Federal share since the level of funding available for the grants would not invoke a required match for grants to these insular areas. Therefore, applicants from these insular areas may not have points reduced for the lack of matching funds. They are, however, expected to coordinate and organize the delivery of any non-ANA resources they propose for the project, as are all ANA applicants.

Includes and justifies sufficient cost and other necessary details to facilitate the determination of cost allowability and the relevance of these costs to the proposed project. Requests funds that are appropriate and necessary for the scope of the proposed project. Includes sufficient funds for principal representatives from the applicant organization to travel to one post-award grant training and technical assistance conference. This expenditure is mandatory for new grant recipients and optional for grantees that have had ANA grants in the past. This travel and training should occur as soon as practical.

Where implemented, includes an employee fringe benefit budget that provides grant-funded employees with a retirement plan in addition to Social Security. The applicant is strongly encouraged to provide a retirement plan fringe benefit for grant-funded employees’ salaries up to five (5) percent.

ANA supports a retirement plan to be a necessary, reasonable and allowable cost in accordance with OMB rules. Minimum standards for an acceptable retirement fringe benefit plan are:

• The plan exists for the exclusive benefit of the participants; funds are to be used for retirement and certain other pre-retirement needs, not for the organization’s needs.

• The plan must have a vesting schedule that does not exceed the initial budget period of the ANA grant.

• An alternate proposal may be submitted for review and approval during grant award negotiations. Alternate proposals may include the use of Individual Retirement Accounts, Money Purchase Pension Plans, Defined Benefit Pension Plans, Combination Plans, etc.

(6) Evaluation, Sharing and Preservation Plans (15 points)

The application should include the following three plans:

• An ‘‘evaluation plan’’ with a baseline to measure project outcomes, including, but not limited to, describing effective language growth in the community (e.g., an increase of Native American language use). This plan will be the basis for evaluating the community’s progress in achieving its language goals and objectives.

• A ‘‘sharing plan’’ that identifies how the project’s methodology, research data, outcomes or other products can be shared and modified for use by other Tribes or communities. If this is not feasible or culturally appropriate, provide the reasons. The goal is to provide opportunities to ensure the survival and the continuing vitality of Native languages.

• A ‘‘plan to preserve project products’’ describes how the products of the project will be preserved through archival or other culturally appropriate methods, for the benefit of future generations.

I. Application Due Date

The closing date for submission of applications under this program announcement is April 5, 2002.

J. For Further Information Contact

Sheila Cooper, Native American Program Specialist, Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, 370 L'Enfant Promenade, Mail Stop HHH 348F, Washington, D.C. 20447, telephone: (202) 690–5787 or 1–877-922–9262; fax: 202–690–7441; e-mail: scooper@acf.dhhs.gov.

Part II: General Guidance to Applicants

The following is provided to assist applicants to develop a competitive application.

A. Definitions

- ''Language preservation'' is the maintenance of a language so that it will not decline into non-use.
- ''Language vitality'' is the active use of a language in a wide range of domains of human life.
- ''Language replication'' is the application of a language program model developed in one community to other linguistically similar communities.
- ''Language survival'' is the maintenance and continuation of language from one generation to another in a wide range of aspects of community life.
- ''Multi-purpose community-based Native American organization'' is an association and/or corporation whose charter specifies that the community designates the Board of Directors and/or officers of the organization through an elective procedure and that the organization functions in several different areas of concern to the members of the local Native American community. These areas are specified in the by-laws and/or policies adopted by the organization. They may include, but need not be limited to, economic, artistic, cultural, and recreational activities, and the delivery of human services such as health care, day care, counseling, education, and training.
- ''Multi-year project'' is a project on a single theme that requires more than 12 months to complete and affords the applicant an opportunity to develop and address more complex and in-depth strategies than can be completed in one year. A multi-year project cannot be a series of unrelated objectives with activities presented in chronological order over a two or three year period.
- ''Budget Period'' is the interval of time (usually 12 months) into which the project period is divided for budgetary and funding purposes.
- ''Core administration'' is funding for staff salaries for those functions that support the organization as a whole, or for purposes unrelated to the actual management or implementation of work conducted under an ANA approved project. However, functions and activities that are clearly project related are eligible for grant funding. For example, the management and administrative functions necessary to carry out an ANA approved project are not considered ''core administration'' and are, therefore, eligible costs. Additionally, ANA will fund the salaries of approved staff for time actually and reasonably spent to implement a funded ANA project.
- ''Real Property'' means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.
- ''Construction'' is the term that specifies a project supported through a discretionary grant or cooperative agreement, to support the initial building of a facility.

B. Activities That Cannot Be Funded

The Administration for Native Americans does not fund:

- Projects that operate indefinitely or require ANA funding on a recurring basis.
- Projects in which a grantee would provide training and/or technical assistance (T/TA) to other Tribes or Native American organizations which are otherwise eligible to apply to ANA (''third party T/TA''). However, the purchase of T/TA by a grantee for its own use or for its members' use (as in the case of a consortium), where T/TA is necessary to carry out project objectives is acceptable.
- The support of on-going social service delivery programs or the expansion, or continuation, of existing social service delivery programs.
- ANA will not fund the purchase of real property.
- ANA will not fund construction.
- ANA will not fund objectives or activities for the support of core administration of an organization.
- Costs of fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable under a grant award. However, even though these costs are unallowable for purposes of computing charges to Federal awards, they must be treated as direct costs for purposes of determining indirect cost rates. They must also be allocated their share of the organization's indirect costs if they represent activities which: (1) Include the salaries of personnel; (2) occupy space; and (3) benefit from the organization's indirect costs.

