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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

RIN 0584–AA80

Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Food Delivery Systems; Delay of Implementation Date

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule delays from February 27, 2002 until October 1, 2002 the implementation date of the final rule entitled Special Supplemental Nutrition Program for Women, Infants and Children (WIC): Food Delivery Systems, which was published in the **Federal Register** on December 29, 2000, 65 FR 83248, and became effective on April 28, 2001. The rule strengthens vendor management in retail food delivery systems by establishing mandatory selection criteria, training requirements, criteria to be used to identify high-risk vendors, and monitoring requirements, including compliance investigations. The new implementation date of October 1, 2002 provides State agencies additional time to implement the rule, promotes more effective and efficient implementation of the new requirements, and corresponds with the beginning of the Federal fiscal year.

DATES: This rule is effective November 19, 2001. State agencies must fully implement the provisions of the WIC Food Delivery Systems final rule no later than October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Debra R. Whitford, Supplemental Food Programs Division, Food and Nutrition Service, 3101 Park Center Drive, Room 522, Alexandria, Virginia 22302, (703) 305–2746.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 2001, the Department published a proposed rule at 66 FR 40152 that would delay the implementation date of the WIC Food Delivery Systems final rule from February 27, 2002 to October 1, 2002. A total of nine comment letters were received during the comment period, which ended on September 4, 2001. All nine comment letters generally supported the delay of the implementation date. Whereas one commenter suggested further delaying the implementation date until September 30, 2003, another commenter indicated that it would not support delaying the implementation beyond the proposed date of October 1, 2002. We considered the proposed changes to its implementation date and concluded that the proposed date of October 1, 2002 is the most appropriate. Therefore, based on the comments received, and for the reasons cited in the proposed rule, the Department has decided to delay the implementation date of the WIC Food Delivery Systems final rule until October 1, 2002, as proposed. The Department has given all comments careful consideration in the development of this final rule and would like to thank all commenters who responded to the proposal.

For the reasons set forth in the above paragraph, the WIC Food Delivery Systems final rule, published December 29, 2000, at 65 FR 83248, is amended to extend the final date for implementation from February 27, 2002 to October 1, 2002.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866, and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Acting Administrator of the Food and Nutrition Service (FNS) has certified that this rule will not have a significant economic impact on a substantial number of small entities. While procedures in this rulemaking will affect State and local agencies that administer the WIC Program, any economic effect will not be significant.

Unfunded Mandate Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, FNS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of $100 million or more in any one year. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

The WIC Program is listed in the Catalog of Federal Domestic Assistance under 10.557. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V, and related notice (48 FR 29115), this program is included in the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Paperwork Reduction Act of 1995

This final rule contains no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The existing recordkeeping and reporting requirements, which were approved by OMB under control number 0584–0045, will not change as a result of this rule.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies which conflict

with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the **DATES** section of the preamble. Prior to any judicial challenge to the application of the provisions of this final rule, all applicable administrative procedures must be exhausted.

List of Subjects in 7 CFR Part 246

Administrative practice and procedure, Civil rights, Food assistance programs, Food and Nutrition Service, Food donations, Grant programs—health, Grant programs—social programs, Indians, Infants and children, Maternal and child health, Nutrition, Nutrition education, Penalties, Reporting and recordkeeping requirements, Public assistance programs, WIC, Women.

Dated: October 12, 2001.

George A. Braley,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 01–26194 Filed 10–17–01; 8:45 am]

BILLING CODE 3410–30–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Change in Discount Rate

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, Extensions of Credit by Federal Reserve Banks to reflect its approval of a decrease in the basic discount rate at each Federal Reserve Bank. The Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks.

DATES: The amendments to part 201 (Regulation A) were effective October 2, 2001. The rate changes for adjustment credit were effective on the dates specified in 12 CFR 201.51.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board, at (202) 452–3259, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, *et al.,* of the Federal Reserve Act, the Board has amended its Regulation A (12 CFR part 201) to incorporate changes in discount rates on Federal Reserve Bank extensions of credit. The discount rates are the interest rates charged to depository institutions when they borrow from their district Reserve Banks.

The ''basic discount rate'' is a fixed rate charged by Reserve Banks for adjustment credit and, at the Reserve Banks' discretion, for extended credit for up to 30 days. In decreasing the basic discount rate from 2.5 percent to 2.0 percent, the Board acted on requests submitted by the Boards of Directors of the twelve Federal Reserve Banks. The new rates were effective on the dates specified below. The 50-basis-point decrease in the discount rate was associated with a similar decrease in the federal funds rate approved by the Federal Open Market Committee (FOMC) and announced at the same time.

In a joint press release announcing these actions, the FOMC and the Board of Governors stated that the terrorist attacks have significantly heightened uncertainty in an economy that was already weak. Business and household spending as a consequence are being further dampened. Nonetheless, the long-term prospects for productivity growth and the economy remain favorable and should become evident once the unusual forces restraining demand abate. The Committee continues to believe that, against the background of its long-run goals of price stability and sustainable economic growth and of the information currently available, the risks continue to be weighted mainly toward conditions that may generate economic weakness in the foreseeable future.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the change in the basic discount rate will not have a significant adverse economic impact on a substantial number of small entities. The rule does not impose any additional requirements on entities affected by the regulation.

Administrative Procedure Act

The provisions of 5 U.S.C. 553(b) relating to notice and public participation were not followed in connection with the adoption of the amendment because the Board for good cause finds that delaying the change in the basic discount rate in order to allow notice and public comment on the change is impracticable, unnecessary, and contrary to the public interest in fostering price stability and sustainable economic growth.

The provisions of 5 U.S.C. 553(d) that prescribe 30 days prior notice of the effective date of a rule have not been followed because section 553(d) provides that such prior notice is not necessary whenever there is good cause for finding that such notice is contrary to the public interest. As previously stated, the Board determined that delaying the changes in the basic discount rate is contrary to the public interest.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 201 is amended as set forth below:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 343 *et seq.*, 347a, 347b, 347c, 347d, 348 *et seq.*, 357, 374, 374a and 461.

2. Section 201.51 is revised to read as follows:

§ 201.51 Adjustment credit for depository institutions.

The rates for adjustment credit provided to depository institutions under § 201.3(a) are:

Federal Reserve Bank	Rate	Effective
Boston	2.0	October 2, 2001.
New York	2.0	October 2, 2001.
Philadelphia	2.0	October 4, 2001.
Cleveland	2.0	October 2, 2001.
Richmond	2.0	October 2, 2001.
Atlanta	2.0	October 2, 2001.
Chicago	2.0	October 2, 2001.

Federal Reserve Bank	Rate	Effective
St. Louis	2.0	October 3, 2001.
Minneapolis	2.0	October 3, 2001.
Kansas City	2.0	October 2, 2001.
Dallas	2.0	October 2, 2001.
San Francisco	2.0	October 2, 2001.

By order of the Board of Governors of the Federal Reserve System, October 12, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–26198 Filed 10–17–01; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD09–01–129]

RIN 2115–AA97

Security Zone; Selfridge Army National Guard Base, MI

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: The Coast Guard published a final rule on September 24, 2001, creating a security zone surrounding the waters off of Selfridge Air National Guard Base in Michigan. The original parameters of that zone extended one half mile from the shore, between the Hall Road launch ramp and the entrance to Mac and Rays Marina, and the rule had no expiration date. In the interest of small businesses within that zone, COTP Detroit has readjusted the northern boundary to allow these businesses to continue to operate, and an expiration date has been inserted into the rule. The security zone is needed to protect the Selfridge area from terrorist threats.

DATES: This correction becomes effective October 10, 2001. 33 CFR 165.T09–998 published September 24, 2001 (66 FR 48796), as corrected in this document, is now effective only through June 15, 2002.

FOR FURTHER INFORMATION CONTACT: ENS Brandon Sullivan, U.S. Coast Guard Marine Safety Office Detroit, (313) 568–9580.

Background and Purpose

The Coast Guard published a final rule in the **Federal Register** on September 24, 2001, (66 FR 48795), to create a security zone in response to the September 11, 2001 terrorist attacks on the United States. We are changing the location of the northern boundary of the security Zone and the duration of rule.

Need for Correction

Since publication, Captain of the Port Detroit has learned that a more southerly boundary would help facilitate local business owners. This readjustment in no ways compromises the intent of the original security zone. The regulation was published in response to the terrorist's attacks on the World Trade Center and the Pentagon on September 11, 2001. The security zone is intended to protect the life, property, and national security of U.S. citizens. These factors were considered along with the impact on local business in reestablishing the boundaries and effective period of this security zone.

Correction of Publication

In rule FR Doc. 01–23712 published on September 24, 2001, make the following corrections. On page 48796, in the second column, on lines 37–39, remove the phrase ''one half mile from shore between the Hall Road Launch Ramp and the entrance to Mac and Rays Marina'' and add, in its place, the phrase '', starting at 42°37.8′ N, 082°49.1′ W; eastward one half mile from shore at42°37.8′ N, 082°48.45′ W; south to 42°37.2′ N, 082°48.45′ W; then southeast to 42°36.8′ N, 082°47.2′ W; then southwest to Mac and Rays Marina at 42°36.4′ N, 082°47.9′ W; and then following the shoreline back to the starting point. These coordinates are based upon North American Datum 1983''; and on lines 41–42, remove the phrase ''becomes effective at 2 p.m. September 11, 2001'' and add, in its place, the phase ''is effective from September 11, 2001 through June 15, 2002''.

Dated: October 10, 2001.

P.G. Gerrity,

Commander, U.S. Coast Guard, Captain of the Port Detroit, Detroit, MI.

[FR Doc. 01–26153 Filed 10–17–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4157; FRL–7080–8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for the Allegheny Ludlum Corporation's Brackenridge Facility in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve a revision to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revision was submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for the Allegheny Ludlum Corporation's Brackenridge facility, a major source of volatile organic compounds (VOC) and nitrogen oxides (NO_X) located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving this revision to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule is effective on November 2, 2001.

ADDRESSES: 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink (215) 814–2104 or by e-mail at *spink.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 1997, PADEP submitted revisions to the Pennsylvania SIP which establish and imposes RACT for several sources of NO_X and VOCs. This rulemaking pertains only to the RACT determination made for the Allegheny Ludlum Corporation's Brackenridge facility, a major source of VOC and NO_X located in the Pittsburgh area. The RACT determinations submitted on July 1, 1997 for other sources are or have been the subject of separate rulemakings. The submittal for the Allegheny Ludlum Corporation's Brackenridge facility consists of Plan Approval Order and Agreement upon Consent (CO) No. 260 in which RACT has been established and imposed by the Allegheny County Health Department (ACHD). The PADEP submitted CO No. 260 on behalf of the ACHD as a SIP revision.

On August 9, 2001, EPA published a direct final rule (66 FR 41789) and a companion notice of proposed rulemaking (66 FR 41822) to approve this SIP revision. On September 7, 2001, we received adverse comments on our direct final rule from the Citizens for Pennsylvania's Future (PennFuture). On September 20, 2001 (66 FR 48349), we published a timely withdrawal in the **Federal Register** informing the public that the direct final rule did not take effect. We indicated in our August 9, 2001 direct final rulemaking that if we received adverse comments, EPA would address all public comments in a subsequent final rule based on the proposed rule (66 FR 41822). This is that subsequent final rule. A description of the RACT determination made for Allegheny Ludlum Corporation's Brackenridge facility was provided in the August 9, 2001 direct final rule and will not be restated here. A summary of the comments submitted by PennFuture germane to this final rulemaking and EPA's responses are provided in Section II of this document.

II. Public Comments and Responses

The Citizens for Pennsylvania's Future (PennFuture) submitted adverse comments on twenty proposed rules published by EPA in the **Federal Register** between August 6 and August 24, 2001 to approve case-by-case RACT SIP submissions from the Commonwealth for NO_X and or VOC sources located in the Pittsburgh area. PennFuture's letter includes general comments and comments specific to EPA's proposals for certain sources. A summary of those comments and EPA's responses germane to this rulemaking are provided below.

A. Comment: PennFuture comments that EPA has conducted no independent technical review, and has prepared no technical support document to survey potential control technologies, determine the capital and operating costs of different options, and rank these options in total and marginal cost per ton of NO_X and VOC controlled. In citing the definition of the term ''RACT,'' and the Strelow Memorandum [Roger Strelow, Assistant Administrator for Air and Waste Management, EPA, December 9, 1976, cited in *Michigan* v. *Thomas,* 805 F.2d 176, 180 (6th Cir. 1986) and at 62 FR 43134, 43136 (1997)], PennFuture appears to comment that in every situation, RACT must include an emission rate. PennFuture asserts that EPA should conduct its own RACT evaluation for each source, or at a minimum document a step-by-step review demonstrating the adequacy of state evaluations, to ensure that appropriate control technology is applied. The commenter also believes that EPA's failure to conduct its own independent review of control technologies has resulted in our proposing to approve some RACT determinations that fail to meet the terms of EPA's own RACT standard.

Response: On March 23, 1998 (63 FR 13789), EPA granted conditional limited approval of Pennsylvania's generic RACT regulations, 25 PA Code Chapters 121 and 129, thereby approving the definitions, provisions and procedures contained within those regulations under which the Commonwealth would require and impose RACT. Subsection 129.91, *Control of major sources of* NO_X and VOCs, requires subject facilities to submit a RACT plan proposal to both the Pennsylvania Department of Environmental Protection (DEP) and to EPA Region III by July 15, 1994 in accordance with subsection 129.92, entitled, *RACT proposal requirements.* Under subsection 129.92, that proposal is to include, among other information: (1) A list each subject source at the facility; (2) The size or capacity of each affected source, and the types of fuel combusted, and the types and amounts of materials processed or produced at each source; (3) A physical description of each source and its operating characteristics; (4) Estimates of potential and actual emissions from each affected source with supporting documentation; (5) A RACT analysis which meets the requirements of subsection 129.92 (b), including technical and economic support documentation for each affected source; (6) A schedule for implementation as expeditiously as practicable but not later than May 15, 1995; (7) The testing, monitoring, recordkeeping and reporting procedures proposed to demonstrate compliance with RACT; and (8) any additional information requested by the DEP necessary to evaluate the RACT proposal. Under subsection 129.91, the DEP will approve, deny or modify each RACT proposal, and submit each RACT determination to EPA for approval as a SIP revision.

The conditional nature of EPA's March 23, 1998 conditional limited approval did not impose any conditions pertaining to the regulation's procedures for the submittal of RACT plans and analyses by subject sources and approval of case-by case RACT determinations by the DEP. Rather, EPA stated that ''* * * RACT rules *may not merely be procedural rules* (emphasis added) that require the source and the State to later agree to the appropriate level of control; rather the rules must identify the appropriate level of control for source categories or individual sources.''

On May 3, 2001 (66 FR 22123), EPA published a rulemaking determining that Pennsylvania had satisfied the conditions imposed in its conditional limited approval. In that rulemaking, EPA removed the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. EPA received no public comments on its action and that final rule removing the conditional status of Pennsylvania's VOC and NO_X RACT regulations became effective on June 18, 2001. As of that time, Pennsylvania's generic VOC and NO_X RACT regulations retained a limited approval status. On August 24, 2001 (66 FR 44578), EPA proposed to remove the limited nature of its approval of Pennsylvania's generic RACT regulation in the Pittsburgh area. EPA received no public comments on that proposal. Final action converting the limited approval to full approval shall occur once EPA has completed rulemaking to approve either (1) the case-by-case RACT proposals for all sources subject to the RACT requirements currently known in the Pittsburgh-Beaver area *or* (2) for a sufficient number of sources such that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking (63 FR 13789).

EPA agrees that it has an obligation to review the case-by-case RACT plan approvals and/or permits submitted as individual SIP revisions by Commonwealth to verify and determine if they are consistent with the RACT requirements of the Act and any

relevant EPA guidance. EPA does not agree, however, that this obligation to review the case-by-case RACT determinations submitted by Pennsylvania necessarily extends to our performing our own RACT analyses, independent of the sources' RACT plans/analyses (included as part of the case-by case RACT SIP revisions) or the Commonwealth's analyses. EPA first reviews this submission to ensure that the source and the Commonwealth followed the SIP-approved generic rule when applying for and imposing RACT for a specific source. Then EPA performs a thorough review of the technical and economic analyses conducted by the source and the state. If EPA believes additional information may further support or would undercut the RACT analyses submitted by the state, then EPA may add additional EPA-generated analyses to the record.

While RACT, as defined for an individual source or source category, often does specify an emission rate, such is not always the case. EPA has issued Control Technique Guidelines (CTGs) which states are to use as guidance in development of their RACT determinations/rules for certain sources or source categories. Not every CTG issued by EPA includes an emission rate. There are several examples of CTGs issued by EPA wherein equipment standards and/or work practice standards alone are provided as RACT guidance for all or part of the processes covered. Such examples include the CTGs issued for Bulk gasoline plants, Gasoline service stations—Stage I, Petroleum Storage in Fixed-roof tanks, Petroleum refinery processes, Solvent metal cleaning, Pharmaceutical products, External Floating roof tanks and Synthetic Organic Chemical Manufacturing (SOCMI)/polymer manufacturing. (The publication numbers for these CTG documents may be found at *http://www.epa.gov/ttn/catc/dir1/ctg.txt).*

EPA disagrees with PennFuture's general comment that our failure to conduct our own independent review of control technologies for every case-by-case RACT determination conducted by the Commonwealth has resulted in our proposing to approve some RACT determinations that fail to meet the terms of our own RACT standard. PennFuture submitted comments specific to the case-by-case RACT determinations for only three sources located in the Pittsburgh area, namely for Duquesne Light's Elrama, Phillips and Brunot Island stations. EPA summarizes those comments and provides responses in the final rule pertaining to those sources.