Projects or activities that generally will not meet the purposes of this announcement are discussed further in Section H, ''General Guidance to Applicants'', below.

C. Multi-Year Projects

Only Category II ''Design and/or Implementation'' projects may be developed as multi-year projects, *i.e.* for up to three years. The information in this section is not applicable to Category I, planning projects.

A multi-year project is a project on a single theme that requires more than 12 to 17 months to complete. It affords the applicant an opportunity to develop and address more complex and in-depth strategies. A multi-year project cannot be a series of unrelated objectives with activities presented in chronological order over a two or three year period. Initial awards, on a competitive basis, will be for a one-year budget period (up to 17 months), although project periods may be for three years.

Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under these awards beyond the one-year budget period, but within a two-to-three year project period, will be funded in subsequent years on a non-competitive basis. Continuation grants are subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the Government. Therefore, this program announcement does not apply to current ANA grantees with multi-year projects that apply for continuation funding for their second or third year budget periods.

D. Intergovernmental Review of Federal Programs

Executive Order 12372 or 45 CFR part 100 does not cover this program.

E. The Application Process

1. Application Submission by Mail

One signed original, and two copies, of the grant application, including all attachments, must be mailed on or before the closing date to: U.S.

Department of Health and Human Services, Administration for Children and Families, ACYF/Office of Grants Management, 370 L'Enfant Promenade, SW, Mail Stop HHH 326–F, Washington, DC 20447–0002, Attention: Lois B. Hodge, ANA No. 93587–2002.

2. Application Submission by Courier

Applications hand-carried by applicants, applicant couriers, or by overnight express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8:00 a.m. and 4:00 p.m. at: U.S. Department of Health and Human Services, Administration for Children and Families, ACYF/Office of Grants Management, ACF Mail Room, Second Floor Loading Dock, Aerospace Center, 901 D Street, SW, Washington, DC 20024, Attention: Lois B. Hodge, ANA No. 93587–2002.

3. Application Consideration

The ANA Commissioner determines the final action to be taken on each grant application received under this program announcement.

All applicants should take the following points into consideration:

- Incomplete applications and applications that do not conform to this announcement will not be accepted for review. Applicants will be notified in writing of any such determination by ACF. An incomplete application is one that is:
- Missing Form SF 424.
- Does not have a signature on Form SF 424.
- Does not include proof of non-profit status, if applicable.
- The application (Form 424) must be signed by an individual authorized (1) to act for the applicant Tribe or organization, and (2) to assume the applicant's obligations under the terms and conditions of the grant award, including Native American Program statutory and regulatory requirements.
- Complete applications that conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process. Independent review panels consisting of reviewers familiar with American Indian Tribes and Native American communities and organizations, and Native American languages evaluate each application using the published criteria in this announcement. As a result of the review, a normalized numerical score will be assigned to each application.
- Each Tribe, Native American organization, or other eligible applicant may compete for one grant award under this program announcement.
- The Administration for Native Americans will accept only one application for this program announcement from any one applicant. If an eligible applicant sends in two applications for this program announcement, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.
- The Commissioner's funding decision is based on the review panel's analysis of the application, recommendation and comments of ANA staff, State and Federal agencies having contract and grant performance related information, and other interested parties.
- The Commissioner makes grant awards consistent with the purpose of the Act, all relevant statutory and requires this program announcement, and the availability of funds.
- Successful applicants are notified through an official Financial Assistance Award (FAA) document. The FAA will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, and the amount of the non-ACF matching share requirement.

F. The Review Process

1. Initial Application Review

Applications submitted by the closing date and verified by the postmark under this program announcement will undergo a pre-review to determine that:

- The applicant is eligible in accordance with the Eligible Applicants Section of this announcement; and,
- the application is signed and submitted by the deadline; and
- the application narrative, forms and materials submitted are adequate to allow the review panel to undertake an in depth evaluation and the project described is an allowable type. (All required materials and forms are listed in the Grant Application Checklist in the Application Kit).

Applications subjected to the pre-review described above which fail to satisfy one or more of the listed requirements will be ineligible or otherwise excluded from competitive evaluation.

2. Competitive Review of Accepted Applications

Applications which pass the pre-review will be evaluated and rated by an independent review panel on the basis of the specific evaluation criteria listed in Part II. These criteria are used to evaluate the quality of a proposed project, and to determine the likelihood of its success.

- ANA staff cannot respond to requests for information regarding funding decisions prior to the official notification to the applicants.
- After the Commissioner has made decisions on all applications funded with fiscal year 2002 funds, unsuccessful applicants are notified in writing within 30 days. The notification will be accompanied by a critique including recommendations for improving the application.