B. Comment: PennFuture comments that when EPA reviewed Pennsylvania's RACT program, it noted that Pennsylvania coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour ''are some of the largest NO_X emitting sources in the Commonwealth and in the Northeast United States' [63 FR 13789, 13791 (1998)] and as such should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93) to guarantee that sources would achieve quantifiable emissions reductions under the RACT program. PennFuture goes on to comment that because EPA has not conducted and documented a technical review of Pennsylvania case-by case RACT submissions, EPA has not demonstrated that these large boilers are subject to ''numeric emission limitations'' under RACT. EPA must conduct a thorough RACT evaluation or review for each such source, and must document the application of numeric emission limits and quantifiable reductions for each coal-fired boiler with a rated heat input of over 100 million Btu per hour.

Response: Circumstances may exist wherein a state could justify otherwise, however, in general, EPA agrees with PennFuture that coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93).

As provided in the response found in II. A, EPA does not agree that it must conduct its own technical analysis of each of the case-by-case RACT determinations submitted for each RACT source in order to document that its RACT requirements include numeric emission limitations. That determination can be made by EPA when it reviews the plan approval, consent order, or permit issued to such a source as submitted by the Commonwealth as SIP revision. PennFuture's comment did not point to a specific instance where a RACT plan approval, consent order or permit imposing RACT on a coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour did, in fact, lack a numerical emission limitation(s). Nonetheless, pursuant to PennFuture's comment, EPA has re-examined all of the case-by-case RACT SIP submissions made by the Commonwealth for such sources located in the Pittsburgh area. That re-examination, combined with information provided by the Commonwealth, indicates that each case-by-case RACT plan approval, consent order and/or permit for each coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour includes a numeric emission limitation. A listing of each source, its plan approval, consent order and/or permit number and its numerical emission limitation has been placed in the Administrative Records for the case-by-case RACT rulemakings for the Pittsburgh area.

C. Comment: PennFuture asserts that the Commonwealth has not adopted and submitted category RACT rules for all VOC source categories for which federal control technique guidelines (CTGs) have been issued. The commenter refers to Appendix 1 of the Technical Support Document (dated May 14, 2001), prepared by EPA in support of its proposed rule to redesignate the Pittsburgh-Beaver Valley Ozone Nonattainment Area (66 FR 29270), to assert that EPA has failed to require the Commonwealth to submit VOC RACT rules for certain categories of sources. PennFuture specifically names source categories such as equipment leaks from natural gas/gas processing plants, coke oven batteries, iron and steel foundries, and publically owned treatment works and asserts that the Commonwealth has neglected a statutory requirement to adopt category RACT regulations for these and 14 other unnamed VOC source categories.

Response: EPA has not issued CTGs for coke oven batteries, iron and steel foundries and publically owned treatment works. The Appendix 1, referred to by the commenter, lists CTG covered categories as well as source categories taken from two STAPPA/ALAPCO documents entitled, ''Meeting the 15-Percent Rate-of-Progress Requirement Under the Clean Air Act—A Menu of Options'' (September 1993) and ''Controlling Nitrogen Oxides Under the Clean Air Act—A Menu of Options'' (July 1994). The categories referenced by PennFuture are not VOC categories for which EPA has issued CTGs, but were included in Appendix A as examples of some of the types of sources that could be subject to Pennsylvania's generic RACT regulations. The Commonwealth is under no statutory obligation to adopt RACT rules for source *categories* for which EPA has not issued a CTG. In fact, CTGs do not exist for all but one of the categories to which the commenter explicitly refers.

The Act requires that states adopt regulations to impose RACT for ''major sources of VOC,'' located within those areas of a state where RACT applies under Part D of the Act [182(b)(2)(C)].

This is referred to as the non-CTG VOC RACT requirement. Moreover, EPA disagrees that there is a statutory mandate that a state adopt a source category RACT regulation even for a source category where EPA has issued a CTG. There are two statutory provisions that address RACT for sources covered by a CTG. One provides that states must adopt RACT for ''any category of VOC sources'' covered by a CTG issued prior to November 15, 1990 [182(b)(2)(A)]. The other provides that states must adopt VOC RACT for all ''VOC sources'' covered by a CTG issued after November 15, 1990 [182(b)(2)(B)]. EPA has long interpreted the statutory RACT requirement to be met either by adoption of category-specific rules or by source-specific rules for each source within a category. When initially established, RACT was clearly defined as a case-by-case determination, but EPA provided CTG's to simplify the process for states such that they would not be required to adopt hundreds or thousands of individual rules. See Strelow Memorandum dated December 9, 1976 and 44 FR 53761, September 17, 1979. EPA does not believe that Congress' use of ''source category'' in one provision of section 182(b)(2) was intended to preclude the adoption of source-specific rules.

Thus, where CTG-subject sources are located within those areas of a state where RACT applies under Part D of the Act, the state is obligated to impose RACT for the same universe of sources covered by the CTG. However, that obligation is not required to be met by the adoption and submittal of a source category RACT rule. A state may, instead, opt to impose RACT for such sources in permits, plan approvals, consent orders or in any other state enforceable document and submit those documents to EPA for approval as source-specific SIP revisions. This option has been exercised by many states, and happens most commonly when only a few CTG-subject sources are located in the state. The source-specific approach is generally employed to avoid what can be a lengthy and resource-intensive state rule adoption process for only a few sources that may have different needs and considerations that must be taken into account.

As stated earlier, there is one source category explicitly included in PennFuture's comment for which EPA has issued a CTG, namely natural gas/gas processing plants. The Commonwealth made a negative declaration to EPA on April 13, 1993, stating that as of that date there were no applicable sources in this category. Therefore, the Commonwealth did not adopt a category RACT regulation for natural gas/gas processing plants.

D. Comment: PennFuture cites EPA correspondence [letter from Marcia Spink, EPA, to James Salvaggio, DEP, December 15, 1993] to the Commonwealth which states that establishing any dollar figure in RACT guidance will not provide for the ''automatic'' selection or rejection of a control technology or emission limitation as RACT for a source or source category. With regard to the Pennsylvania DEP's intent to finalize a NO_X RACT Guidance Document for implementation of its NO_X RACT regulation, EPA's 1993 letter stated that the document could improperly be used to establish ''bright line'' or ''cook-book'' approaches, particularly for a regulation applicable to many source categories and suggested that if the guidance document must include dollar figures/ton, it provide approximate ranges by source category. PennFuture comments that DEP issued its ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions,'' March 11, 1994, and on pp. 8–9 states that the acceptable threshold is $1500 per ton, and that this figure applies to ''all source categories.'' PennFuture notes that EPA later objected to the $1500 per ton methodology as ''not generically acceptable to EPA'' [letter from Thomas Maslany, EPA, to James Salvaggio, DEP, June 24, 1997] and further stated in a Federal Register notice that a ''dollar per ton threshold'' is ''inconsistent with the definition of RACT'' [62 FR 43134, 37–38 (1997)].

PennFuture comments that EPA is proposing to approve RACT determinations based on a cost per ton method that EPA had previously rejected, and according to its own clearly expressed standard, EPA must not approve RACT determinations by Pennsylvania DEP that apply this $1500 per ton threshold. The commenter states that PennFuture's review of several of the current DEP evaluations indicate that the Commonwealth applied this standard and provides the examples of Duquesne Light—Elrama (auxiliary boiler); Allegheny Ludlum—Washington (formerly Jessop Steel). PennFuture asserts EPA must reject all Pennsylvania RACT determinations applying the standard of $1500 per ton, or any other ''bright line'' approach, as failing to follow EPA procedures established for Pennsylvania RACT.

Response: EPA still takes the position that a single cost per ton dollar figure may not, in and of itself, form the basis for rejecting a control technology, equipment standard, or work practice standard as RACT. The Technical Support Document prepared by EPA in support of its March 23, 1998 rulemaking [63 FR 13789] clearly indicates that the Commonwealth's document, ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions.'' March 11, 1994, had not been included as part of the SIP submission of the Commonwealth's generic regulation and, therefore, had not been approved by EPA. EPA further notes that the Administrative Record of the March 23, 1998 rulemaking [63 FR 13789], in addition to the correspondence cited by PennFuture, also includes correspondence from DEP to EPA [letter from James Salvaggio, DEP to David Arnold, EPA, September 10, 1997] stating that DEP's RACT guidance document does not establish a maximum dollar per ton for determining the cost effectiveness for RACT determinations and notes that the DEP's $1500 per ton cost effectiveness is a target value and not an absolute maximum. For example, in its analyses of the cost effectiveness of RACT control options submitted by DEP as part of the case-by-case SIP revision for Peoples Natural Gas (PNG) Valley Compressor Station's turbo charged lean burn IC engine (see the Administrative Record for 66 FR 43492), the Commonwealth included DEP interoffice memoranda (Thomas Joseph to Krishnan Ramamurthy, July 14, 1994 and Krishnan Ramamurthy to Thomas McGinley, Babu Patel, Ronald Davis, Richard Maxwell, and Devendra Verma, July 15, 1994) which spoke directly to the $1500/ton dollar figure as being a guideline and not an upper limit. These memoranda explain that although PNG initially proposed intermediate original equipment manufacturer (OEM) combustion controls which would have reduced NO_X emissions from 254.7 tons per year to 115 tons per year (by 55%) at a cost of $1355 per ton reduced, DEP required the installation of an OEM lean combustion modification that reduced NO_X emissions from 254.7 tons per year to 76 tons per year (by 69%) at a cost of $1684 per ton reduced. The DEP's July 15, 1994 interoffice memorandum says of the PNG RACT determination which exceeded the cost effectiveness screening level of $1500 per ton '' Tom's (Joseph) insistence for the next more stringent level of control than the company's chosen level in the case of PNG was consistent with EPA Region III's sentiment that establishing any dollar figure in RACT guidance will not provide for an ''automatic'' rejection of

a control technology as RACT for a source.''

In no instance, including that for Duquesne Light—Elrama (auxiliary boiler) and Allegheny Ludlum—Washington (formerly Jessop Steel), has EPA proposed to approve a RACT determination submitted by the Commonwealth which was based solely on a conclusion that controls that cost more than $1500/ton were not required as RACT. As explained in the response provided in section II. A. of this document, EPA conducts its review of the entire case-by-case RACT SIP submittal including the source's proposed RACT plan and analyses, Pennsylvania's analyses and the RACT plan approval, consent order or permit itself to insure that the requirements of the SIP-approved generic RACT have been followed. These analyses not only evaluate and consider the costs of potential control options, but also evaluate their technological feasibility.

E. Comment: PennFuture comments that any emission reduction credits (ERCs) earned by sources subject to RACT must be surplus to all applicable state and federal requirements. Under Pennsylvania law, ERCs must be surplus, permanent, quantified, and Federally enforceable. 25 Pa.Code 127.207(1). As to the requirement that ERCs be surplus, the Pennsylvania Code states: ERCs shall be included in the current emission inventory, and may not be required by or be used to meet past or current SIP, attainment demonstration, RFP, emission limitation or compliance plans. Emission reductions necessary to meet NSPS, LAER, RACT, Best Available Technology, BACT and permit or plan approval emissions limitations or another emissions limitation required by the Clean Air Act or the [Air Pollution Control Act] may not be used to generate ERCs. 25 Pa.Code 127.207(1)(i). To be creditable, ERCs must surpass not only RACT requirements but a host of other possible sources of emission limits. PennFuture comments that some of the RACT evaluations at issue in the current EPA notices purport to establish RACT as a baseline for future ERCs. PennFuture does acknowledge that EPA notes in its boilerplate for the notices, that Pennsylvania and EPA have established a series of NO_X-reducing rules, including the recent Chapter 145 rule, to reduce NO_X at large utility and industrial sources. See, for example, 66 FR 42415, 16–17 (August 13, 2001). Because any ERCs must be surplus to the most stringent limitation applicable under state or federal law as described in the Pennsylvania Code provision set forth above, DEP and EPA must not approve ERCs unless they surpass all such limitations in addition to any limits set by RACT.

Response: EPA agrees with this comment by PennFuture. The approval of a case-by-case RACT determination, in and of itself, does not establish the baseline from which further emission reductions may be calculated and assumed creditable under the Commonwealth's SIP-approved NSR and ERC program. Moreover, EPA's review of the Pennsylvania DEP's implementation of its approved SIP-approved NSR and ERC program indicates that the Commonwealth calculates and credits ERCs in accordance with the SIP-approved criteria for doing so as outlined in PennFuture's comment. No source for which EPA is approving a case-by-case RACT determination should assume that its RACT approval alone automatically establishes the baseline against which it may calculate creditable ERCs.

F. Comment: PennFuture comments that as in the case with Pennsylvania Power—Newcastle, EPA should compare RACT proposals to applicable acid rain program emission limits and control strategies. PennFuture contends that EPA previously disapproved a RACT proposal for the Pennsylvania Power—Newcastle plant [62 FR 43959 (1997); 63 FR 23668 (1998)] and that EPA did so on the basis that the acid rain program requires more stringent emission limits. PennFuture asserts that while EPA had originally proposed to approve this proposal, an analysis of comparable boilers and, especially, a comparison to Phase II emission limits under the acid rain program led EPA to conclude that the RACT proposal emission limits were too lenient. [62 FR at 43961]. Therefore, PennFuture contends that for sources subject to the acid rain program, EPA should consider emissions and control strategies for compliance with acid rain emission limits when evaluating proposals for compliance with RACT.

Response: Title IV of the Act, addressing the acid rain program, contains NO_X emission requirements for utilities which must be met *in addition* to any RACT requirements (see NO_X Supplement to the General Preamble at 57 FR 55625, November 25, 1992). The Act provides for a number of control programs that may affect similar sources. For example, new sources may be subject to new source performance standards (NSPS), best available control technology (BACT), and lowest achievable emission rate (LAER). Other controls, under such programs as the acid rain program or the hazardous air pollutant program may also apply to sources. However, the applicability of these other requirements, which are often more stringent than RACT, do not establish what requirements must apply under the RACT program. While these programs may provide information as to the technical and economic feasibility of reduction programs for RACT, there is no presumption that acid rain controls should be mandated as RACT.

EPA stated in the final disapproval of the NO_X RACT determination for PPNC (63 FR at 23669), that the discussion concerning average emission rates for boilers with respect to the acid rain program requirements were included in order to provide a context for EPA's proposed disapproval. EPA made clear in its August 18, 1997 proposed disapproval of Pennsylvania Powers'—Newcastle (PPNC) RACT determination, that the basis for disapproval was a comparison between PPNC's boilers and other similar combustion units, not acid rain limits. In fact, EPA stated in the August 18, 1997 proposed disapproval that ''Without additional knowledge or information, it would be erroneous and premature to conclude that the limits in the acid rain permit are RACT.'' (62 FR at 43961). EPA clearly stated in the final disapproval for PPNC that it did not use acid rain permit limits, or Pennsylvania's participation in any other NO_X control program, to determine PPNC RACT approvability (63 FR at 23670). Nor has EPA intended to use participation in NO_X control programs including acid rain, in determining RACT for PPNC or any other subject sources. EPA also stated that the April 30, 1998, PPNC disapproval was based on the absence of pertinent information regarding a computerized combustion optimization system through an enforceable permit, not comparison of acid rain permit limits.

III. Final Action

EPA is approving the SIP revision submitted by PADEP on behalf of ACHD to establish and require VOC and NO_X RACT for the Allegheny Ludlum Corporation's Brackenridge facility. EPA is approving Pennsylvania's SIP submittal for the Allegheny Ludlum Corporation's Brackenridge facility because CO No. 260 establishes and imposes RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations and also imposes record-keeping, monitoring, and testing requirements sufficient to determine compliance with the applicable RACT determinations.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. 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 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 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action 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 ''Protection of Children from Environmental Health Risks and Safety Risks'' (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. 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for one named source.

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 17, 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 approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from the Allegheny Ludlum Corporation's Brackenridge facility 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 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 NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(159) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(159) Revision pertaining to VOC and NO_X RACT for the Allegheny Ludlum Corporation, Brackenridge facility, submitted by the Pennsylvania Department of Environmental Protection on July 1, 1997.

(i) *Incorporation by reference.*

(A) Letter submitted on July 1, 1997 by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations.

(B) Consent Order No. 260, effective December 19, 1996, for the Allegheny Ludlum Corporation, Brackenridge facility, except for conditions 1.8 and 2.5.

(ii) *Additional materials.* Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determination for the source listed in paragraph (c)(159)(i)(B) of this section.

* * * * *

[FR Doc. 01–25578 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4158; FRL–7080–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Two Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for two major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule is effective on November 2, 2001.

ADDRESSES: 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Marcia Spink, (215) 814–2104, or by e-mail at *spink.marcia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 1997 and April 9, 1999, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several major sources of VOC and/or NO_X. This rulemaking pertains to the Kosmos Cement Company and the Armstrong Cement & Supply Company. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's SIP submittals consist of enforcement order (EO) 208 issued by the Allegheny County Health Department (ACHD) to the Kosmos Cement Company and operating permit (OP) 10–028 issued by PADEP to the Armstrong Cement & Supply Company which impose VOC and/or NO_X RACT requirements for each source. These two sources are located in the Pittsburgh area.

On August 9, 2001, EPA published a direct final rule (66 FR 41793) and a companion notice of proposed rulemaking (66 FR 41823) to approve these SIP revisions. On September 7, 2001, we received adverse comments on our direct final rule from the Citizens for Pennsylvania's Future (PennFuture). On September 20, 2001 (66 FR 48349), we published a timely withdrawal in the **Federal Register** informing the public that the direct final rule did not take effect. We indicated in our August 9, 2001 direct final rulemaking that if we received adverse comments, EPA would address all public comments in a subsequent final rule based on the proposed rule (66 FR 42823). This is that subsequent final rule. A description of the RACT determination made for each source was provided in the August 9, 2001 direct final rule and will not be restated here. A summary of the comments submitted by PennFuture germane to this final rulemaking and EPA's responses are provided in Section II of this document.