3. Appeal of Ineligibility

Applicants, who are initially excluded from competitive evaluation because of ineligibility, may appeal the ANA decision of their ineligibility. Likewise, applicants may also appeal an ANA decision that their proposed activities are ineligible for funding consideration. The appeals process is stated in the final rule published in the **Federal Register** on August 19, 1996 (61 FR 42817).

G. General Guidance to Applicants

The following information is provided to assist applicants in developing a competitive application.

1. Program Guidance

- The Administration for Native Americans funds projects that demonstrate the strongest prospects for addressing the stated purposes of this program announcement.
- Projects will not be ranked on the basis of general financial need.
- In discussing the goals, strategy, and problems being addressed in the application, include sufficient background and/or history of the community concerning these issues and/or progress to date, as well as the size of the population to be served. This material will assist the reviewers in determining the appropriateness and potential benefits of the proposed project.
- In the discussion of community-based, long-range goals, non-Federally recognized and off-reservation groups are encouraged to include a description of what constitutes their specific ''community.''
- Applicants must document the community's support for the proposed project and explain the role of the community in the planning process and implementation of the proposed project. For Tribes, a current signed resolution from the governing body of the Tribe supporting the project proposal stating that there has been community

involvement in the planning of this project will suffice as evidence of community support/involvement. For all other eligible applicants, the type of community you serve will determine the type of documentation necessary. For example, a tribal organization may submit resolutions supporting the project proposal from each of its members Tribes, as well as a resolution from the applicant organization. Other examples of documentation include: community surveys; minutes of community meetings; questionnaires; tribal presentations; and/or discussion/ position papers.

• Applications from National Indian and Native American organizations must demonstrate a need for the project, explain how the project was originated, state who the intended beneficiaries will be, and describe how the recipients will actually benefit from the project.

• An application should describe a clear relationship between the proposed project, language goals, and the community's long-range goals or plan.

• The project application, including the Objective Work Plans, must clearly identify in measurable terms the expected results, benefits or outcomes of the proposed project, and the positive or continuing impact that the project will have on the community.

• Supporting documentation, including letters of support, if available, or other testimonies from concerned interests other than the applicant should be included to demonstrate support for the feasibility of the project and the commitment of other resources to the proposed project.

• In the ANA Project Narrative, Section A of the application package, ''Resources Available to the Proposed Project,'' the applicant should describe any specific financial circumstances that may impact on the project. Include such circumstances as any monetary or land settlements made to the applicant and any restrictions on the use of those settlements. When the applicant appears to have other resources to support the proposed project and chooses not to use them, the applicant should explain why it is seeking ANA funds and not utilizing these resources for the project.

• Applications that were not funded under a previous years-closing date may be resubmitted. However, for resubmission applicants should make a reference to the changes or reasons for not making changes in their current ANA application which are based on the ANA panel review comments.

2. Technical Guidance

It is strongly suggested that the applicant follow the Supplemental Guide included in the ANA application kit to develop an application. The Guide provides practical information and helpful suggestions, and is an aid to help applicants prepare ANA applications.

• Applicants are encouraged to have someone other than the author apply the evaluation criteria in the program announcement and score the application prior to its submission, in order to gain a better sense of the application's quality and potential competitiveness in the ANA review process.

• For purposes of developing an application, applicants should plan for a project start date approximately 120 days after the closing date under which the application is submitted.

• The Administration for Native Americans will not fund essentially identical projects serving the same constituency. If a project could be supported by other Federal funding sources, the applicant should fully explain its reasons for not pursuing other Federal funds for the project.

• For purposes of this announcement, ANA is using the Bureau of Indian Affairs' list of federally recognized Indian Tribes which includes nonprofit Alaska Native community entities or tribal governing bodies (IRA or traditional councils). Other federally recognized Indian Tribes, which are not included on this list (e.g., those Tribes that have been recently recognized or restored by the United States Congress), are also eligible to apply for ANA funds.

• The Objective Work Plan proposed should be of sufficient detail to become a monthly staff guide for project responsibilities if the applicant is funded.

• Applicants proposing multi-year projects under Category II must fully describe each year's project objectives and activities. Separate Objective Work Plans (OWPs) must be presented for each project year and a separate itemized budget of the Federal and non-Federal costs of the project for each budget period must be included.

• Applicants for multi-year projects under Category II must justify the entire time-frame of the project (*i.e.,* why the project needs funding for more than one year) and clearly describe the results to be achieved for each objective by the end of each budget period of the total project period.

• The Administration for Native Americans will critically evaluate applications in which the acquisition of equipment is a major component of the Federal share of the budget. ''Equipment is tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or month per ''unit.'' During negotiation, ANA may delete such expenditures from the budget of an otherwise approved application, if not fully justified by the applicant and deemed not appropriate to the needs of the project.

• Applicants are encouraged to request a legibly dated receipt from a commercial carrier or U.S. Postal Service as proof of timely mailing.

3. Grant Administrative Guidance

• The application's Form 424 must be signed by the applicant's representative authorized to act with full authority on behalf of the applicant.

• The Administration for Native Americans recommends that the pages of the application be numbered sequentially and that a table of contents and tabbing of the sections is provided.

• An application with an original signature and two additional copies are required.

The Cover Page (included in the Kit) should be the first page of an application, followed by the one-page abstract.

• The applicant should specify the entire project period length on the first page of the Form 424, Block 13, not the length of the first budget period. Should the application propose one length of project period and the Form 424 specify a conflicting length of project period, ANA will consider the project period specified on the Form 424 as the request. ANA may negotiate a reduction of the project period. The approved project period is shown on block 9 of a Financial Assistance Award.

• Line 15a of the Form 424 must specify the Federal funds requested for the first Budget Period, not the entire project period.

• Applicants may propose up to a 17-month project period under Category I and up to a 36-month project period under Category II.

4. Projects or Activities that Generally Will Not Meet the Purposes of this Announcement

• Core administration functions, or other activities, which essentially support only the applicant's ongoing administrative functions.

• Project goals which are not responsive to this program announcement.

• Proposals from consortia of Tribes that are not specific with regard to support from, and roles of, member Tribes. ANA expects an application from a consortium to have goals and objectives that will create positive impacts and outcomes in the communities of its members.

- Proposals from consortia of Tribes should have individual objectives that are related to the larger goal of the proposed project. Project objectives may be tailored to each consortia member, but within the context of a common goal for the consortia. In situations where both tribal consortia and a Tribe who belongs to the consortia receives ANA funding, ANA expects that consortia groups will not seek funding that duplicates activities being conducted by their member Tribes.
- Projects that will not be completed, self-sustaining, or supported by other than ANA funds, at the end of the project period. All projects funded by ANA must be completed, or self-sustaining or supported with other than ANA funds at the end of the project period. ''Completed'' means that the project ANA funded is finished, and the desired result(s) have been attained. ''Self-sustaining'' means that a project will continue without outside resources. ''Supported by other than ANA funds'' means that the project will continue beyond the ANA project period, but will be supported by funds other than ANA's.
- Renovation or alteration unless it is essential for the project. Renovation or alteration costs may not exceed the lesser of $150,000 or 25 percent of the total direct costs approved for the entire budget period.
- Projects originated and designed by consultants who provide a major role for themselves in the proposed project and are not members of the applicant organization, Tribe or village.

H. Paperwork Reduction Act of 1995 (Public Law 10413)

The Program Narrative information collection with this Program Announcement is approved under 0980–0204, Expiration Date 04/30/2003.

Public reporting burden for this collection of information is estimated to average 29.5 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

I. Receipt of Applications

Applications must either be hand delivered or mailed to the address in Section E, The Application Process. The Administration for Native Americans cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ANA electronically will not be accepted regardless of date or time of submission and time of receipt. Videotapes and cassette tapes may not be included as part of a grant application for panel review.

Applications and related materials postmarked after the closing date will be classified as late.

1. Deadlines

- Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, ACYF/ Office of Grants Management, 370 L'Enfant Promenade, SW, Mail Stop HHH 326–F, Washington, D.C. 20447–0002. Attention: Lois B. Hodge ANA No. 93587–2002.
- Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.
- Applications hand carried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date or postmarked on or before the deadline date, Monday through Friday (excluding Federal holidays), between the hours of 8:00 a.m. and 4:30 p.m. at: U.S. Department of Health and Human Services, Administration for Children and Families, ACYF/Office of Grants Management, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, SW, Washington, D.C. 20024. (Applicants are cautioned that express/ overnight mail services do not always deliver as agreed.)
- ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.
- No additional material will be accepted, or added to an application, unless it is postmarked by the deadline date.

2. Late applications

Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

3. Extension of deadlines

The Administration for Children and Families may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, or when there is a widespread disruption of the mails. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

(Catalog of Federal Domestic Assistance Program Numbers: 93.612 Native American Programs; and 93.587 Promoting the Survival and Continuing Vitality of Native American languages)

Dated: September 27, 2001.

Larry Guerrero,

Acting Commissioner, Administration for Native Americans.

[FR Doc. 01–25423 Filed 10–9–01; 8:45 am]

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Federal Register

Wednesday,
October 10, 2001

Part V

The President

Proclamation 7479—Death of Michael J. Mansfield
Proclamation 7480—Fire Prevention Week, 2001
Proclamation 7481—German-American Day, 2001
Executive Order 13228—Establishing the Office of Homeland Security and the Homeland Security Council

Federal Register

Vol. 66, No. 196

Wednesday, October 10, 2001

Presidential Documents

Title 3—

The President

Proclamation 7479 of October 5, 2001

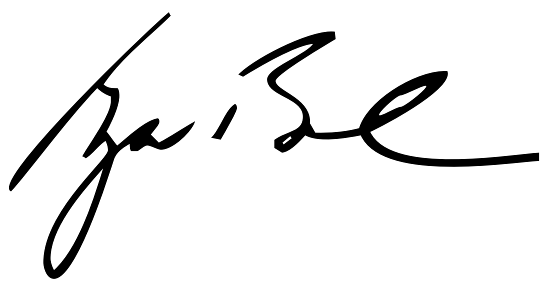
Death of Michael J. Mansfield

By the President of the United States of America

A Proclamation

As a mark of respect for the memory of Michael J. Mansfield, retired Majority Leader of the United States Senate and Ambassador of the United States to Japan, I hereby order, by the authority vested in me as President of the United States by the Constitution and the laws of the United States of America, that on the day of his interment, the flag of the United States shall be flown at half-staff at the White House and upon all public buildings and grounds, at all military posts and naval stations, and on all naval vessels of the Federal Government in the District of Columbia and throughout the United States and its Territories and possessions until sunset on such day. I also direct that the flag shall be flown at half-staff for the same lengths of time at all United States embassies, legations, consular offices, and other facilities abroad, including all military facilities and naval vessels and stations.