II. Public Comments and Responses

The Citizens for Pennsylvania's Future (PennFuture) submitted adverse comments on twenty proposed rules published by EPA in the **Federal Register** between August 6 and August 24, 2001 to approve case-by-case RACT SIP submissions from the Commonwealth for NO_X and or VOC sources located in the Pittsburgh area. PennFuture's letter includes general comments and comments specific to EPA's proposals for certain sources. A summary of those comments and EPA's responses are provided below.

A. Comment: PennFuture comments that EPA has conducted no independent technical review, and has prepared no technical support document to survey potential control technologies, determine the capital and operating costs of different options, and rank these options in total and marginal cost per ton of NO_X and VOC controlled. In citing the definition of the term ''RACT,'' and the Strelow Memorandum [Roger Strelow, Assistant Administrator for Air and Waste Management, EPA, December 9, 1976, cited in *Michigan* v. *Thomas*, 805 F.2d 176, 180 (6th Cir. 1986) and at 62 FR 43134, 43136 (1997)], PennFuture appears to comment that in every situation, RACT must include an emission rate. PennFuture asserts that EPA should conduct its own RACT evaluation for each source, or at a minimum document a step-by-step review demonstrating the adequacy of state evaluations, to ensure that appropriate control technology is applied. The commenter also believes that EPA's failure to conduct its own independent review of control technologies has resulted in our proposing to approve some RACT determinations that fail to meet the terms of EPA's own RACT standard.

Response: On March 23, 1998 (63 FR 13789), EPA granted conditional limited approval of Pennsylvania's generic RACT regulations, 25 PA Code Chapters 121 and 129, thereby approving the definitions, provisions and procedures contained within those regulations under which the Commonwealth would require and impose RACT. Subsection 129.91, *Control of major sources of NO_X and VOCs*, requires subject facilities to submit a RACT plan proposal to both the Pennsylvania Department of Environmental Protection (DEP) and to EPA Region III by July 15, 1994 in accordance with subsection 129.92, entitled, *RACT proposal requirements*. Under subsection 129.92, that proposal is to include, among other information: (1) A list of each subject source at the facility; (2) The size or capacity of each affected source, and the types of fuel combusted, and the types and amounts of materials processed or produced at each source; (3) A physical description of each source and its operating characteristics; (4) Estimates of potential and actual emissions from each affected source with supporting documentation; (5) A RACT analysis which meets the requirements of subsection 129.92 (b), including technical and economic support documentation for each affected source; (6) A schedule for implementation as expeditiously as practicable but not later than May 15, 1995; (7) The testing, monitoring, recordkeeping and reporting procedures proposed to demonstrate compliance with RACT; and (8) any additional information requested by the DEP necessary to evaluate the RACT proposal. Under subsection 129.91, the DEP will approve, deny or modify each RACT proposal, and submit each RACT determination to EPA for approval as a SIP revision.

The conditional nature of EPA's March 23, 1998 conditional limited approval did not impose any conditions pertaining to the regulation's procedures for the submittal of RACT plans and analyses by subject sources and

approval of case-by case RACT determinations by the DEP. Rather, EPA stated that ''* * * RACT rules *may not merely be procedural rules* (emphasis added) that require the source and the State to later agree to the appropriate level of control; rather the rules must identify the appropriate level of control for source categories or individual sources.''

On May 3, 2001 (66 FR 22123), EPA published a rulemaking determining that Pennsylvania had satisfied the conditions imposed in its conditional limited approval. In that rulemaking, EPA removed the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. EPA received no public comments on its action and that final rule removing the conditional status of Pennsylvania's VOC and NO_X RACT regulations became effective on June 18, 2001. As of that time, Pennsylvania's generic VOC and NO_X RACT regulations retained a limited approval status. On August 24, 2001 (66 FR 44578), EPA proposed to remove the limited nature of its approval of Pennsylvania's generic RACT regulation in the Pittsburgh area. EPA received no public comments on that proposal. Final action converting the limited approval to full approval shall occur once EPA has completed rulemaking to approve either (1) the case-by-case RACT proposals for all sources subject to the RACT requirements currently known in the Pittsburgh-Beaver area *or* (2) for a sufficient number of sources such that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking (63 FR 13789).

EPA agrees that it has an obligation to review the case-by-case RACT plan approvals and/or permits submitted as individual SIP revisions by Commonwealth to verify and determine if they are consistent with the RACT requirements of the Act and any relevant EPA guidance. EPA does not agree, however, that this obligation to review the case-by-case RACT determinations submitted by Pennsylvania necessarily extends to our performing our own RACT analyses, independent of the sources' RACT plans/analyses (included as part of the case-by case RACT SIP revisions) or the Commonwealth's analyses. EPA first reviews this submission to ensure that the source and the Commonwealth followed the SIP-approved generic rule when applying for and imposing RACT for a specific source. Then EPA performs a thorough review of the technical and economic analyses conducted by the source and the state. If EPA believes additional information may further support or would undercut the RACT analyses submitted by the state, then EPA may add additional EPA-generated analyses to the record.

While RACT, as defined for an individual source or source category, often does specify an emission rate, such is not always the case. EPA has issued Control Technique Guidelines (CTGs) which states are to use as guidance in development of their RACT determinations/rules for certain sources or source categories. Not every CTG issued by EPA includes an emission rate. There are several examples of CTGs issued by EPA wherein equipment standards and/or work practice standards alone are provided as RACT guidance for all or part of the processes covered. Such examples include the CTGs issued for Bulk gasoline plants, Gasoline service stations—Stage I, Petroleum Storage in Fixed-roof tanks, Petroleum refinery processes, Solvent metal cleaning, Pharmaceutical products, External Floating roof tanks and Synthetic Organic Chemical Manufacturing (SOCMI)/polymer manufacturing. (The publication numbers for these CTG documents may be found at *http://www.epa.gov/ttn/catc/dir1/ctg.txt*).

EPA disagrees with PennFuture's general comment that our failure to conduct our own independent review of control technologies for every case-by-case RACT determination conducted by the Commonwealth has resulted in our proposing to approve some RACT determinations that fail to meet the terms of our own RACT standard. PennFuture submitted comments specific to the case-by-case RACT determinations for only three sources located in the Pittsburgh area, namely for Duquesne Light's Elrama, Phillips and Brunot Island stations. EPA summarizes those comments and provides responses in the final rule pertaining to those sources.

B. Comment: PennFuture comments that when EPA reviewed Pennsylvania's RACT program, it noted that Pennsylvania coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour ''are some of the largest NO_X emitting sources in the Commonwealth and in the Northeast United States'' (63 FR 13789, 13791 (1998)) and as such should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93) to guarantee that sources would achieve quantifiable emissions reductions under the RACT program. PennFuture goes on to comment that because EPA has not conducted and documented a technical review of Pennsylvania case-by case RACT submissions, EPA has not demonstrated that these large boilers are subject to ''numeric emission limitations'' under RACT. EPA must conduct a thorough RACT evaluation or review for each such source, and must document the application of numeric emission limits and quantifiable reductions for each coal-fired boiler with a rated heat input of over 100 million Btu per hour.

Response: Circumstances may exist wherein a state could justify otherwise, however, in general, EPA agrees with PennFuture that coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93).

As provided in the response found in II. A, EPA does not agree that it must conduct its own technical analysis of each of the case-by-case RACT determinations submitted for each RACT source in order to document that its RACT requirements include numeric emission limitations. That determination can be made by EPA when it reviews the plan approval, consent order, or permit issued to such a source as submitted by the Commonwealth as SIP revision. PennFuture's comment did not point to a specific instance where a RACT plan approval, consent order or permit imposing RACT on a coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour did, in fact, lack a numerical emission limitation(s). Nonetheless, pursuant to PennFuture's comment, EPA has re-examined all of the case-by-case RACT SIP submissions made by the Commonwealth for such sources located in the Pittsburgh area. That re-examination, combined with information provided by the Commonwealth, indicates that each case-by-case RACT plan approval, consent order and/or permit for each coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour includes a numeric emission limitation. A listing of each source, its plan approval, consent order and/or permit number and its numerical emission limitation has been placed in the Administrative Records for the case-by-case RACT rulemakings for the Pittsburgh area.

C. Comment: PennFuture asserts that the Commonwealth has not adopted and submitted category RACT rules for all VOC source categories for which federal control technique guidelines (CTGs)

have been issued. The commenter refers to Appendix 1 of the Technical Support Document (dated May 14, 2001), prepared by EPA in support of its proposed rule to redesignate the Pittsburgh-Beaver Valley Ozone Nonattainment Area (66 FR 29270), to assert that EPA has failed to require the Commonwealth to submit VOC RACT rules for certain categories of sources. PennFuture specifically names source categories such as equipment leaks from natural gas/gas processing plants, coke oven batteries, iron and steel foundries, and publically owned treatment works and asserts that the Commonwealth has neglected a statutory requirement to adopt category RACT regulations for these and 14 other unnamed VOC source categories.

Response: EPA has not issued CTGs for coke oven batteries, iron and steel foundries and publically owned treatment works. The Appendix 1, referred to by the commenter, lists CTG covered categories as well as source categories taken from two STAPPA/ALAPCO documents entitled, ''Meeting the 15-Percent Rate-of-Progress Requirement Under the Clean Air Act—A Menu of Options'' (September 1993) and ''Controlling Nitrogen Oxides Under the Clean Air Act—A Menu of Options'' (July 1994). The categories referenced by PennFuture are not VOC categories for which EPA has issued CTGs, but were included in Appendix A as examples of some of the types of sources that could be subject to Pennsylvania's generic RACT regulations. The Commonwealth is under no statutory obligation to adopt RACT rules for source *categories* for which EPA has not issued a CTG. In fact, CTGs do not exist for all but one of the categories to which the commenter explicitly refers.

The Act requires that states adopt regulations to impose RACT for ''major sources of VOC,'' located within those areas of a state where RACT applies under Part D of the Act [182(b)(2)(C)]. This is referred to as the non-CTG VOC RACT requirement. Moreover, EPA disagrees that there is a statutory mandate that a state adopt a source category RACT regulation even for a source category where EPA has issued a CTG. There are two statutory provisions that address RACT for sources covered by a CTG. One provides that states must adopt RACT for ''any category of VOC sources'' covered by a CTG issued prior to November 15, 1990 [182(b)(2)(A)]. The other provides that states must adopt VOC RACT for all ''VOC sources'' covered by a CTG issued after November 15, 1990 [182(b)(2)(B)]. EPA has long interpreted the statutory RACT requirement to be met either by adoption of category-specific rules or by source-specific rules for each source within a category. When initially established, RACT was clearly defined as a case-by-case determination, but EPA provided CTG's to simplify the process for states such that they would not be required to adopt hundreds or thousands of individual rules. See Strelow Memorandum dated December 9, 1976 and 44 FR 53761, September 17, 1979. EPA does not believe that Congress' use of ''source category'' in one provision of section 182(b)(2) was intended to preclude the adoption of source-specific rules.

Thus, where CTG-subject sources are located within those areas of a state where RACT applies under Part D of the Act, the state is obligated to impose RACT for the same universe of sources covered by the CTG. However, that obligation is not required to be met by the adoption and submittal of a source category RACT rule. A state may, instead, opt to impose RACT for such sources in permits, plan approvals, consent orders or in any other state enforceable document and submit those documents to EPA for approval as source-specific SIP revisions. This option has been exercised by many states, and happens most commonly when only a few CTG-subject sources are located in the state. The source-specific approach is generally employed to avoid what can be a lengthy and resource-intensive state rule adoption process for only a few sources that may have different needs and considerations that must be taken into account.

As stated earlier, there is one source category explicitly included in PennFuture's comment for which EPA has issued a CTG, namely natural gas/gas processing plants. The Commonwealth made a negative declaration to EPA on April 13, 1993, stating that as of that date there were no applicable sources in this category. Therefore, the Commonwealth did not adopt a category RACT regulation for natural gas/gas processing plants.

D. Comment: PennFuture cites EPA correspondence [letter from Marcia Spink, EPA, to James Salvaggio, DEP, December 15, 1993] to the Commonwealth which states that establishing any dollar figure in RACT guidance will not provide for the ''automatic'' selection or rejection of a control technology or emission limitation as RACT for a source or source category. With regard to the Pennsylvania DEP's intent to finalize a NO_X RACT Guidance Document for implementation of its NO_X RACT regulation, EPA's 1993 letter stated that the document could improperly be used to establish ''bright line'' or ''cook-book'' approaches, particularly for a regulation applicable to many source categories and suggested that if the guidance document must include dollar figures/ton, it provide approximate ranges by source category. PennFuture comments that DEP issued its ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions,'' March 11, 1994, and on pp. 8–9 states that the acceptable threshold is $1500 per ton, and that this figure applies to ''all source categories.'' PennFuture notes that EPA later objected to the $1500 per ton methodology as ''not generically acceptable to EPA'' [letter from Thomas Maslany, EPA, to James Salvaggio, DEP, June 24, 1997] and further stated in a **Federal Register** notice that a ''dollar per ton threshold'' is ''inconsistent with the definition of RACT'' [62 FR 43134, 37–38 (1997)].

PennFuture comments that EPA is proposing to approve RACT determinations based on a cost per ton method that EPA had previously rejected, and according to its own clearly expressed standard, EPA must not approve RACT determinations by Pennsylvania DEP that apply this $1500 per ton threshold. The commenter states that PennFuture's review of several of the current DEP evaluations indicate that the Commonwealth applied this standard and provides the examples of Duquesne Light—Elrama (auxiliary boiler); Allegheny Ludlum—Washington (formerly Jessop Steel). PennFuture asserts EPA must reject all Pennsylvania RACT determinations applying the standard of $1500 per ton, or any other ''bright line'' approach, as failing to follow EPA procedures established for Pennsylvania RACT.

Response: EPA still takes the position that a single cost per ton dollar figure may not, in and of itself, form the basis for rejecting a control technology, equipment standard, or work practice standard as RACT. The Technical Support Document prepared by EPA in support of its March 23, 1998 rulemaking (63 FR 13789) clearly indicates that the Commonwealth's document, ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions.'' March 11, 1994, had not been included as part of the SIP submission of the Commonwealth's generic regulation and, therefore, had not been approved by EPA. EPA further notes that the Administrative Record of the March 23, 1998 rulemaking (63 FR 13789), in addition to the correspondence cited by PennFuture,

also includes correspondence from DEP to EPA [letter from James Salvaggio, DEP to David Arnold, EPA, September 10, 1997] stating that DEP's RACT guidance document does not establish a maximum dollar per ton for determining the cost effectiveness for RACT determinations and notes that the DEP's $1500 per ton cost effectiveness is a target value and not an absolute maximum. For example, in its analyses of the cost effectiveness of RACT control options submitted by DEP as part of the case-by-case SIP revision for Peoples Natural Gas (PNG) Valley Compressor Station's turbo charged lean burn IC engine (see the Administrative Record for 66 FR 43492), the Commonwealth included DEP interoffice memoranda (Thomas Joseph to Krishnan Ramamurthy, July 14, 1994 and Krishnan Ramamurthy to Thomas McGinley, Babu Patel, Ronald Davis, Richard Maxwell, and Devendra Verma, July 15, 1994) which spoke directly to the $1500/ton dollar figure as being a guideline and not an upper limit. These memoranda explain that although PNG initially proposed intermediate original equipment manufacturer (OEM) combustion controls which would have reduced NO_X emissions from 254.7 tons per year to 115 tons per year (by 55%) at a cost of $1355 per ton reduced, DEP required the installation of an OEM lean combustion modification that reduced NO_X emissions from 254.7 tons per year to 76 tons per year (by 69%) at a cost of $1684 per ton reduced. The DEP's July 15, 1994 interoffice memorandum says of the PNG RACT determination which exceeded the cost effectiveness screening level of $1500 per ton '' Tom's (Joseph) insistence for the next more stringent level of control than the company's chosen level in the case of PNG was consistent with EPA Region III's sentiment that establishing any dollar figure in RACT guidance will not provide for an ''automatic'' rejection of a control technology as RACT for a source.''

In no instance, including that for Duquesne Light—Elrama (auxiliary boiler) and Allegheny Ludlum—Washington (formerly Jessop Steel), has EPA proposed to approve a RACT determination submitted by the Commonwealth which was based solely on a conclusion that controls that cost more than $1500/ton were not required as RACT. As explained in the response provided in section II. A. of this document, EPA conducts its review of the entire case-by-case RACT SIP submittal including the source's proposed RACT plan and analyses, Pennsylvania's analyses and the RACT plan approval, consent order or permit itself to insure that the requirements of the SIP-approved generic RACT have been followed. These analyses not only evaluate and consider the costs of potential control options, but also evaluate their technological feasibility.

E. Comment: PennFuture comments that any emission reduction credits (ERCs) earned by sources subject to RACT must be surplus to all applicable state and federal requirements. Under Pennsylvania law, ERCs must be surplus, permanent, quantified, and Federally enforceable. 25 Pa.Code 127.207(1). As to the requirement that ERCs be surplus, the Pennsylvania Code states: ERCs shall be included in the current emission inventory, and may not be required by or be used to meet past or current SIP, attainment demonstration, RFP, emission limitation or compliance plans. Emission reductions necessary to meet NSPS, LAER, RACT, Best Available Technology, BACT and permit or plan approval emissions limitations or another emissions limitation required by the Clean Air Act or the [Air Pollution Control Act] may not be used to generate ERCs. 25 Pa.Code 127.207(1)(i). To be creditable, ERCs must surpass not only RACT requirements but a host of other possible sources of emission limits. PennFuture comments that some of the RACT evaluations at issue in the current EPA notices purport to establish RACT as a baseline for future ERCs. PennFuture does acknowledge that EPA notes in its boilerplate for the notices, that Pennsylvania and EPA have established a series of NO_X-reducing rules, including the recent Chapter 145 rule, to reduce NO_X at large utility and industrial sources. See, for example, 66 FR 42415, 16–17 (August 13, 2001). Because any ERCs must be surplus to the most stringent limitation applicable under state or Federal law as described in the Pennsylvania Code provision set forth above, DEP and EPA must not approve ERCs unless they surpass all such limitations in addition to any limits set by RACT.

Response: EPA agrees with this comment by PennFuture. The approval of a case-by-case RACT determination, in and of itself, does not establish the baseline from which further emission reductions may be calculated and assumed creditable under the Commonwealth's SIP-approved NSR and ERC program. Moreover, EPA's review of the Pennsylvania DEP's implementation of its approved SIP-approved NSR and ERC program indicates that the Commonwealth calculates and credits ERCs in accordance with the SIP-approved criteria for doing so as outlined in PennFuture's comment. No source for which EPA is approving a case-by-case RACT determination should assume that its RACT approval alone automatically establishes the baseline against which it may calculate creditable ERCs.

F. Comment: PennFuture comments that as in the case with Pennsylvania Power—Newcastle, EPA should compare RACT proposals to applicable acid rain program emission limits and control strategies. PennFuture contends that EPA previously disapproved a RACT proposal for the Pennsylvania Power—Newcastle plant [62 FR 43959 (1997); 63 FR 23668 (1998)] and that EPA did so on the basis that the acid rain program requires more stringent emission limits. PennFuture asserts that while EPA had originally proposed to approve this proposal, an analysis of comparable boilers and, especially, a comparison to Phase II emission limits under the acid rain program led EPA to conclude that the RACT proposal emission limits were too lenient. [62 FR at 43961]. Therefore, PennFuture contends that for sources subject to the acid rain program, EPA should consider emissions and control strategies for compliance with acid rain emission limits when evaluating proposals for compliance with RACT.

Response: Title IV of the Act, addressing the acid rain program, contains NO_X emission requirements for utilities which must be met *in addition to* any RACT requirements (see NO_X Supplement to the General Preamble at 57 FR 55625, November 25, 1992). The Act provides for a number of control programs that may affect similar sources. For example, new sources may be subject to new source performance standards (NSPS), best available control technology (BACT), and lowest achievable emission rate (LAER). Other controls, under such programs as the acid rain program or the hazardous air pollutant program may also apply to sources. However, the applicability of these other requirements, which are often more stringent than RACT, do not establish what requirements must apply under the RACT program. While these programs may provide information as to the technical and economic feasibility of reduction programs for RACT, there is no presumption that acid rain controls should be mandated as RACT.

EPA stated in the final disapproval of the NO_X RACT determination for PPNC (63 FR at 23669), that the discussion concerning average emission rates for boilers with respect to the acid rain program requirements were included in

order to provide a context for EPA's proposed disapproval. EPA made clear in its August 18, 1997 proposed disapproval of Pennsylvania Powers'—Newcastle (PPNC) RACT determination, that the basis for disapproval was a comparison between PPNC's boilers and other similar combustion units, not acid rain limits. In fact, EPA stated in the August 18, 1997 proposed disapproval that ''Without additional knowledge or information, it would be erroneous and premature to conclude that the limits in the acid rain permit are RACT.'' (62 FR at 43961). EPA clearly stated in the final disapproval for PPNC that it did not use acid rain permit limits, or Pennsylvania's participation in any other NO_X control program, to determine PPNC RACT approvability (63 FR at 23670). Nor has EPA intended to use participation in NO_X control programs including acid rain, in determining RACT for PPNC or any other subject sources. EPA also stated that the April 30, 1998, PPNC disapproval was based on the absence of pertinent information regarding a computerized combustion optimization system through an enforceable permit, not comparison of acid rain permit limits.

III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and/or NO_X RACT for the Kosmos Cement Company and the Armstrong Cement & Supply Company. EPA is approving these RACT SIP submittals because ACHD and PADEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The ACHD and PADEP has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. 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 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 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action 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 ''Protection of Children from Environmental Health Risks and Safety Risks'' (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. 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for two named sources.

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 17, 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 approving the Commonwealth's source-specific RACT requirements to control VOC and/or NO_X from the Kosmos Cement Company and the Armstrong Cement & Supply Company located in the Pittsburgh -Beaver Valley nonattainment area of Pennsylvania 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 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 NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(160) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(160) Revisions pertaining to NO_X and/or VOC RACT for major sources, located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on July 1, 1997, and April 9, 1999.

(i) Incorporation by reference.

(A) Letters dated July 1, 1997 and April 9, 1999, submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_X RACT determinations.

(B) The following sources' Enforcement Order (EO) or Operating Permit (OP):

(*1*) Kosmos Cement Company, EO 208, effective December 19, 1996, except for condition 2.5.

(*2*) Armstrong Cement & Supply Company, OP 10–028, effective March 31, 1999.

(ii) Additional materials. Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(160)(i)(B) of this section.

[FR Doc. 01–25736 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4160; FRL–7081–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Three Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for three major sources of volatile organic compounds (VOC). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule is effective on November 2, 2001.

ADDRESSES: 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Marcia Spink, (215) 814–2104 or by e-mail at *spink.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 1997, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several major sources of VOC and/or NO_X. This rulemaking pertains to three of those sources. The remaining sources are or have been the subject of separate rulemakings. The submittals consist of a plan approval and agreement upon consent order (Consent Order or CO) for each source issued by the Allegheny County Health Department (ACHD). The COs were submitted as SIP revisions by PADEP on behalf of ACHD. These three sources are located in the Pittsburgh area and consist of IDL, Incorporated; Oakmont Pharmaceutical, Inc.; and U.S. Air, Inc.

On August 10, 2001, EPA published a direct final rule (66 FR 42133) and a companion notice of proposed rulemaking (66 FR 42186) to approve these SIP revisions. On September 7, 2001, we received adverse comments on our direct final rule from the Citizens for Pennsylvania's Future (PennFuture). On September 20, 2001 (66 FR 48348), we published a timely withdrawal in the **Federal Register** informing the public that the direct final rule did not take effect. We indicated in our August 10, 2001 direct final rulemaking that if we received adverse comments, EPA would address all public comments in a subsequent final rule based on the proposed rule (66 FR 42186). This is that subsequent final rule. A description of the RACT determination(s) made for each source was provided in the August 10, 2001 direct final rule and will not be restated here. A summary of the comments submitted by PennFuture germane to this final rulemaking and EPA's responses are provided in Section II of this document.

II. Public Comments and Responses

The Citizens for Pennsylvania's Future (PennFuture) submitted adverse comments on twenty proposed rules published by EPA in the **Federal Register** between August 6 and August 24, 2001 to approve case-by-case RACT SIP submissions from the Commonwealth for NO_X and or VOC sources located in the Pittsburgh area. PennFuture's letter includes general comments and comments specific to EPA's proposals for certain sources. A summary of those comments and EPA's responses are provided below.

A. Comment: PennFuture comments that EPA has conducted no independent technical review, and has prepared no technical support document to survey potential control technologies, determine the capital and operating costs of different options, and rank these options in total and marginal cost per ton of NO_X and VOC controlled. In citing the definition of the term ''RACT,'' and the Strelow Memorandum [Roger Strelow, Assistant Administrator for Air and Waste Management, EPA, December 9, 1976, cited in *Michigan* v. *Thomas,* 805 F.2d 176, 180 (6th Cir. 1986) and at 62 FR 43134, 43136 (1997)], PennFuture appears to comment that in every situation, RACT must include an emission rate. PennFuture asserts that EPA should conduct its own RACT evaluation for each source, or at a minimum document a step-by-step review demonstrating the adequacy of state evaluations, to ensure that appropriate control technology is applied. The commenter also believes that EPA's failure to conduct its own independent review of control technologies has resulted in our proposing to approve some RACT determinations that fail to meet the terms of EPA's own RACT standard.

Response: On March 23, 1998 (63 FR 13789), EPA granted conditional limited approval of Pennsylvania's generic RACT regulations, 25 PA Code Chapters 121 and 129, thereby approving the definitions, provisions and procedures contained within those regulations under which the Commonwealth would require and impose RACT. Subsection 129.91, *Control of major sources of* NO_X and *VOCs,* requires subject facilities to submit a RACT plan proposal to both

the Pennsylvania Department of Environmental Protection (DEP) and to EPA Region III by July 15, 1994 in accordance with subsection 129.92, entitled, *RACT proposal requirements.* Under subsection 129.92, that proposal is to include, among other information: (1) A list of each subject source at the facility; (2) The size or capacity of each affected source, and the types of fuel combusted, and the types and amounts of materials processed or produced at each source; (3) A physical description of each source and its operating characteristics; (4) Estimates of potential and actual emissions from each affected source with supporting documentation; (5) A RACT analysis which meets the requirements of subsection 129.92 (b), including technical and economic support documentation for each affected source; (6) A schedule for implementation as expeditiously as practicable but not later than May 15, 1995; (7) The testing, monitoring, recordkeeping and reporting procedures proposed to demonstrate compliance with RACT; and (8) any additional information requested by the DEP necessary to evaluate the RACT proposal. Under subsection 129.91, the DEP will approve, deny or modify each RACT proposal, and submit each RACT determination to EPA for approval as a SIP revision.

The conditional nature of EPA's March 23, 1998 conditional limited approval did not impose any conditions pertaining to the regulation's procedures for the submittal of RACT plans and analyses by subject sources and approval of case-by case RACT determinations by the DEP. Rather, EPA stated that ''* * * RACT rules *may not merely be procedural rules* (emphasis added) that require the source and the State to later agree to the appropriate level of control; rather the rules must identify the appropriate level of control for source categories or individual sources.''

On May 3, 2001 (66 FR 22123), EPA published a rulemaking determining that Pennsylvania had satisfied the conditions imposed in its conditional limited approval. In that rulemaking, EPA removed the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. EPA received no public comments on its action and that final rule removing the conditional status of Pennsylvania's VOC and NO_X RACT regulations became effective on June 18, 2001. As of that time, Pennsylvania's generic VOC and NO_X RACT regulations retained a limited approval status. On August 24, 2001 (66 FR 44578), EPA proposed to remove the limited nature of its approval of Pennsylvania's generic RACT regulation in the Pittsburgh area. EPA received no public comments on that proposal. Final action converting the limited approval to full approval shall occur once EPA has completed rulemaking to approve either (1) the case-by-case RACT proposals for all sources subject to the RACT requirements currently known in the Pittsburgh-Beaver area *or* (2) for a sufficient number of sources such that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking (63 FR 13789).

EPA agrees that it has an obligation to review the case-by-case RACT plan approvals and/or permits submitted as individual SIP revisions by Commonwealth to verify and determine if they are consistent with the RACT requirements of the Act and any relevant EPA guidance. EPA does not agree, however, that this obligation to review the case-by-case RACT determinations submitted by Pennsylvania necessarily extends to our performing our own RACT analyses, independent of the sources' RACT plans/analyses (included as part of the case-by case RACT SIP revisions) or the Commonwealth's analyses. EPA first reviews this submission to ensure that the source and the Commonwealth followed the SIP-approved generic rule when applying for and imposing RACT for a specific source. Then EPA performs a thorough review of the technical and economic analyses conducted by the source and the state. If EPA believes additional information may further support or would undercut the RACT analyses submitted by the state, then EPA may add additional EPA-generated analyses to the record.

While RACT, as defined for an individual source or source category, often does specify an emission rate, such is not always the case. EPA has issued Control Technique Guidelines (CTGs) which states are to use as guidance in development of their RACT determinations/rules for certain sources or source categories. Not every CTG issued by EPA includes an emission rate. There are several examples of CTGs issued by EPA wherein equipment standards and/or work practice standards alone are provided as RACT guidance for all or part of the processes covered. Such examples include the CTGs issued for Bulk gasoline plants, Gasoline service stations—Stage I, Petroleum Storage in Fixed-roof tanks, Petroleum refinery processes, Solvent metal cleaning, Pharmaceutical products, External Floating roof tanks and Synthetic Organic Chemical Manufacturing (SOCMI)/polymer manufacturing. (The publication numbers for these CTG documents may be found at *http://www.epa.gov/ttn/catc/dir1/ctg.txt*).

EPA disagrees with PennFuture's general comment that our failure to conduct our own independent review of control technologies for every case-by-case RACT determination conducted by the Commonwealth has resulted in our proposing to approve some RACT determinations that fail to meet the terms of our own RACT standard. PennFuture submitted comments specific to the case-by-case RACT determinations for only three sources located in the Pittsburgh area, namely for Duquesne Light's Elrama, Phillips and Brunot Island stations. EPA summarizes those comments and provides responses in the final rule pertaining to those sources.

B. Comment: PennFuture comments that when EPA reviewed Pennsylvania's RACT program, it noted that Pennsylvania coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour ''are some of the largest NO_X emitting sources in the Commonwealth and in the Northeast United States'' [63 FR 13789, 13791 (1998)] and as such should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93) to guarantee that sources would achieve quantifiable emissions reductions under the RACT program. PennFuture goes on to comment that because EPA has not conducted and documented a technical review of Pennsylvania case-by case RACT submissions, EPA has not demonstrated that these large boilers are subject to ''numeric emission limitations'' under RACT. EPA must conduct a thorough RACT evaluation or review for each such source, and must document the application of numeric emission limits and quantifiable reductions for each coal-fired boiler with a rated heat input of over 100 million Btu per hour.

Response: Circumstances may exist wherein a state could justify otherwise, however, in general, EPA agrees with PennFuture that coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93).

As provided in the response found in II. A, EPA does not agree that it must conduct its own technical analysis of each of the case-by-case RACT determinations submitted for each

RACT source in order to document that its RACT requirements include numeric emission limitations. That determination can be made by EPA when it reviews the plan approval, consent order, or permit issued to such a source as submitted by the Commonwealth as SIP revision. PennFuture's comment did not point to a specific instance where a RACT plan approval, consent order or permit imposing RACT on a coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour did, in fact, lack a numerical emission limitation(s). Nonetheless, pursuant to PennFuture's comment, EPA has re-examined all of the case-by-case RACT SIP submissions made by the Commonwealth for such sources located in the Pittsburgh area. That re-examination, combined with information provided by the Commonwealth, indicates that each case-by-case RACT plan approval, consent order and/or permit for each coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour includes a numeric emission limitation. A listing of each source, its plan approval, consent order and/or permit number and its numerical emission limitation has been placed in the Administrative Records for the case-by-case RACT rulemakings for the Pittsburgh area.

C. Comment: PennFuture asserts that the Commonwealth has not adopted and submitted category RACT rules for all VOC source categories for which federal control technique guidelines (CTGs) have been issued. The commenter refers to Appendix 1 of the Technical Support Document (dated May 14, 2001), prepared by EPA in support of its proposed rule to redesignate the Pittsburgh-Beaver Valley Ozone Nonattainment Area (66 FR 29270), to assert that EPA has failed to require the Commonwealth to submit VOC RACT rules for certain categories of sources. PennFuture specifically names source categories such as equipment leaks from natural gas/gas processing plants, coke oven batteries, iron and steel foundries, and publically owned treatment works and asserts that the Commonwealth has neglected a statutory requirement to adopt category RACT regulations for these and 14 other unnamed VOC source categories.

Response: EPA has not issued CTGs for coke oven batteries, iron and steel foundries and publically owned treatment works. The Appendix 1, referred to by the commenter, lists CTG covered categories as well as source categories taken from two STAPPA/ALAPCO documents entitled, ''Meeting the 15-Percent Rate-of-Progress Requirement Under the Clean Air Act—A Menu of Options' (September 1993) and ''Controlling Nitrogen Oxides Under the Clean Air Act—A Menu of Options'' (July 1994). The categories referenced by PennFuture are not VOC categories for which EPA has issued CTGs, but were included in Appendix A as examples of some of the types of sources that could be subject to Pennsylvania's generic RACT regulations. The Commonwealth is under no statutory obligation to adopt RACT rules for source *categories* for which EPA has not issued a CTG. In fact, CTGs do not exist for all but one of the categories to which the commenter explicitly refers.

The Act requires that states adopt regulations to impose RACT for ''major sources of VOC,'' located within those areas of a state where RACT applies under Part D of the Act [182(b)(2)(C)]. This is referred to as the non-CTG VOC RACT requirement. Moreover, EPA disagrees that there is a statutory mandate that a state adopt a source category RACT regulation even for a source category where EPA has issued a CTG. There are two statutory provisions that address RACT for sources covered by a CTG. One provides that states must adopt RACT for ''any category of VOC sources'' covered by a CTG issued prior to November 15, 1990 [182(b)(2)(A)]. The other provides that states must adopt VOC RACT for all ''VOC sources'' covered by a CTG issued after November 15, 1990 [182(b)(2)(B)]. EPA has long interpreted the statutory RACT requirement to be met either by adoption of category-specific rules or by source-specific rules for each source within a category. When initially established, RACT was clearly defined as a case-by-case determination, but EPA provided CTG's to simplify the process for states such that they would not be required to adopt hundreds or thousands of individual rules. See Strelow Memorandum dated December 9, 1976 and 44 FR 53761, September 17, 1979. EPA does not believe that Congress' use of ''source category'' in one provision of section 182(b)(2) was intended to preclude the adoption of source-specific rules.

Thus, where CTG-subject sources are located within those areas of a state where RACT applies under Part D of the Act, the state is obligated to impose RACT for the same universe of sources covered by the CTG. However, that obligation is not required to be met by the adoption and submittal of a source category RACT rule. A state may, instead, opt to impose RACT for such sources in permits, plan approvals, consent orders or in any other state enforceable document and submit those documents to EPA for approval as source-specific SIP revisions. This option has been exercised by many states, and happens most commonly when only a few CTG-subject sources are located in the state. The source-specific approach is generally employed to avoid what can be a lengthy and resource-intensive state rule adoption process for only a few sources that may have different needs and considerations that must be taken into account.