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



[FR Doc. 01–25674

Filed 10–9–01; 12:11 pm]

Billing code 3195–01–P

Presidential Documents

Proclamation 7480 of October 5, 2001

Fire Prevention Week, 2001

By the President of the United States of America

A Proclamation

The well-being of our Nation's citizens requires that families, communities, emergency workers, and health professionals work together to ensure the highest levels of public safety. This goal is particularly important with respect to fire prevention. The 2000 National Fire Experience Survey, conducted by the National Fire Protection Association (NFPA), reveals that fire claimed more than 4,000 American lives last year. In 2000, fire killed someone every 130 minutes and injured someone every 24 minutes. Fire also takes a significant economic toll on America, accounting for more than $11 billion in property loss last year.

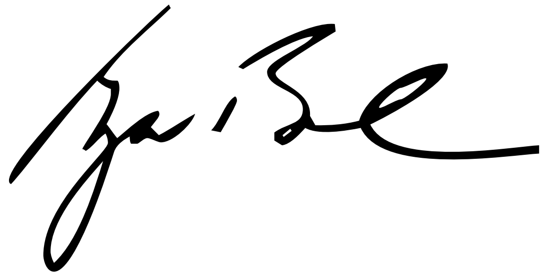
In the United States, fires caused by cooking, heating, or electricity amount to almost half of all home fires. These accidental fires, though common, are also among the most preventable. Their high rates of occurrence point to the vital importance of safety and knowledge in helping to prevent these types of fires and thereby avoid the tragic deaths and serious injuries that they can cause.

This year marks the annual observance of Fire Prevention Week, sponsored by the National Fire Protection Association. The event's theme, ''Cover the Bases and Strike Out Fire,'' encourages children and families to take an active role in preventing home fires and the injuries and deaths they cause, by conducting home fire safety inspections and preparing and practicing home fire drills. The NFPA is joining forces with the Federal Emergency Management Agency, through the United States Fire Administration, and with fire departments throughout the country to raise awareness of the leading causes of home fires and encourage the actions that may be taken to prevent them. I urge all Americans to learn more about fire prevention and to take steps to better ensure the safety of our homes, places of work, and other public structures.

During this year's observance, I also call on Americans to join me in expressing appreciation for the devotion and dedication of our Nation's firefighters and other emergency response personnel. These brave men and women provide the first line of emergency response to a multitude of disasters and risk their own security and well-being to save the lives of others. As recent events in our Nation have demonstrated, these fine Americans truly exemplify selfless service and heroism. They serve to make our towns, cities, and communities safer places for all.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 7 through October 13, 2001, as Fire Prevention Week. I call upon the people of the United States to observe this day with appropriate programs and activities and to renew efforts to prevent fires and their tragic consequences for human health and safety.

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



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Presidential Documents

Proclamation 7481 of October 5, 2001

German-American Day, 2001

By the President of the United States of America

A Proclamation

Each year, on October 6, we recognize German Americans for their many contributions to our Nation. From the first German immigrants who accompanied Captain John Smith to Jamestown more than 300 years ago to the more than 7 million Germans who have since followed them to our shores, Americans of German descent have played a vital role in establishing the strength of our country's democratic spirit. Throughout our history, German Americans have contributed to every facet of the American experience.

German-American soldiers valiantly served our country during the American Revolution. General Frederick Wilhelm von Steuben helped train the Continental Army at Valley Forge; and General Nicholas Herkimer led German settlers in New York's Mohawk Valley in one of the war's bloodiest battles. German Americans also have influenced greatly our artistic heritage. Emanuel Leutze's 1851 painting, ''Washington Crossing the Delaware River,'' remains a cherished and recognized symbol of American courage and determination.

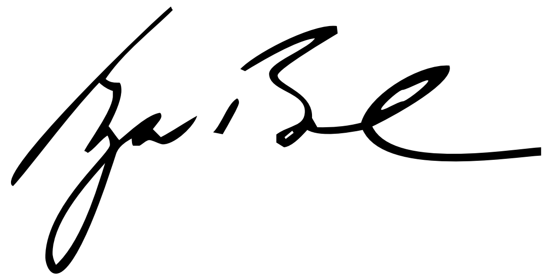
German Americans advanced our civic liberties through their strong support for freedom of the press. As publisher of the New York Weekly Journal, John Peter Zenger championed the rights of citizens to criticize elected officials in print. The German-language newspaper Pennsylvania Staatsbote published the first printed copy of the Declaration of Independence. And in directing The New York Times through modernization in the early 20th century, Adolph Ochs helped set a new standard for balanced and innovative reporting.

Many German Americans who settled here brought with them values that enhanced and developed the American commitment to freedom. A considerable number of these immigrants joined other freedom loving Americans in becoming leaders in the anti-slavery movement. And thousands of German Americans volunteered to fight for the Union in the Civil War.

On this day, Americans of all backgrounds commemorate our Nation's close relationship with Germany. German Americans have influenced our history, strengthened our ideals, and enriched our culture, and, in the years ahead, they will continue their noble role in helping to ensure the vitality of our democracy.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim October 6, 2001, as German-American Day. I encourage all Americans to recognize the contributions of our citizens of German descent to the liberty and prosperity of the United States, and to celebrate our close ties to the people of Germany.

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



[FR Doc. 01–25676
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Presidential Documents

Executive Order 13228 of October 8, 2001

Establishing the Office of Homeland Security and the Homeland Security Council

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. *Establishment.* I hereby establish within the Executive Office of the President an Office of Homeland Security (the ''Office'') to be headed by the Assistant to the President for Homeland Security.

Sec. 2. *Mission.* The mission of the Office shall be to develop and coordinate the implementation of a comprehensive national strategy to secure the United States from terrorist threats or attacks. The Office shall perform the functions necessary to carry out this mission, including the functions specified in section 3 of this order.

Sec. 3. *Functions.* The functions of the Office shall be to coordinate the executive branch's efforts to detect, prepare for, prevent, protect against, respond to, and recover from terrorist attacks within the United States.

(a) *National Strategy.* The Office shall work with executive departments and agencies, State and local governments, and private entities to ensure the adequacy of the national strategy for detecting, preparing for, preventing, protecting against, responding to, and recovering from terrorist threats or attacks within the United States and shall periodically review and coordinate revisions to that strategy as necessary.

(b) *Detection.* The Office shall identify priorities and coordinate efforts for collection and analysis of information within the United States regarding threats of terrorism against the United States and activities of terrorists or terrorist groups within the United States. The Office also shall identify, in coordination with the Assistant to the President for National Security Affairs, priorities for collection of intelligence outside the United States regarding threats of terrorism within the United States.

(i) In performing these functions, the Office shall work with Federal, State, and local agencies, as appropriate, to:

(A) facilitate collection from State and local governments and private entities of information pertaining to terrorist threats or activities within the United States;

(B) coordinate and prioritize the requirements for foreign intelligence relating to terrorism within the United States of executive departments and agencies responsible for homeland security and provide these requirements and priorities to the Director of Central Intelligence and other agencies responsible for collection of foreign intelligence;

(C) coordinate efforts to ensure that all executive departments and agencies that have intelligence collection responsibilities have sufficient technological capabilities and resources to collect intelligence and data relating to terrorist activities or possible terrorist acts within the United States, working with the Assistant to the President for National Security Affairs, as appropriate;

(D) coordinate development of monitoring protocols and equipment for use in detecting the release of biological, chemical, and radiological hazards; and

(E) ensure that, to the extent permitted by law, all appropriate and necessary intelligence and law enforcement information relating to homeland security is disseminated to and exchanged among appropriate executive departments and agencies responsible for homeland security and, where appropriate for reasons of homeland security, promote exchange of such information with and among State and local governments and private entities.

(ii) Executive departments and agencies shall, to the extent permitted by law, make available to the Office all information relating to terrorist threats and activities within the United States.

(c) *Preparedness.* The Office of Homeland Security shall coordinate national efforts to prepare for and mitigate the consequences of terrorist threats or attacks within the United States. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) review and assess the adequacy of the portions of all Federal emergency response plans that pertain to terrorist threats or attacks within the United States;

(ii) coordinate domestic exercises and simulations designed to assess and practice systems that would be called upon to respond to a terrorist threat or attack within the United States and coordinate programs and activities for training Federal, State, and local employees who would be called upon to respond to such a threat or attack;

(iii) coordinate national efforts to ensure public health preparedness for a terrorist attack, including reviewing vaccination policies and reviewing the adequacy of and, if necessary, increasing vaccine and pharmaceutical stockpiles and hospital capacity;

(iv) coordinate Federal assistance to State and local authorities and nongovernmental organizations to prepare for and respond to terrorist threats or attacks within the United States;

(v) ensure that national preparedness programs and activities for terrorist threats or attacks are developed and are regularly evaluated under appropriate standards and that resources are allocated to improving and sustaining preparedness based on such evaluations; and

(vi) ensure the readiness and coordinated deployment of Federal response teams to respond to terrorist threats or attacks, working with the Assistant to the President for National Security Affairs, when appropriate.

(d) *Prevention.* The Office shall coordinate efforts to prevent terrorist attacks within the United States. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) facilitate the exchange of information among such agencies relating to immigration and visa matters and shipments of cargo; and, working with the Assistant to the President for National Security Affairs, ensure coordination among such agencies to prevent the entry of terrorists and terrorist materials and supplies into the United States and facilitate removal of such terrorists from the United States, when appropriate;

(ii) coordinate efforts to investigate terrorist threats and attacks within the United States; and

(iii) coordinate efforts to improve the security of United States borders, territorial waters, and airspace in order to prevent acts of terrorism within the United States, working with the Assistant to the President for National Security Affairs, when appropriate.