As stated earlier, there is one source category explicitly included in PennFuture's comment for which EPA has issued a CTG, namely natural gas/gas processing plants. The Commonwealth made a negative declaration to EPA on April 13, 1993, stating that as of that date there were no applicable sources in this category. Therefore, the Commonwealth did not adopt a category RACT regulation for natural gas/gas processing plants.

D. Comment: PennFuture cites EPA correspondence [letter from Marcia Spink, EPA, to James Salvaggio, DEP, December 15, 1993] to the Commonwealth which states that establishing any dollar figure in RACT guidance will not provide for the ''automatic'' selection or rejection of a control technology or emission limitation as RACT for a source or source category. With regard to the Pennsylvania DEP's intent to finalize a NO_X RACT Guidance Document for implementation of its NO_X RACT regulation, EPA's 1993 letter stated that the document could improperly be used to establish ''bright line'' or ''cook-book'' approaches, particularly for a regulation applicable to many source categories and suggested that if the guidance document must include dollar figures/ton, it provide approximate ranges by source category. PennFuture comments that DEP issued its ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions,'' March 11, 1994, and on pp. 8–9 states that the acceptable threshold is $1500 per ton, and that this figure applies to ''all source categories.'' PennFuture notes that EPA later objected to the $1500 per ton methodology as ''not generically acceptable to EPA'' [letter from Thomas Maslany, EPA, to James Salvaggio, DEP, June 24, 1997] and further stated in a **Federal Register** notice that a ''dollar per ton threshold'' is ''inconsistent with the definition of RACT'' [62 FR 43134, 37–38 (1997)].

PennFuture comments that EPA is proposing to approve RACT determinations based on a cost per ton

method that EPA had previously rejected, and according to its own clearly expressed standard, EPA must not approve RACT determinations by Pennsylvania DEP that apply this $1500 per ton threshold. The commenter states that PennFuture's review of several of the current DEP evaluations indicate that the Commonwealth applied this standard and provides the examples of Duquesne Light'Elrama (auxiliary boiler); Allegheny Ludlum—Washington (formerly Jessop Steel). PennFuture asserts EPA must reject all Pennsylvania RACT determinations applying the standard of $1500 per ton, or any other ''bright line'' approach, as failing to follow EPA procedures established for Pennsylvania RACT.

Response: EPA still takes the position that a single cost per ton dollar figure may not, in and of itself, form the basis for rejecting a control technology, equipment standard, or work practice standard as RACT. The Technical Support Document prepared by EPA in support of its March 23, 1998 rulemaking [63 FR 13789] clearly indicates that the Commonwealth's document, ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions.'' March 11, 1994, had not been included as part of the SIP submission of the Commonwealth's generic regulation and, therefore, had not been approved by EPA. EPA further notes that the Administrative Record of the March 23, 1998 rulemaking [63 FR 13789], in addition to the correspondence cited by PennFuture, also includes correspondence from DEP to EPA [letter from James Salvaggio, DEP to David Arnold, EPA, September 10, 1997] stating that DEP's RACT guidance document does not establish a maximum dollar per ton for determining the cost effectiveness for RACT determinations and notes that the DEP's $1500 per ton cost effectiveness is a target value and not an absolute maximum. For example, in its analyses of the cost effectiveness of RACT control options submitted by DEP as part of the case-by-case SIP revision for Peoples Natural Gas (PNG) Valley Compressor Station's turbo charged lean burn IC engine (see the Administrative Record for 66 FR 43492), the Commonwealth included DEP interoffice memoranda (Thomas Joseph to Krishnan Ramamurthy, July 14, 1994 and Krishnan Ramamurthy to Thomas McGinley, Babu Patel, Ronald Davis, Richard Maxwell, and Devendra Verma, July 15, 1994) which spoke directly to the $1500/ton dollar figure as being a guideline and not an upper limit. These memoranda explain that although PNG initially proposed intermediate original equipment manufacturer (OEM) combustion controls which would have reduced NO_X emissions from 254.7 tons per year to 115 tons per year (by 55%) at a cost of $1355 per ton reduced, DEP required the installation of an OEM lean combustion modification that reduced NO_X emissions from 254.7 tons per year to 76 tons per year (by 69%) at a cost of $1684 per ton reduced. The DEP's July 15, 1994 interoffice memorandum says of the PNG RACT determination which exceeded the cost effectiveness screening level of $1500 per ton ''Tom's (Joseph) insistence for the next more stringent level of control than the company's chosen level in the case of PNG was consistent with EPA Region III's sentiment that establishing any dollar figure in RACT guidance will not provide for an ''automatic'' rejection of a control technology as RACT for a source.''

In no instance, including that for Duquesne Light—Elrama (auxiliary boiler) and Allegheny Ludlum—Washington (formerly Jessop Steel), has EPA proposed to approve a RACT determination submitted by the Commonwealth which was based solely on a conclusion that controls that cost more than $1500/ton were not required as RACT. As explained in the response provided in section II. A. of this document, EPA conducts its review of the entire case-by-case RACT SIP submittal including the source's proposed RACT plan and analyses, Pennsylvania's analyses and the RACT plan approval, consent order or permit itself to insure that the requirements of the SIP-approved generic RACT have been followed. These analyses not only evaluate and consider the costs of potential control options, but also evaluate their technological feasibility.

E. Comment: PennFuture comments that any emission reduction credits (ERCs) earned by sources subject to RACT must be surplus to all applicable state and federal requirements. Under Pennsylvania law, ERCs must be surplus, permanent, quantified, and Federally enforceable. 25 Pa.Code 127.207(1). As to the requirement that ERCs be surplus, the Pennsylvania Code states: ERCs shall be included in the current emission inventory, and may not be required by or be used to meet past or current SIP, attainment demonstration, RFP, emission limitation or compliance plans. Emission reductions necessary to meet NSPS, LAER, RACT, Best Available Technology, BACT and permit or plan approval emissions limitations or another emissions limitation required by the Clean Air Act or the [Air Pollution Control Act] may not be used to generate ERCs. 25 Pa.Code 127.207(1)(i). To be creditable, ERCs must surpass not only RACT requirements but a host of other possible sources of emission limits. PennFuture comments that some of the RACT evaluations at issue in the current EPA notices purport to establish RACT as a baseline for future ERCs. PennFuture does acknowledge that EPA notes in its boilerplate for the notices, that Pennsylvania and EPA have established a series of NO_X-reducing rules, including the recent Chapter 145 rule, to reduce NO_X at large utility and industrial sources. See, for example, 66 FR 42415, 16–17 (August 13, 2001). Because any ERCs must be surplus to the most stringent limitation applicable under state or federal law as described in the Pennsylvania Code provision set forth above, DEP and EPA must not approve ERCs unless they surpass all such limitations in addition to any limits set by RACT.

Response: EPA agrees with this comment by PennFuture. The approval of a case-by-case RACT determination, in and of itself, does not establish the baseline from which further emission reductions may be calculated and assumed creditable under the Commonwealth's SIP-approved NSR and ERC program. Moreover, EPA's review of the Pennsylvania DEP's implementation of its approved SIP-approved NSR and ERC program indicates that the Commonwealth calculates and credits ERCs in accordance with the SIP-approved criteria for doing so as outlined in PennFuture's comment. No source for which EPA is approving a case-by-case RACT determination should assume that its RACT approval alone automatically establishes the baseline against which it may calculate creditable ERCs.

F. Comment: PennFuture comments that as in the case with Pennsylvania Power—Newcastle, EPA should compare RACT proposals to applicable acid rain program emission limits and control strategies. PennFuture contends that EPA previously disapproved a RACT proposal for the Pennsylvania Power—Newcastle plant [62 FR 43959 (1997); 63 FR 23668 (1998)] and that EPA did so on the basis that the acid rain program requires more stringent emission limits. PennFuture asserts that while EPA had originally proposed to approve this proposal, an analysis of comparable boilers and, especially, a comparison to Phase II emission limits under the acid rain program led EPA to conclude that the RACT proposal

emission limits were too lenient. [62 FR at 43961]. Therefore, PennFuture contends that for sources subject to the acid rain program, EPA should consider emissions and control strategies for compliance with acid rain emission limits when evaluating proposals for compliance with RACT.

Response: Title IV of the Act, addressing the acid rain program, contains NO_X emission requirements for utilities which must be met *in addition* to any RACT requirements (see NO_X Supplement to the General Preamble at 57 FR 55625, November 25, 1992). The Act provides for a number of control programs that may affect similar sources. For example, new sources may be subject to new source performance standards (NSPS), best available control technology (BACT), and lowest achievable emission rate (LAER). Other controls, under such programs as the acid rain program or the hazardous air pollutant program may also apply to sources. However, the applicability of these other requirements, which are often more stringent than RACT, do not establish what requirements must apply under the RACT program. While these programs may provide information as to the technical and economic feasibility of reduction programs for RACT, there is no presumption that acid rain controls should be mandated as RACT.

EPA stated in the final disapproval of the NO_X RACT determination for PPNC [63 FR at 23669], that the discussion concerning average emission rates for boilers with respect to the acid rain program requirements were included in order to provide a context for EPA's proposed disapproval. EPA made clear in its August 18, 1997 proposed disapproval of Pennsylvania Powers'—Newcastle (PPNC) RACT determination, that the basis for disapproval was a comparison between PPNC's boilers and other similar combustion units, not acid rain limits. In fact, EPA stated in the August 18, 1997 proposed disapproval that ''Without additional knowledge or information, it would be erroneous and premature to conclude that the limits in the acid rain permit are RACT.'' [62 FR at 43961]. EPA clearly stated in the final disapproval for PPNC that it did not use acid rain permit limits, or Pennsylvania's participation in any other NO_X control program, to determine PPNC RACT approvability [63 FR at 23670]. Nor has EPA intended to use participation in NO_X control programs including acid rain, in determining RACT for PPNC or any other subject sources. EPA also stated that the April 30, 1998, PPNC disapproval was based on the absence of pertinent information regarding a computerized combustion optimization system through an enforceable permit, not comparison of acid rain permit limits.

III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC RACT for three major sources located in the Pittsburgh area. EPA is approving these RACT SIP submittals because ACHD has established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The ACHD has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. 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 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 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action 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 ''Protection of Children from Environmental Health Risks and Safety Risks'' (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. 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for three named sources.

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 17, 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 approving source-specific RACT requirements to control VOC from IDL, OPI and USAir located in the Pittsburgh-Beaver Valley area of Pennsylvania 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.

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 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 NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(162) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(162) Revisions pertaining to VOC RACT for IDL, Incorporated; Oakmont Pharmaceutical, Inc.; and USAir, Inc. located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on July 1, 1997.

(i) Incorporation by reference.

(A) Letter submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC RACT determinations dated July 1, 1997.

(B) Plan Approval and Agreement Upon Consent Orders (COs) for the following sources:

(*1*) IDL, Incorporated, CO 225, effective July 18, 1996, except for condition 2.5.

(*2*) Oakmont Pharmaceutical, Inc., CO 252, effective December 19, 1996, except for condition 2.5.

(*3*) U.S. Air, Inc., CO 255, effective January 14, 1997, except for condition 2.5.

(ii) Additional materials. Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations submitted for the sources listed in paragraph (c)(162)(i)(B) of this section.

[FR Doc. 01–25729 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA101/178–4159; FRL–7083–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Four Individual Sources in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for four major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule is effective on November 2, 2001.

ADDRESSES: 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, (215) 814–2104, or by e-mail at *spink.marcia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On January 6, 1995, September 13, 1996, and July 1, 1997, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several major sources of VOC and/or NO_X. This final rulemaking pertains to four of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of Plan Approvals (PAs) issued by PADEP and Plan Approvals and Agreement Upon Consent Orders (COs) issued by the Allegheny County Health Department (ACHD). These PAs and COs impose VOC and/or NO_X RACT requirements for each source. These sources are all located in the Pittsburgh area and consist of: Duquesne Light Company-Brunot Island Power Station; Duquesne Light Company-Cheswick Power Station; Duquesne Light Company—Elrama Plant; and the Pennsylvania Electric Company—Keystone Generating Station.

On August 10, 2001, EPA published a direct final rule (66 FR 42128) and a companion notice of proposed rulemaking (66 FR 42186) to approve these SIP revisions. On September 7, 2001, we received adverse comments on our direct final rule from the Citizens for Pennsylvania's Future (PennFuture). On September 20, 2001 (66 FR 48348), we published a timely withdrawal in the **Federal Register** informing the public that the direct final rule did not take effect. We indicated in our August 10, 2001 direct final rulemaking that if we received adverse comments, EPA would address all public comments in a subsequent final rule based on the proposed rule (66 FR 42186). This is that subsequent final rule. A description of the RACT determination(s) made for each source was provided in the August 10, 2001 direct final rule and will not be restated here.

The direct final rule (66 FR 42128) and companion notice of proposed rulemaking (66 FR 42186) pertained five major sources. In addition to proposing to approve RACT for Duquesne Light Company—Brunot Island Power Station; Duquesne Light Company—Cheswick Power Station; Duquesne Light Company—Elrama Plant; and the Pennsylvania Electric Company—Keystone Generating Station; EPA also proposed to approve RACT for Duquesne Light Company—Phillips Power Station. Phillips Station has ceased operations, and thus EPA is not approving a source-specific RACT determination for this facility. On April 15, 1999, Duquesne Light Company Inc.

entered into a Consent Order and Agreement with the Commonwealth of Pennsylvania, Department of Environmental Protection regarding NO_X Allowances for its five power stations located in Pennsylvania. Paragraph 4 on page 5 of that Consent Order states that the emission reductions resulting from the curtailment of operations at the Phillips Station are not eligible to be used to generate ERCs and cannot be used as creditable emission reductions in any NSR applicability determination (a process referred to as netting). The Pennsylvania DEP has submitted this signed and dated Consent Order and Agreement to EPA and it has been placed in Administrative Record for this final rulemaking. This Consent Order and Agreement makes approval of any NO_X RACT determination for the installations and operations at Phillips Station moot. If Duquesne (or any subsequent owner/operator) were to apply to recommence operations at Phillips Station, that restart would be subject to the Pennsylvania's SIP's applicable approved NSR program as though it were a new source. Under Pennsylvania's SIP-approved NSR program, the controls required of any such new source would, at a minimum, have to meet Best Available Technology (BAT) which must be at least as stringent as RACT.

II. Public Comments and Responses

The Citizens for Pennsylvania's Future (PennFuture) submitted adverse comments on twenty proposed rules published by EPA in the **Federal Register** between August 6 and August 24, 2001 to approve case-by-case RACT SIP submissions from the Commonwealth for NO_X and or VOC sources located in the Pittsburgh area. PennFuture's letter includes general comments and comments specific to EPA's RACT approvals for certain sources. A summary of the comments submitted by PennFuture germane to this final rulemaking and EPA responses are provided at II.A.–G. of this document.

A. Comment: PennFuture comments that EPA has conducted no independent technical review, and has prepared no technical support document to survey potential control technologies, determine the capital and operating costs of different options, and rank these options in total and marginal cost per ton of NO_X and VOC controlled. In citing the definition of the term ''RACT,'' and the Strelow Memorandum (Roger Strelow, Assistant Administrator for Air and Waste Management, EPA, December 9, 1976, cited in *Michigan* v. *Thomas,* 805 F.2d 176, 180 (6th Cir. 1986) and at 62 FR 43134, 43136 (1997)), PennFuture appears to comment that in every situation, RACT must include an emission rate. PennFuture asserts that EPA should conduct its own RACT evaluation for each source, or at a minimum document a step-by-step review demonstrating the adequacy of state evaluations, to ensure that appropriate control technology is applied. The commenter also believes that EPA's failure to conduct its own independent review of control technologies has resulted in our proposing to approve some RACT determinations that fail to meet the terms of EPA's own RACT standard.

Response: On March 23, 1998 (63 FR 13789), EPA granted conditional limited approval of Pennsylvania's generic RACT regulations, 25 PA Code Chapters 121 and 129, thereby approving the definitions, provisions and procedures contained within those regulations under which the Commonwealth would require and impose RACT. Subsection 129.91, *Control of major sources of NO_X and VOCs,* requires subject facilities to submit a RACT plan proposal to both the Pennsylvania Department of Environmental Protection (DEP) and to EPA Region III by July 15, 1994 in accordance with subsection 129.92, entitled, *RACT proposal requirements.* Under subsection 129.92, that proposal is to include, among other information, (1) A list of each subject source at the facility; (2) The size or capacity of each affected source, and the types of fuel combusted, and the types and amounts of materials processed or produced at each source; (3) A physical description of each source and its operating characteristics; (4) Estimates of potential and actual emissions from each affected source with supporting documentation; (5) A RACT analysis which meets the requirements of subsection 129.92 (b), including technical and economic support documentation for each affected source; (6) A schedule for implementation as expeditiously as practicable but not later than May 15, 1995; (7) The testing, monitoring, recordkeeping and reporting procedures proposed to demonstrate compliance with RACT; and (8) any additional information requested by the DEP necessary to evaluate the RACT proposal. Under subsection 129.91, the DEP will approve, deny or modify each RACT proposal, and submit each RACT determination to EPA for approval as a SIP revision.

The conditional nature of EPA's March 23, 1998 conditional limited approval did not impose any conditions pertaining to the regulation's procedures for the submittal of RACT plans and analyses by subject sources and approval of case-by case RACT determinations by the DEP. Rather, EPA stated that ''* * * RACT rules *may not merely be procedural rules* (emphasis added) that require the source and the State to later agree to the appropriate level of control; rather the rules must identify the appropriate level of control for source categories or individual sources.''