(e) *Protection.* The Office shall coordinate efforts to protect the United States and its critical infrastructure from the consequences of terrorist attacks. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) strengthen measures for protecting energy production, transmission, and distribution services and critical facilities; other utilities; telecommunications; facilities that produce, use, store, or dispose of nuclear material; and other critical infrastructure services and critical facilities within the United States from terrorist attack;

(ii) coordinate efforts to protect critical public and privately owned information systems within the United States from terrorist attack;

(iii) develop criteria for reviewing whether appropriate security measures are in place at major public and privately owned facilities within the United States;

(iv) coordinate domestic efforts to ensure that special events determined by appropriate senior officials to have national significance are protected from terrorist attack;

(v) coordinate efforts to protect transportation systems within the United States, including railways, highways, shipping, ports and waterways, and airports and civilian aircraft, from terrorist attack;

(vi) coordinate efforts to protect United States livestock, agriculture, and systems for the provision of water and food for human use and consumption from terrorist attack; and

(vii) coordinate efforts to prevent unauthorized access to, development of, and unlawful importation into the United States of, chemical, biological, radiological, nuclear, explosive, or other related materials that have the potential to be used in terrorist attacks.

(f) *Response and Recovery.* The Office shall coordinate efforts to respond to and promote recovery from terrorist threats or attacks within the United States. In performing this function, the Office shall work with Federal, State, and local agencies, and private entities, as appropriate, to:

(i) coordinate efforts to ensure rapid restoration of transportation systems, energy production, transmission, and distribution systems; telecommunications; other utilities; and other critical infrastructure facilities after disruption by a terrorist threat or attack;

(ii) coordinate efforts to ensure rapid restoration of public and private critical information systems after disruption by a terrorist threat or attack;

(iii) work with the National Economic Council to coordinate efforts to stabilize United States financial markets after a terrorist threat or attack and manage the immediate economic and financial consequences of the incident;

(iv) coordinate Federal plans and programs to provide medical, financial, and other assistance to victims of terrorist attacks and their families; and

(v) coordinate containment and removal of biological, chemical, radiological, explosive, or other hazardous materials in the event of a terrorist threat or attack involving such hazards and coordinate efforts to mitigate the effects of such an attack.

(g) *Incident Management.* The Assistant to the President for Homeland Security shall be the individual primarily responsible for coordinating the domestic response efforts of all departments and agencies in the event of an imminent terrorist threat and during and in the immediate aftermath of a terrorist attack within the United States and shall be the principal point of contact for and to the President with respect to coordination of such efforts. The Assistant to the President for Homeland Security shall coordinate with the Assistant to the President for National Security Affairs, as appropriate.

(h) *Continuity of Government.* The Assistant to the President for Homeland Security, in coordination with the Assistant to the President for National Security Affairs, shall review plans and preparations for ensuring the continuity of the Federal Government in the event of a terrorist attack that threatens the safety and security of the United States Government or its leadership.

(i) *Public Affairs.* The Office, subject to the direction of the White House Office of Communications, shall coordinate the strategy of the executive branch for communicating with the public in the event of a terrorist threat or attack within the United States. The Office also shall coordinate the development of programs for educating the public about the nature of terrorist threats and appropriate precautions and responses.

(j) *Cooperation with State and Local Governments and Private Entities.* The Office shall encourage and invite the participation of State and local governments and private entities, as appropriate, in carrying out the Office's functions.

(k) *Review of Legal Authorities and Development of Legislative Proposals.* The Office shall coordinate a periodic review and assessment of the legal authorities available to executive departments and agencies to permit them to perform the functions described in this order. When the Office determines that such legal authorities are inadequate, the Office shall develop, in consultation with executive departments and agencies, proposals for presidential action and legislative proposals for submission to the Office of Management and Budget to enhance the ability of executive departments and agencies to perform those functions. The Office shall work with State and local governments in assessing the adequacy of their legal authorities to permit them to detect, prepare for, prevent, protect against, and recover from terrorist threats and attacks.

(l) *Budget Review.* The Assistant to the President for Homeland Security, in consultation with the Director of the Office of Management and Budget (the ''Director'') and the heads of executive departments and agencies, shall identify programs that contribute to the Administration's strategy for homeland security and, in the development of the President's annual budget submission, shall review and provide advice to the heads of departments and agencies for such programs. The Assistant to the President for Homeland Security shall provide advice to the Director on the level and use of funding in departments and agencies for homeland security-related activities and, prior to the Director's forwarding of the proposed annual budget submission to the President for transmittal to the Congress, shall certify to the Director the funding levels that the Assistant to the President for Homeland Security believes are necessary and appropriate for the homeland security-related activities of the executive branch.

Sec. 4. *Administration.*

(a) The Office of Homeland Security shall be directed by the Assistant to the President for Homeland Security.

(b) The Office of Administration within the Executive Office of the President shall provide the Office of Homeland Security with such personnel, funding, and administrative support, to the extent permitted by law and subject to the availability of appropriations, as directed by the Chief of Staff to carry out the provisions of this order.

(c) Heads of executive departments and agencies are authorized, to the extent permitted by law, to detail or assign personnel of such departments and agencies to the Office of Homeland Security upon request of the Assistant to the President for Homeland Security, subject to the approval of the Chief of Staff.

Sec. 5. *Establishment of Homeland Security Council.*

(a) I hereby establish a Homeland Security Council (the ''Council''), which shall be responsible for advising and assisting the President with respect to all aspects of homeland security. The Council shall serve as the mechanism for ensuring coordination of homeland security-related activities of executive departments and agencies and effective development and implementation of homeland security policies.

(b) The Council shall have as its members the President, the Vice President, the Secretary of the Treasury, the Secretary of Defense, the Attorney General, the Secretary of Health and Human Services, the Secretary of Transportation, the Director of the Federal Emergency Management Agency, the Director of the Federal Bureau of Investigation, the Director of Central Intelligence, the Assistant to the President for Homeland Security, and such other officers of the executive branch as the President may from time to time designate. The Chief of Staff, the Chief of Staff to the Vice President, the Assistant to the President for National Security Affairs, the Counsel to the President, and the Director of the Office of Management and Budget also are invited to attend any Council meeting. The Secretary of State, the Secretary of Agriculture, the Secretary of the Interior, the Secretary of Energy, the Secretary of Labor, the Secretary of Commerce, the Secretary of Veterans Affairs, the Administrator of the Environmental Protection Agency, the Assistant to the President for Economic Policy, and the Assistant to the President for Domestic Policy shall be invited to attend meetings pertaining to their responsibilities. The heads of other executive departments and agencies and other senior officials shall be invited to attend Council meetings when appropriate.

(c) The Council shall meet at the President's direction. When the President is absent from a meeting of the Council, at the President's direction the Vice President may preside. The Assistant to the President for Homeland Security shall be responsible, at the President's direction, for determining the agenda, ensuring that necessary papers are prepared, and recording Council actions and Presidential decisions.

Sec. 6. *Original Classification Authority.* I hereby delegate the authority to classify information originally as Top Secret, in accordance with Executive Order 12958 or any successor Executive Order, to the Assistant to the President for Homeland Security.

Sec. 7. *Continuing Authorities.* This order does not alter the existing authorities of United States Government departments and agencies. All executive departments and agencies are directed to assist the Council and the Assistant to the President for Homeland Security in carrying out the purposes of this order.

Sec. 8. *General Provisions.*

(a) This order does not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies or instrumentalities, its officers or employees, or any other person.

(b) References in this order to State and local governments shall be construed to include tribal governments and United States territories and other possessions.

(c) References to the ''United States'' shall be construed to include United States territories and possessions.

Sec. 9. *Amendments to Executive Order 12656.* Executive Order 12656 of November 18, 1988, as amended, is hereby further amended as follows:

(a) Section 101(a) is amended by adding at the end of the fourth sentence: '', except that the Homeland Security Council shall be responsible for administering such policy with respect to terrorist threats and attacks within the United States.''

(b) Section 104(a) is amended by adding at the end: '', except that the Homeland Security Council is the principal forum for consideration of policy relating to terrorist threats and attacks within the United States.''

(c) Section 104(b) is amended by inserting the words ''and the Homeland Security Council'' after the words ''National Security Council.''

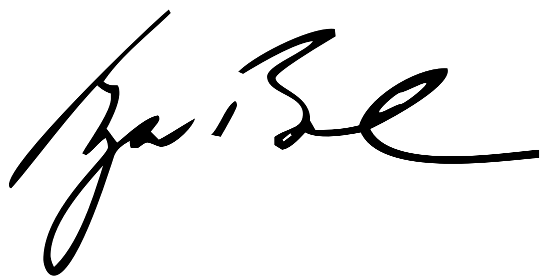
(d) The first sentence of section 104(c) is amended by inserting the words ''and the Homeland Security Council'' after the words ''National Security Council.''

(e) The second sentence of section 104(c) is replaced with the following two sentences: ''Pursuant to such procedures for the organization and management of the National Security Council and Homeland Security Council processes as the President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of and management of those processes as the President may establish. The Director of the Federal Emergency Management Agency also shall assist in the implementation of national security emergency preparedness policy by coordinating with the other Federal departments and agencies and with State and local governments, and by providing periodic reports to the National Security Council and the Homeland Security Council on implementation of national security emergency preparedness policy.''

(f) Section 201(7) is amended by inserting the words ''and the Homeland Security Council'' after the words ''National Security Council.''

(g) Section 206 is amended by inserting the words ''and the Homeland Security Council'' after the words ''National Security Council.''

(h) Section 208 is amended by inserting the words ''or the Homeland Security Council'' after the words ''National Security Council.''



THE WHITE HOUSE,
October 8, 2001.

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CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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/nara005.html*. Some laws may not yet be available.

S. 248/P.L. 107–46

To amend the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, to adjust a condition on the payment of arrearages to the United Nations that sets the maximum share of any United Nations peacekeeping operation's budget that may be assessed of any country. (Oct. 5, 2001; 115 Stat. 259)

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