On May 3, 2001 (66 FR 22123), EPA published a rulemaking determining that Pennsylvania had satisfied the conditions imposed in its conditional limited approval. In that rulemaking, EPA removed the conditional status of its approval of the Commonwealth's generic VOC and NO_X RACT regulations on a statewide basis. EPA received no public comments on its action and that final rule removing the conditional status of Pennsylvania's VOC and NO_X RACT regulations became effective on June 18, 2001. As of that time, Pennsylvania's generic VOC and NO_X RACT regulations retained a limited approval status. On August 24, 2001 (66 FR 44578), EPA proposed to remove the limited nature of its approval of Pennsylvania's generic RACT regulation in the Pittsburgh area. EPA received no public comments on that proposal. Final action converting the limited approval to full approval shall occur once EPA has completed rulemaking to approve either (1) the case-by-case RACT proposals for all sources subject to the RACT requirements currently known in the Pittsburgh-Beaver area *or* (2) for a sufficient number of sources such that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking (63 FR 13789).

EPA agrees that it has an obligation to review the case-by-case RACT plan approvals and/or permits submitted as individual SIP revisions by Commonwealth to verify and determine if they are consistent with the RACT requirements of the Act and any relevant EPA guidance. EPA does not agree, however, that this obligation to review the case-by-case RACT determinations submitted by Pennsylvania necessarily extends to our performing our own RACT analyses, independent of the sources' RACT plans/analyses (included as part of the case-by-case RACT SIP revisions) or the Commonwealth's analyses. EPA first reviews this submission to ensure that the source and the Commonwealth followed the SIP-approved generic rule when applying for and imposing RACT for a specific source. Then EPA

performs a thorough review of the technical and economic analyses conducted by the source and the state. If EPA believes additional information may further support or would undercut the RACT analyses submitted by the state, then EPA may add additional EPA-generated analyses to the record.

While RACT, as defined for an individual source or source category, often does specify an emission rate, such is not always the case. EPA has issued Control Technique Guidelines (CTGs) which states are to use as guidance in development of their RACT determinations/rules for certain sources or source categories. Not every CTG issued by EPA includes an emission rate. There are several examples of CTGs issued by EPA wherein equipment standards and/or work practice standards alone are provided as RACT guidance for all or part of the processes covered. Such examples include the CTGs issued for Bulk gasoline plants, Gasoline service stations—Stage I, Petroleum Storage in Fixed-roof tanks, Petroleum refinery processes, Solvent metal cleaning, Pharmaceutical products, External Floating roof tanks and Synthetic Organic Chemical Manufacturing (SOCMI)/polymer manufacturing. (The publication numbers for these CTG documents may be found at *http://www.epa.gov/ttn/catc/dir1/ctg.txt).*

EPA disagrees with PennFuture's general comment that our failure to conduct our own independent review of control technologies for every case-by-case RACT determination conducted by the Commonwealth has resulted in our proposing to approve some RACT determinations that fail to meet the terms of our own RACT standard. PennFuture submitted comments specific to the case-by-case RACT determinations for only three sources located in the Pittsburgh area, namely for Duquesne Light's Elrama, Phillips and Brunot Island stations. EPA summarizes those comments and provides responses in the final rule pertaining to those sources.

B. Comment: PennFuture comments that when EPA reviewed Pennsylvania's RACT program, it noted that Pennsylvania coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour ''are some of the largest NO_X emitting sources in the Commonwealth and in the Northeast United States'' (63 FR 13789, 13791 (1998)) and as such should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa.Code 129.93) to guarantee that sources would achieve quantifiable emissions reductions under the RACT program. PennFuture goes on to comment that because EPA has not conducted and documented a technical review of Pennsylvania case-by-case RACT submissions, EPA has not demonstrated that these large boilers are subject to ''numeric emission limitations'' under RACT. EPA must conduct a thorough RACT evaluation or review for each such source, and must document the application of numeric emission limits and quantifiable reductions for each coal-fired boiler with a rated heat input of over 100 million Btu per hour.

Response: Circumstances may exist wherein a state could justify otherwise, however, in general, EPA agrees with PennFuture that coal-fired boilers with a rated heat input of equal to or greater than 100 million Btu per hour should have numeric emission limitations imposed as RACT whether or not they install presumptive RACT (under 25 Pa. Code 129.93).

As provided in the response found in II. A, EPA does not agree that it must conduct its own technical analysis of each of the case-by-case RACT determinations submitted for each RACT source in order to document that its RACT requirements include numeric emission limitations. That determination can be made by EPA when it reviews the plan approval, consent order, or permit issued to such a source as submitted by the Commonwealth as SIP revision. PennFuture's comment did not point to a specific instance where a RACT plan approval, consent order or permit imposing RACT on a coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour did, in fact, lack a numerical emission limitation(s). Nonetheless, pursuant to PennFuture's comment, EPA has re-examined all of the case-by-case RACT SIP submissions made by the Commonwealth for such sources located in the Pittsburgh area. That re-examination, combined with information provided by the Commonwealth, indicates that each case-by-case RACT plan approval, consent order and/or permit for each coal-fired boiler with a rated heat input of equal to or greater than 100 million Btu per hour includes a numeric emission limitation. A listing of each source, its plan approval, consent order and/or permit number and its numerical emission limitation has been placed in the Administrative Records for the case-by-case RACT rulemakings for the Pittsburgh area.

C. Comment: PennFuture asserts that the Commonwealth has not adopted and submitted category RACT rules for all VOC source categories for which federal control technique guidelines (CTGs) have been issued. The commenter refers to Appendix 1 of the Technical Support Document (dated May 14, 2001), prepared by EPA in support of its proposed rule to redesignate the Pittsburgh-Beaver Valley Ozone Nonattainment Area (66 FR 29270), to assert that EPA has failed to require the Commonwealth to submit VOC RACT rules for certain categories of sources. PennFuture specifically names source categories such as equipment leaks from natural gas/gas processing plants, coke oven batteries, iron and steel foundries, and publically owned treatment works and asserts that the Commonwealth has neglected a statutory requirement to adopt category RACT regulations for these and 14 other unnamed VOC source categories.

Response: EPA has not issued CTGs for coke oven batteries, iron and steel foundries and publically owned treatment works. The Appendix 1, referred to by the commenter, lists CTG covered categories as well as source categories taken from two STAPPA/ALAPCO documents entitled, ''Meeting the 15-Percent Rate-of-Progress Requirement Under the Clean Air Act—A Menu of Options' (September 1993) and ''Controlling Nitrogen Oxides Under the Clean Air Act—A Menu of Options'' (July 1994). The categories referenced by PennFuture are not VOC categories for which EPA has issued CTGs, but were included in Appendix A as examples of some of the types of sources that could be subject to Pennsylvania's generic RACT regulations. The Commonwealth is under no statutory obligation to adopt RACT rules for source *categories* for which EPA has not issued a CTG. In fact, CTGs do not exist for all but one of the categories to which the commenter explicitly refers.

The Act requires that states adopt regulations to impose RACT for ''major sources of VOC,'' located within those areas of a state where RACT applies under Part D of the Act (182(b)(2)(C)). This is referred to as the non-CTG VOC RACT requirement. Moreover, EPA disagrees that there is a statutory mandate that a state adopt a source category RACT regulation even for a source category where EPA has issued a CTG. There are two statutory provisions that address RACT for sources covered by a CTG. One provides that states must adopt RACT for ''any category of VOC sources'' covered by a CTG issued prior to November 15, 1990 (182(b)(2)(A)). The other provides that states must adopt VOC RACT for all ''VOC sources'' covered by a CTG issued after November

15, 1990 (182(b)(2)(B)). EPA has long interpreted the statutory RACT requirement to be met either by adoption of category-specific rules or by source-specific rules for each source within a category. When initially established, RACT was clearly defined as a case-by-case determination, but EPA provided CTG's to simplify the process for states such that they would not be required to adopt hundreds or thousands of individual rules. See Strelow Memorandum dated December 9, 1976 and 44 FR 53761, September 17, 1979. EPA does not believe that Congress' use of ''source category'' in one provision of section 182(b)(2) was intended to preclude the adoption of source-specific rules.

Thus, where CTG-subject sources are located within those areas of a state where RACT applies under Part D of the Act, the state is obligated to impose RACT for the same universe of sources covered by the CTG. However, that obligation is not required to be met by the adoption and submittal of a source category RACT rule. A state may, instead, opt to impose RACT for such sources in permits, plan approvals, consent orders or in any other state enforceable document and submit those documents to EPA for approval as source-specific SIP revisions. This option has been exercised by many states, and happens most commonly when only a few CTG-subject sources are located in the state. The source-specific approach is generally employed to avoid what can be a lengthy and resource-intensive state rule adoption process for only a few sources that may have different needs and considerations that must be taken into account.

As stated earlier, there is one source category explicitly included in PennFuture's comment for which EPA has issued a CTG, namely natural gas/gas processing plants. The Commonwealth made a negative declaration to EPA on April 13, 1993, stating that as of that date there were no applicable sources in this category. Therefore, the Commonwealth did not adopt a category RACT regulation for natural gas/gas processing plants.

D. *Comment:* PennFuture cites EPA correspondence (letter from Marcia Spink, EPA, to James Salvaggio, DEP, December 15, 1993) to the Commonwealth which states that establishing any dollar figure in RACT guidance will not provide for the ''automatic'' selection or rejection of a control technology or emission limitation as RACT for a source or source category. With regard to the Pennsylvania DEP's intent to finalize a NO_X RACT Guidance Document for implementation of its NO_X RACT regulation, EPA's 1993 letter stated that the document could improperly be used to establish ''bright line'' or ''cook-book'' approaches, particularly for a regulation applicable to many source categories and suggested that if the guidance document must include dollar figures/ton, it provide approximate ranges by source category. PennFuture comments that DEP issued its ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions,'' March 11, 1994, and on pp. 8–9 states that the acceptable threshold is $1500 per ton, and that this figure applies to ''all source categories.'' PennFuture notes that EPA later objected to the $1500 per ton methodology as ''not generically acceptable to EPA'' (letter from Thomas Maslany, EPA, to James Salvaggio, DEP, June 24, 1997) and further stated in a **Federal Register** document that a ''dollar per ton threshold'' is ''inconsistent with the definition of RACT'' (62 FR 43134, 37–38 (1997)).

PennFuture comments that EPA is proposing to approve RACT determinations based on a cost per ton method that EPA had previously rejected, and according to its own clearly expressed standard, EPA must not approve RACT determinations by Pennsylvania DEP that apply this $1500 per ton threshold. The commenter states that PennFuture's review of several of the current DEP evaluations indicate that the Commonwealth applied this standard and provides the examples of Duquesne Light—Elrama (auxiliary boiler); Allegheny Ludlum—Washington (formerly Jessop Steel). PennFuture asserts EPA must reject all Pennsylvania RACT determinations applying the standard of $1500 per ton, or any other ''bright line'' approach, as failing to follow EPA procedures established for Pennsylvania RACT.

Response: EPA still takes the position that a single cost per ton dollar figure may not, in and of itself, form the basis for rejecting a control technology, equipment standard, or work practice standard as RACT. The Technical Support Document prepared by EPA in support of its March 23, 1998 rulemaking (63 FR 13789) clearly indicates that the Commonwealth's document, ''Guidance Document on Reasonably Available Control Technology for Sources of NO_X Emissions.'' March 11, 1994, had not been included as part of the SIP submission of the Commonwealth's generic regulation and, therefore, had not been approved by EPA. EPA further notes that the Administrative Record of the March 23, 1998 rulemaking (63 FR 13789), in addition to the correspondence cited by PennFuture, also includes correspondence from DEP to EPA (letter from James Salvaggio, DEP to David Arnold, EPA, September 10, 1997) stating that DEP's RACT guidance document does not establish a maximum dollar per ton for determining the cost effectiveness for RACT determinations and notes that the DEP's $1500 per ton cost effectiveness is a target value and not an absolute maximum. For example, in its analyses of the cost effectiveness of RACT control options submitted by DEP as part of the case-by-case SIP revision for Peoples Natural Gas (PNG) Valley Compressor Station's turbo charged lean burn IC engine (see the Administrative Record for 66 FR 43492), the Commonwealth included DEP interoffice memoranda (Thomas Joseph to Krishnan Ramamurthy, July 14, 1994 and Krishnan Ramamurthy to Thomas McGinley, Babu Patel, Ronald Davis, Richard Maxwell, and Devendra Verma, July 15, 1994) which spoke directly to the $1500/ton dollar figure as being a guideline and not an upper limit. These memoranda explain that although PNG initially proposed intermediate original equipment manufacturer (OEM) combustion controls which would have reduced NO_X emissions from 254.7 tons per year to 115 tons per year (by 55%) at a cost of $1355 per ton reduced, DEP required the installation of an OEM lean combustion modification that reduced NO_X emissions from 254.7 tons per year to 76 tons per year (by 69%) at a cost of $1684 per ton reduced. The DEP's July 15, 1994 interoffice memorandum says of the PNG RACT determination which exceeded the cost effectiveness screening level of $1500 per ton ''* * * Tom's (Joseph) insistence for the next more stringent level of control than the company's chosen level in the case of PNG was consistent with EPA Region III's sentiment that establishing any dollar figure in RACT guidance will not provide for an ''automatic'' rejection of a control technology as RACT for a source.''

In no instance, including that for Duquesne Light—Elrama (auxiliary boiler) and Allegheny Ludlum—Washington (formerly Jessop Steel), has EPA proposed to approve a RACT determination submitted by the Commonwealth which was based solely on a conclusion that controls that cost more than $1500/ton were not required as RACT. As explained in the response provided in section II. A. of this document, EPA conducts its review of the entire case-by-case RACT SIP submittal including the source's

proposed RACT plan and analyses, Pennsylvania's analyses and the RACT plan approval, consent order or permit itself to insure that the requirements of the SIP-approved generic RACT have been followed. These analyses not only evaluate and consider the costs of potential control options, but also evaluate their technological feasibility.

E. Comment: PennFuture comments that any emission reduction credits (ERCs) earned by sources subject to RACT must be surplus to all applicable state and federal requirements. Under Pennsylvania law, ERCs must be surplus, permanent, quantified, and Federally enforceable. 25 Pa.Code 127.207(1). As to the requirement that ERCs be surplus, the Pennsylvania Code states: ERCs shall be included in the current emission inventory, and may not be required by or be used to meet past or current SIP, attainment demonstration, RFP, emission limitation or compliance plans. Emission reductions necessary to meet NSPS, LAER, RACT, Best Available Technology, BACT and permit or plan approval emissions limitations or another emissions limitation required by the Clean Air Act or the [Air Pollution Control Act] may not be used to generate ERCs. 25 Pa.Code 127.207(1)(i). To be creditable, ERCs must surpass not only RACT requirements but a host of other possible sources of emission limits. PennFuture comments that some of the RACT evaluations at issue in the current EPA notices purport to establish RACT as a baseline for future ERCs. PennFuture does acknowledge that EPA notes in its boilerplate for the notices, that Pennsylvania and EPA have established a series of NO_X-reducing rules, including the recent Chapter 145 rule, to reduce NO_X at large utility and industrial sources. See, for example, 66 FR 42415, 16–17 (August 13, 2001). Because any ERCs must be surplus to the most stringent limitation applicable under state or federal law as described in the Pennsylvania Code provision set forth above, DEP and EPA must not approve ERCs unless they surpass all such limitations in addition to any limits set by RACT.

Response: EPA agrees with this comment by PennFuture. The approval of a case-by-case RACT determination, in and of itself, does not establish the baseline from which further emission reductions may be calculated and assumed creditable under the Commonwealth's SIP-approved NSR and ERC program. Moreover, EPA's review of the Pennsylvania DEP's implementation of its approved SIP-approved NSR and ERC program indicates that the Commonwealth calculates and credits ERCs in accordance with the SIP-approved criteria for doing so as outlined in PennFuture's comment. No source for which EPA is approving a case-by-case RACT determination should assume that its RACT approval alone automatically establishes the baseline against which it may calculate creditable ERCs.

F. Comment: PennFuture comments that as in the case with Pennsylvania Power—Newcastle, EPA should compare RACT proposals to applicable acid rain program emission limits and control strategies. PennFuture contends that EPA previously disapproved a RACT proposal for the Pennsylvania Power—Newcastle plant (62 FR 43959 (1997); 63 FR 23668 (1998)) and that EPA did so on the basis that the acid rain program requires more stringent emission limits. PennFuture asserts that while EPA had originally proposed to approve this proposal, an analysis of comparable boilers and, especially, a comparison to Phase II emission limits under the acid rain program led EPA to conclude that the RACT proposal emission limits were too lenient. (62 FR at 43961). Therefore, PennFuture contends that for sources subject to the acid rain program, EPA should consider emissions and control strategies for compliance with acid rain emission limits when evaluating proposals for compliance with RACT.

Response: Title IV of the Act, addressing the acid rain program, contains NO_X emission requirements for utilities which must be met *in addition* to any RACT requirements (see NO_X Supplement to the General Preamble at 57 FR 55625, November 25, 1992). The Act provides for a number of control programs that may affect similar sources. For example, new sources may be subject to new source performance standards (NSPS), best available control technology (BACT), and lowest achievable emission rate (LAER). Other controls, under such programs as the acid rain program or the hazardous air pollutant program may also apply to sources. However, the applicability of these other requirements, which are often more stringent than RACT, do not establish what requirements must apply under the RACT program. While these programs may provide information as to the technical and economic feasibility of reduction programs for RACT, there is no presumption that acid rain controls should be mandated as RACT.

EPA stated in the final disapproval of the NO_X RACT determination for PPNC (63 FR at 23669), that the discussion concerning average emission rates for boilers with respect to the acid rain program requirements were included in order to provide a context for EPA's proposed disapproval. EPA made clear in its August 18, 1997 proposed disapproval of Pennsylvania Powers'—Newcastle (PPNC) RACT determination, that the basis for disapproval was a comparison between PPNC's boilers and other similar combustion units, not acid rain limits. In fact, EPA stated in the August 18, 1997 proposed disapproval that ''Without additional knowledge or information, it would be erroneous and premature to conclude that the limits in the acid rain permit are RACT.'' (62 FR at 43961). EPA clearly stated in the final disapproval for PPNC that it did not use acid rain permit limits, or Pennsylvania's participation in any other NO_X control program, to determine PPNC RACT approvability [63 FR at 23670]. Nor has EPA intended to use participation in NO_X control programs including acid rain, in determining RACT for PPNC or any other subject sources. EPA also stated that the April 30, 1998, PPNC disapproval was based on the absence of pertinent information regarding a computerized combustion optimization system through an enforceable permit, not comparison of acid rain permit limits.

G. Comment: PennFuture submitted comments specific to the case-by-case RACT determinations for three sources located in the Pittsburgh area, namely for Duquesne Light's Elrama, Phillips and Brunot Island Stations.

(1) Elrama Station—PennFuture comments that under Pennsylvania law, presumptive RACT for a coal-fired combustion unit with a rated heat input equal to or greater than 100 million Btu/hour is the installation and operation of low NO_X burners with separate overfire air (LNB-SOFA). 25 Pa.Code 129.93(b)(1), and that the Duquesne Light—Elrama Station has four boiler units subject to this standard. PennFuture cites intra-agency correspondence between EPA staff which states that the RACT proposal fails to demonstrate that the burner modification and the new design burners will result in emission reductions that are equivalent to conventional low NO_X burners. (Memo, Kelly Bunker, EPA, to David Campbell, EPA, November 25, 1997, p. 2) PennFuture's comment also acknowledges DEP correspondence which did provide its justification as to why the emission controls at Units 1–3 at Elrama are functionally equivalent to LNB–SOFA. (Letter Krishnan Ramamurthy, DEP, to David Campbell, EPA, May 13, 1998.) PennFuture asserts,

nonetheless, that DEP did not conduct a case-by-case RACT analysis and did not demonstrate that the emission rate for these burners would be equivalent to LNB–SOFA. Lastly, PennFuture cites current emissions data from EPA (see Table B1 of EPA's Emissions Scorecard 2000) suggesting that other large coal burners in Pennsylvania that have applied LNB–SOFA are achieving significantly lower emissions rates for NO_X than Elrama Station.

Response: Subsection 129.93, entitled *Presumptive RACT emission limitations,* states at 129.93(a) that the owner or operator of a major NO_X emitting facility, may *elect* to comply with the presumptive RACT limitations of 129.93 as an alternative to developing and implementing a RACT emission limitation on case-by-case basis. For Elrama Station, Duquesne Light opted to submit a RACT proposal pursuant to the Subsections 129.91 and 129.92 rather than comply with the presumptive RACT requirements of 129.93. There is no requirement that its RACT proposal or the DEP's analysis conducted under 129.91 and 129.92 demonstrate that 0.5lbs of NO_X per MMBtu emission rate is equivalent to LNB–SOFA. Nonetheless, and as noted by PennFuture, the SIP submission does include DEP correspondence which does provide its justification as to why the emission controls at Units 1–3 at Elrama are functionally equivalent to LNB–SOFA. (Letter Krishnan Ramamurthy, DEP, to David Campbell, EPA, May 13, 1998.) EPA has reviewed the RACT proposal done by Duquesne Light, the analysis of that proposal by DEP, and finds that given the age, configuration and design of the specific boilers; the required installation of low NO_X burning systems, the associated modifications and the emission rate of 0.5lbs of NO_X per MMBtu imposed as NO_X RACT for the Elrama Station is approvable.

In its comments, PennFuture compares the 0.5 lbs of NO_X per MMBtu NO_X allowable emission rate imposed by the Commonwealth as RACT on the Elrama station (to be complied with by May 1995) to the current actual emissions data from other large coal burners in Pennsylvania (found in EPA's Emissions Scorecard in 2000). This direct comparison of Elrama's allowable RACT emission rate imposed for compliance by May of 1995 to actual year 2000 emissions data of other large coal burning sources in Pennsylvania is not an appropriate criterion by which to judge the approvability of that RACT allowable emission rate. Such a comparison fails to recognize that as of May 1999, such large coal burning sources in Pennsylvania have been subject to additional ''post-RACT requirements'' to reduce seasonal NO_X emissions under the NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the Ozone Transport Region (OTR). That rule's compliance date is May 1999. That regulation was approved as a SIP revision on June 6, 2000 (65 FR 35842). The current (and year 2000) actual emissions data from large coal burning sources in Pennsylvania reflect compliance with 25 Pa Code Chapters 121 and 123—not just RACT.

The Duquesne Light Company's Elrama Plant is also subject to additional requirements to reduce NO_X found at 25 PA Code Chapters 121, 123 and 145. Nothing in the approval of the case-by-case NO_X RACT determination for Elrama in any way relieves the facility from the applicable requirements of SIP-approved 25 PA Code Chapters 121, 123 and 145.

(2) Phillips Station—PennFuture comments that the DEP RACT evaluation for Duquesne Light—Phillips station takes the same approach as for Elrama, this time approving ''low NO_X burning systems'' with a high emission rate of .72 pounds per million Btu. PennFuture contends that although DEP reports that the four boilers are unusually configured, they are still large boilers subject to presumptive RACT of LNB-SOFA. PennFuture asserts that the source and DEP offer no demonstration that the approved emission rate is equivalent to that obtained by presumptive RACT. Finally PennFuture contends that EPA specifically rejected an emission rate of .72 pounds per million Btu for a coal-fired unit as ''too high'' and failing the RACT standard at the Penn Power—Newcastle plant. (62 FR 43959, 43961 (1997); 63 FR 23668 (1998)). For these reasons, PennFuture comments that EPA should disapprove the RACT proposal for Duquesne Light—Phillips station.

Response: Phillips Station has ceased operations, and thus EPA is not approving a source-specific RACT determination for this facility. On April 15, 1999, Duquesne Light Company Inc. entered into a Consent Order and Agreement with the Commonwealth of Pennsylvania, Department of Environmental Protection regarding NO_X Allowances for its five power stations located in Pennsylvania. Paragraph 4 on page 5 of that Consent Order states that the emission reductions resulting from the curtailment of operations at the Phillips Station are not eligible to be used to generate ERCs and cannot be used as creditable emission reductions in any NSR applicability determination (a process referred to as netting). The Pennsylvania DEP has submitted this signed and dated Consent Order and Agreement to EPA as an alternative to the case-by-case RACT SIP submission for Phillips Station and it has been placed in Administrative Record for this final rulemaking. This Consent Order and Agreement makes approval of any NO_X RACT determination for the installations and operations at Phillips Station moot. If Duquesne (or any subsequent owner/operator) were to apply to recommence operations at Phillips Station, that restart would be subject to the Pennsylvania's SIP's applicable approved NSR program as though it were a new source. Under Pennsylvania's SIP-approved NSR program, the controls required of any such new source would, at a minimum, have to meet Best Available Technology (BAT) which must be at least as stringent as RACT.

(3) Brunot Island Station (now owned by Orion Power Midwest, L.P.)—PennFuture comments that in its RACT determination for the Brunot Island plant's six units subject to NO_X RACT requirements (Units 2A, 2B, and 3, which have a potential to emit NO_X of over 3,300 tons per year each), DEP chose to bifurcate the technology review, analyzing operation and controls separately for the combined cycle combustion (CCC) and simple cycle combustion (SCC) modes. PennFuture asserts that DEP's approach improperly assumes that Brunot Island would have to make separate capital investments to apply control technology (in this case, wet injection) to the CCC and SCC modes. Considering these technologies in isolation, DEP concluded that wet injection is cost effective for CCC mode (while concluding that wet injection plus selective catalytic reduction would be cost prohibitive) and that wet injection was cost prohibitive for SCC mode at a maximum annual capacity of 23%. However, in practice, only one capital expenditure for wet injection would be required for this technology to reduce emissions during operation in either mode. Therefore, DEP should have evaluated either one capital expenditure as producing emission benefits in both modes, or only the marginal operating costs associated with wet injection during the SCC mode. PennFuture contends, therefore, that EPA must not approve the NO_X RACT determination for the Brunot Island plant submitted by DEP. Instead, EPA should require that DEP submit a RACT determination that

properly considers the actual costs of applying wet injection to both operating modes.

Response: Pursuant to PennFuture's comment, EPA has re-reviewed the source-specific RACT determination for the Brunot Island Station and has conferred with both the Allegheny County Health Department (ACHD) and the Pennsylvania DEP. On March 5, 2001, the ACHD issued a Prevention of Significant Deterioration (PSD) Installation Permit to Orion Power Midwest, L.P. for its Major Modification of the Brunot Island Station (ACHD Permit 0056). The modification to Brunot Island consists of an increase in the capacity factor to 100% for the existing simple cycle combustion turbines, 2A, 2B, and 3 and the installation of three heat recovery steam generators (HRSGs). Under Permit 0056, only natural gas shall be combusted in the modified combustion turbines and their associated HRSGs, and these units will only operate in combined cycle mode. Fuel oil will no longer be used in these units. The required control device is water injection selective catalytic reduction (SCR). Each unit is limited to 11.8 lbs/hr of NO_X (based on a rolling 3-hr average) and to 51.7 tons per year. Total facility emissions from Units 2A, 2B and 3 shall not exceed 34.4 lbs of NO_X/hr (based on a rolling 3-hr average) and 156 tons per year. In all instances the permit defines a year as any 12 consecutive months.

Under Section V. 7 entitled, Additional Requirements, of Permit 0056 (pp 23 and 23), conditions related to the period of time prior to the modified units operating in the combined cycle mode are imposed. EPA believes that those requirements are RACT, and their requirements apply until the modified units are operating in combined cycle mode. Those requirements include a condition which states that Units 2A, 2B and 3 may combust natural gas in simple cycle mode during the time period commencing with first operation on natural gas and ending with first operation in combined cycle mode with a restriction that NO_X emissions not exceed 239.0 lbs/hr from each unit and 131.0 tons per year from all three units combined. A year is defined as any 12 consecutive months. The 239.0 lbs/hr restriction on each boiler represents a 70 percent reduction from its former 3,300 tons per year potential to emit. The 131.0 tons per year combined annual limit for all three boilers represents a 98.7 percent reduction from their combined former 9,900 tons per year potential to emit. Another condition states that Units 2A, 2B and 3 shall not operate in simple cycle mode on natural gas without controls after January 1, 2003, unless a revised RACT plan is approved. Any such revised plan would have to submitted to EPA for approval as a SIP revision. Another condition states that anytime after start-up of Unit 2A, 2B or 3 in combined cycle mode, that Unit shall not operate in simple cycle mode.

ACHD Permit 0056 has been submitted to EPA as part of the NO_X RACT SIP submittal for Brunot Island including the documentation that a public comment period and public hearing were conducted on the proposed PSD permit. The Major Modification Prevention of Significant Deterioration (PSD) Installation Permit issued to Orion Power Midwest, L.P. for its Major Modification of the Brunot Island Station, ACHD Permit 0056, on March 5, 2001 has been placed in the Administrative Record for this SIP revision and is being approved as part of the SIP. Therefore, the federally enforceable and applicable requirements governing emissions of NO_X from the Brunot Island Station are those imposed in permit 0056 issued on March 5, 2001 which EPA is approving as RACT for this source. As of the March 5, 2001 issuance of permit 0056 for Brunot Island, any ERCs generated would have to be surplus to the limits imposed in that permit.

III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and NO_X RACT for four major of sources located in the Pittsburgh area. EPA is approving these RACT SIP submittals because the ACHD and PADEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The ACHD and PADEP have also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. 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 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 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action 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 ''Protection of Children from Environmental Health Risks and Safety Risks'' (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. 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for four named sources.

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 17, 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 approving the Commonwealth's source-specific RACT requirements to control VOC and NO_X from four power plants in the Pittsburgh area 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: October 3, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 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 NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(161) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(161) Revisions pertaining to NO_X and/or VOC RACT for major sources, located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on January 6, 1995, September 13, 1996, and July 1, 1997.

(i) *Incorporation by reference.*

(A) Letters from the Pennsylvania Department of Environmental Protection dated January 6, 1995, September 13, 1996, and July 1, 1997, transmitting source-specific VOC and/or NO_X RACT determinations.

(B) The following companies' Plan Approvals (PA), or Consent Orders (CO):

(*1*) Duquesne Light Company's Cheswick Power Station, CO 217, effective March 8, 1996, except for condition 2.5.

(*2*) Duquesne Light Company's Elrama Plant, PA 63–000–014, effective December 29, 1994.

(*3*) Pennsylvania Electric Company's Keystone Generating Station, PA 03–000–027, effective December 29, 1994.

(ii) *Additional materials.*

(A) The federally enforceable Major Modification PSD Permit, ACHD Permit #0056, issued on March 5, 2001 to Orion Power Midwest L.P. for its Brunot Island Power Station (formerly owned by Duquesne Light Company).

(B) The Consent Order and Agreement, dated April 15, 1999, between the Commonwealth of Pennsylvania, Department of Environmental Protection and Duquesne Light Company, INC., regarding NO_X Allowances, which states that the emission reductions resulting from the curtailment of operations at the Phillips Station prior to April 15, 1999 are not eligible to be used to generate emission reduction credits (ERCs) and cannot be used as creditable emission reductions in any New Source Review (NSR) applicability determination.

(C) Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(161)(i)(B) of this section.

* * * * *

[FR Doc. 01–26263 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[ME–063–7012a; A–1–FRL–7085–5]

Clean Air Act Final Approval of Operating Permits Program; State of Maine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking final action to fully approve the Operating Permits Program of the State of Maine (program). Maine submitted its program for the purpose of complying with Clean Air Act (the Act) requirements for a state to develop a program to issue operating permits to all major stationary and certain other sources. EPA granted source category-limited interim approval to Maine's operating permit program on February 21, 1997. On September 28, 2001, EPA received Maine's revisions to its program that address the issues described in EPA's interim approval.

DATES: This direct final rule is effective on December 17, 2001 without further notice, unless EPA receives adverse comment by November 19, 2001. If adverse comment is received, EPA 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: Comments may be mailed to Steve Rapp, Unit Manager, Air Permits Program Unit, Office of Ecosystem Protection (mail code CAP), U.S. Environmental Protection Agency, EPA—New England, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the state submittal and other supporting documentation relevant to this action, are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA—New England, One Congress Street, 11th floor, Boston, MA Region I.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, (617) 918–1657.

SUPPLEMENTARY INFORMATION:

I. Why Was Maine Required To Develop an Operating Permit Program?

Title V of the Clean Air Act (the Act), as amended (42 U.S.C. 7401 and 7661 *et seq.*), requires all states to develop an operating permit program and submit it to EPA for approval. EPA has promulgated rules that define the minimum elements of an approvable

state operating permit program and the corresponding standards and procedures by which EPA will approve, oversee, and, if necessary, withdraw approval of state operating permit programs. See 57 FR 32250 (July 21, 1992). These rules are codified at 40 Code of Federal Regulations (CFR) part 70.

Title V directs states to develop programs for issuing operating permits to all major stationary sources and to certain other sources. EPA's program review occurs pursuant to section 502 of the Act (42 U.S.C. 7661a) and the Part 70 regulations, which together outline criteria for approval or disapproval. Where a program substantially, but not fully, meets the requirements of Part 70, EPA may grant the program either partial or interim approval. See 40 CFR 70.4(d). EPA granted the State of Maine final interim approval of its program on February 21, 1997 (see 62 FR 7978), which became effective on March 24, 1997.

II. What Did Maine Submit To Meet the Title V Requirements?

Maine submitted a Title V operating permit program on October 23, 1995. In addition to regulations (Chapter 140 of the Department of Environmental Protection Regulations), the program submittal included a legal opinion from the Attorney General of Maine stating that the laws of the State provide adequate legal authority to carry out all aspects of the program, and a description of how the State would implement the program. The submittal additionally contained evidence of proper adoption of the program regulations, application and permit forms, and a permit fee demonstration. This program, including the operating permit regulations, substantially met the requirements of part 70.

III. What Was EPA's Action on Maine's 1995 Submittal?

EPA deemed the program administratively complete in a letter to the state dated December 29, 1995. On September 19, 1996, EPA proposed to grant interim approval to Maine's submittal. After responding to comments, EPA granted interim approval to Maine's submittal on February 21, 1997. In the notice granting interim approval, EPA stated that there were several areas of Maine's program regulations that would need to be amended in order for EPA to grant full approval of the state's program. EPA has been working closely with the state and has determined that the state has made all necessary rule changes for full approval. The following section contains details regarding the areas of Maine's regulations which the state changed to address EPA's interim approval issues.

IV. What Were EPA's Interim Approval Issues and Where Has Maine Amended its Regulation To Address the Interim Approval Issues?

1. Forty CFR 70.4(b)(12)(i) requires states to allow for facilities to make changes as required by Section 502(b)(10) of the Act, ''Section 502(b)(10) changes'' as defined in Part 70, with just a seven day notice. Chapter 140, section 8 and the relevant definitions in Chapter 100, sections 39 and 113 of the State's rule, adequately addresses the relevant sections of 40 CFR 70.4(b)(12) governing ''Section 502(b)(10) changes.''

2. Forty CFR 70.7(e)(2)(iv) requires the state to process minor permit modifications within 90 days of the state's receipt of the application. Chapter 140, section 9.B.2. requires the state to process ''Part 70 Minor Change'' within 90 days.

3. Forty CFR 70.7(e)(2)(iii) and 70.7(e)(2)(iv) require the state to notify EPA and affected states when a source applies for a minor permit modification. States are also required to give EPA 45 days to review any minor permit modification. Previously, Maine allowed sources to revise their permits though a procedure called ''Part 70 Minor Revision'' contained in Chapter 140, section 7, without EPA or affected state review of the modification. In its new rule, Maine has limited these ''Part 70 Minor Revision'' provisions so that they apply only to ''state-only requirements.'' Chapter 140, section 7(A). Therefore, these minor revision procedures will not affect any permit terms used to implement applicable requirements under the Act.

4. Part 70 does not provide a state the option to write a permit condition that would allow a source, under limited circumstances, to continue to emit up to the previous licensed level for up to 24 months after the license is amended. In Chapter 140, Maine amended section 5(B)(6)(j) to limit this provision to ''state requirements.'' EPA understands that Maine's intent is to limit the availability of these extended compliance schedules to those permit terms that are required only under state law. Therefore, these extended compliance schedules will not be available for any applicable requirement in the permit required under the Act.

5. Part 70 allows states to develop lists of activities that are considered insignificant and can be exempted from permits and permit applications, provided such activities are not needed to determine the applicability of or to impose an applicable requirement or evaluate the annual permit fee. See 40 CFR 70.5(c). Chapter 140, appendix B, contains the list of activities in Maine that were exempted from the program. This Appendix allowed an activity that emitted up to 4 tons of hazardous air pollutants (HAPs) to be listed as insignificant. EPA disagreed that such an activity could be considered insignificant. Therefore, Maine has amended Appendix B by lowering the HAPs threshold to one ton per year of total HAPs for any emission unit or activity. Chapter 140, appendix B, section B(1)(c). Maine also clarified in appendix B that exempt activities cannot emit more than the state's own thresholds for HAPs, which can be significantly less than one ton per year. Chapter 140, appendix B, sections B(1)(d) and C.

On February 21, 1997 (62 FR 7978), EPA proposed to add a sixth interim approval condition requiring the state to remove six activities from its list of insignificant activities. Even though EPA never finalized this issue as an interim approval condition, Maine has either removed or clarified the activities on the list of insignificant activities to address EPA's concerns. Specifically, Maine has removed the activities formerly listed as paper forming (1995 version of chapter 140, appendix B, section A(117)); vacuum system exhaust (1995 version of chapter 140, appendix B, section A(118)); and stock cleaning and pressurized pulp washing (1995 version of chapter 140, appendix B, section A(121)). Maine also limited the exemption for the following activities to include only emission units not subject to the pulp and paper MACT standards: Ssewer manholes, junction boxes, sumps, and lift stations associated with wastewater treatment (2001 version of chapter 140, appendix B, section A(97)); and broke beaters, repulpers, pulp and repulping tanks, stock chests and bulk pulp handling (2001 version of chapter 140, appendix B, section A(84)). The activity described formerly as ''liquor clarifier and storage tanks and associated pumping, piping, and handling'' (1995 version of chapter 140, appendix B, section A(114)) has been limited to clarifiers, storage tanks and associated pumping, piping, and handling for white liquor (2001 version of chapter 140, appendix B, section (88)). White liquor handling is currently unregulated by the pulp and paper MACT standard. EPA has determined that the state has either eliminated or appropriately limited the exemptions

we proposed to list as interim approval issues.

V. What Action Is EPA Taking Today?

EPA is taking final action to fully approve the State's operating permit program because the State of Maine's program now fulfills the requirements of part 70. EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. In the proposed rules section of this **Federal Register** publication, however, EPA is publishing a separate document that will serve as the proposal to grant full approval should relevant adverse comments be filed. This action will be effective December 17, 2001 unless the Agency receives relevant adverse comments by November 19, 2001.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. EPA will address all public comments it receives in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If EPA receives no such comments, the public is advised that this action will be effective on December 17, 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 significant 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 current 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. 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 17, 2001. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. 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 70

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

Dated: October 6, 2001.

Robert W. Varney,

Regional Administrator, EPA New England.

Part 70, title 40 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 revising the entry for Maine to read as follows:

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

* * * * *

Maine

(a) Department of Environmental Protection: submitted on October 23, 1995; source-category limited interim approval effective on March 24, 1997; full approval effective December 17, 2001.

(b) [Reserved]

* * * * *

[FR Doc. 01–26099 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register

Vol. 66, No. 202

Thursday, October 18, 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 Parts 13, 61, 119, 125, 135, and 142

[Docket No. FAA–2001–10047; Notice No. 01–11]

RIN 2120–AH06

Regulation of Fractional Aircraft Ownership Programs and On-Demand Operations; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period.

SUMMARY: This action extends the comment periods for an NPRM that was published on July 18, 2001. In that document, the FAA proposed to update and revise the regulations governing operations by aircraft in fractional ownership programs. This extension is a result of several requests to extend the comment period to the proposal.

EFFECTIVE DATE: Comments must be received on or before November 16, 2001.

ADDRESSES: Comments on this document should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA–2001–10047, 400 Seventh Street, SW., Room Plaza 401, Washington, DC 20590. Comments may be filed and examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays, except Federal holidays. Comments also may be sent electronically to the Dockets Management System (DMS) at the following Internet address; *http://dms.dot.gov* at any time. Commenters who wish to file comments electronically, should follow the instructions on the DMS web site.

FOR FURTHER INFORMATION CONTACT: Katherine Hakala Perfetti, Flight Standards Service (AFS–200), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone: (202) 267–3760; or e-mail: *kaktherine.perfetti@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we received, as well as report summarizing each substantive public contact with FAA personnel concerning this proposal rulemaking. The docket is available for inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed date if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Background

On July 18, 2001, the Federal Aviation Administration (FAA) issued Notice No. 01–08, Regulation of Fractional Aircraft Ownership Programs and On-Demand Operations (66 FR 37520, 7/18/2001). This notice provided for a 90-day comment period. Comments pertaining to the document were to be received on or before October 16, 2001.

Several petitioners have requested an extension of the comment period. An individual petitioner requested a nine-month extension by letter dated July 15, 2001. The National Air Transportation Association and the National Business Aviation Association, by letters dated October 1 and October 3, 2001, respectively, requested the FAA to extend the comment period for Notice No. 01–08 for 30 days. By letter dated October 3, 2001, the National Transportation Safety Board requested a 90-day extension. The three recent requests cited the national security events that occurred on September 11, 2001 to support their requests for an extension. The petitioners mentioned that the recent events demanded a significant diversion of resources, making it difficult to provide well-developed, thoughtful comments on the proposed regulation. These events also raised safety issued that may need to be addressed during the comment period.

The FAA acknowledges that the tragic events of September 11 have required the nation's attention and concurs with the petitioners' requests that it is appropriate to extend the comment period on Notice No. 01–08. The need for additional time for thoughtful comment must be balanced against the need to proceed expeditiously with a rulemaking that will maintain a high standard of safety for the fractional aircraft ownership industry. The FAA believes an additional 30 days would be adequate for the petitioners to provide meaningful comment to Notice No. 01–08. This will also allow commenters who may have anticipated an extension in the comment periods to submit their comments by a certain date. Absent unusual circumstances, the FAA does not anticipate any further extension of the comment period for this rulemaking.

Extension of Comment Period

In accordance with § 11.47 of Title 14, Code of Federal Regulations, the FAA has reviewed the requests for extension of the comment period to Notice No. 01–08. These petitioners have shown a substantive interest in the proposed rule and good cause for the extension. The FAA also have determined that an extension of the comment period is consistent with the public interest, and that good cause exists for taking this action.

Accordingly, the comment period for Notice No. 01–08 is extended until November 16, 2001.

Issued in Washington, DC, October 10, 2001.

Nicholas A. Sabatini,

Director, Flight Standards Service.

[FR Doc. 01–26226 Filed 10–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

[SPATS No. AL–071–FOR]

Alabama Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of an amendment to the Alabama regulatory program (Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Alabama proposes revisions to and additions of regulations concerning valid existing rights. Alabama intends to revise its program to be consistent with the corresponding Federal regulations.

This document gives the times and locations that the Alabama program and the proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4 p.m., c.d.t., November 19, 2001. If requested, we will hold a public hearing on the amendment on November 13, 2001. We will accept requests to speak at the hearing until 4 p.m., c.d.t. on November 2, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Arthur W. Abbs, Director, Birmingham Field Office, at the address listed below.

You may review copies of the Alabama program, the amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Birmingham Field Office.

Arthur W. Abbs, Director, Birmingham Field Office, Office of Surface Mining, 135 Gemini Circle, Suite 215, Homewood, Alabama 35209, Telephone: (205) 290–7282.

Alabama Surface Mining Commission, 1811 Second Avenue, P.O. Box 2390, Jasper, Alabama 35502–2390, Telephone (205) 221–4130.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Director, Birmingham Field Office. Telephone: (205) 290–7282. Internet: *aabbs@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Alabama Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Alabama program on May 20, 1982. You can find background information on the Alabama program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the May 20, 1982, **Federal Register** (47 FR 22062). You can find later actions on the Alabama program at 30 CFR 901.15 and 901.16.

II. Description of the Proposed Amendment

By letter dated August 29, 2001 (Administrative Record No. AL–0647), Alabama sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Alabama sent the amendment in response to our letter dated August 23, 2000 (Administrative Record No. AL–0644), that we sent to Alabama under 30 CFR 732.17(c). Alabama proposes to amend the Alabama Surface Mining Commission (ASMC) Rules. Below is a summary of the changes proposed by Alabama. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES.**

A. 880–X–2A–.06, Definitions

Alabama proposes to add a definition for ''significant recreational, timber, economic, or other values incompatible with surface coal mining operations.'' Alabama also proposes to revise its definition of ''valid existing rights.''

B. 880–X–7B–.06, Areas Where Surface Coal Mining Operations Are Prohibited or Limited

Alabama proposes to revise the language in this section to describe the lands where surface coal mining operations may not be conducted, except as provided under 880–X–7B–.11 and 880–X–7B–.07.

C. 880–X–7B–.07, Exception for Existing Operations

Alabama proposes to revise the language in this section to describe those surface coal mining operations that the provisions of 880–X–7B–.06 do not apply.

D. 880–X–7B–.08, Procedures for Compatibility Finding for Surface Coal Mining Operations on Federal Lands in National Forests

Alabama proposes to add this new section to describe the procedures an applicant for a surface coal mining operation permit and the regulatory authority must follow when an applicant intends to claim the exception provided in 880–X–7B–.06(b) to conduct surface coal mining operations on Federal lands within a national forest.

E. 880–X–7B–.09, Procedures for Relocating or Closing a Public Road or Waiving the Prohibition on Surface Coal Mining Operations Within the Buffer Zone of a Public Road

Alabama proposes to add this new section to describe the procedures an applicant for a surface coal mining operation permit and the regulatory authority must follow when an applicant proposes to relocate or close a public road, or conduct surface coal mining operations with 100 feet, measured horizontally, of the outside right-of-way line of a public road.

F. 880–X–7B–.10, Procedures for Waiving the Prohibition on Surface Coal Mining Operations Within the Buffer Zone of an Occupied Dwelling

Alabama proposes to add this new section to describe the procedures applicants for surface coal mining operation permits must follow when they propose to conduct surface coal mining operations within 300 feet, measured horizontally, of any occupied dwelling.

G. 880–X–7B–.11, Submission and Processing of Requests for Valid Rights Determinations

Alabama proposes to add this new section to describe the procedures applicants for surface coal mining operation permits must follow when requesting a valid existing rights determination. This section also describes the procedures the regulatory authority will follow when making a valid existing rights determination.

H. 880–X–7B–.12, Regulatory Authority Obligations at Time of Permit Application Review

Alabama proposes to add this new section to describe the procedures the regulatory authority must follow when it receives an administratively complete application for a permit for a surface coal mining operation, or an administratively complete application for revision of the boundaries of a surface coal mining operation permit.

I. 880–X–8C–.05, Exploration: General Requirements for Removal of More Than 250 Tons and Disturbance of More Than One-Half Acre or on Lands Designated Unsuitable for Surface Mining Operations

Section 880–X–8C–.05 requires any person who intends to conduct coal exploration outside a permit area to apply for a permit. Alabama proposes to add new paragraph 880–X–8C–.05(1)(g) to require applicants for a coal exploration permit to submit, as part of their permit application, a demonstration that, for those lands listed at 880–X–7B–.06, the proposed exploration activities have been designed to minimize interference with the values for which those lands were designated as unsuitable for surface coal mining operations. Furthermore, applicants must provide documentation that they have consulted with the owner of the feature causing the land to come under the protection of 880–X–7B–.06, as well as the regulatory authority with primary jurisdiction over the feature, when applicable.

J. 880–X–8C–.06, Applications: Approval or Disapproval of Exploration of More Than 250 Tons

Section 880–X–8C–.06 describes the procedures the regulatory authority must follow when it receives an application for a coal exploration permit. Alabama proposes to add new paragraph 880–X–8C–.06(2)(e) to require the regulatory authority to find, prior to approving a coal exploration permit, that the applicant has demonstrated that, for those lands listed at 880–X–7B–.06, the exploration and reclamation described in the application minimizes interference with the values for which those lands were designated as unsuitable for surface coal mining operations. Furthermore, the regulatory authority must provide reasonable opportunity to the owner of the feature causing the land to come under the protection of 880–X–7B–.06, as well as the regulatory authority with primary jurisdiction over the feature, to comment on whether the finding is appropriate.

K. 880–X–8D–.08, Relationship to Areas Designated Unsuitable for Mining

Alabama proposes to revise the language in paragraph 880–X–8D–.08(3) to require those applicants for surface coal mining operation permits that propose to conduct surface coal mining operations within 100 feet of a public road or within 300 feet of an occupied dwelling to meet the requirements of 880–X–7B–.09 or 800–X–7B–.10, respectively.

L. 800–X–8F–.14, Protection of Public Parks and Historic Places

Alabama proposes to revise the language in paragraph 880–X–8F–.14(1)(b) to read as follows:

(b) If a person has valid existing rights, as determined under Rule 880–X–7B–.11 of these regulations, or if joint regulatory authority approval is to be obtained under Rule 880–X–7B–.12(d) of these regulations, to minimize adverse impacts.

M. 880–X–8I–.15, Relocation or Use of Public Roads

Alabama proposes to revise the reference in the introductory language of this section from ''880–X–7B–.07(4)'' to ''880–X–7B–.09.''

N. 880–X–8K–.05, Public Participation in Permit Processing

Alabama proposes to revise the reference in paragraph 880–X–8K–.05(1)(a)5 from ''880–X–7B–.07(4)'' to ''880–X–7B–.09.''

O. 880–X–8K–.10, Review of Permit Applications

Alabama proposes to remove the phrase ''and section 880–X–7B–.07'' from the language found in paragraph 880–X–8K–.10(3)(c)2.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Alabama program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII, WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: SPATS NO. AL–071–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Birmingham Field Office at (205) 290–7282.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Birmingham Field Office (see **ADDRESSES**). Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.d.t. on November 2, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who testifies at the public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the

hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, you should contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the proposed amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of this section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866, and because it is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed State regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined 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.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5. U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of $100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 12, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01–26269 Filed 10–17–01; 8:45 am]

BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[ME–063–7012b; A–1–FRL–7085–6]

Clean Air Act Final Approval of Operating Permits Program; State of Maine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to fully approve the Operating Permits Program for the State of Maine (program) for the purpose of complying with Federal requirements. The program requires the state to issue operating permits to all major stationary sources and certain other sources. In the Final Rules Section of this **Federal Register**, EPA is approving the state's program submittal 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 EPA receives no relevant adverse comments in response to this action, the Agency contemplates no further activity. If EPA receives adverse comments, EPA will withdraw the direct final rule and the Agency will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives relevant 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: Written comments must be received on or before November 19, 2001.

ADDRESSES: Comments may be mailed to Steven A. Rapp, Unit Manager, Air Permits Program Unit, Office of Ecosystem Protection (mail code CAP), U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA 02114–2023. Copies of the state submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA-New England Regional Office, One Congress Street, 11th floor, Boston, MA.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, (617) 918–1657.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: October 6, 2001.

Robert W. Varney,

Regional Administrator, EPA New England.

[FR Doc. 01–26100 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[AZ056–OPP; FRL–7086–6]

Clean Air Act Proposed Full Approval of Operating Permit Programs; Maricopa County Environmental Services Department, Arizona

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Maricopa County Environmental Services Department (Maricopa or District) operating permit program. The Maricopa operating permit program was 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 interim approval to the Maricopa operating permit program on October 30, 1996 (61 FR 55910). The District has revised its program to satisfy the conditions of the interim approval and this action proposes approval of those revisions and certain other revisions made since interim approval was granted. EPA is proposing full approval of the Maricopa operating permits program based on the revisions submitted on September 7, 2001.

DATES: Comments on the program revisions discussed in this proposed action must be received in writing by November 19, 2001.

ADDRESSES: Written comments on this action should be addressed to Gerardo Rios, Acting Chief, Permits Office, Air Division (AIR–3), EPA Region IX, 75 Hawthorne Street, San Francisco, California, 94105. You can inspect copies of Maricopa's submittal and other supporting documentation relevant to this action during normal business hours at the Air Division of EPA Region 9, 75 Hawthorne Street, San Francisco, California, 94105. You may also see copies of the submitted title V program at the following location:

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Suite 201, Phoenix, Arizona 85004.

FOR FURTHER INFORMATION CONTACT: Ginger Vagenas, EPA Region IX, Permits Office (AIR–3), U.S. Environmental Protection Agency, Region IX, (415) 744–1252 or *vagenas.ginger@epa.gov.*

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

I. What is the operating permit program?
II. What is EPA's proposed action?
III. What are the program changes that EPA is approving?
IV. What is the effect of this proposed action?

I. What Is the Operating Permit Program?

The CAA Amendments of 1990 required all District and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the operating permit programs, 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 compliance 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 EPA's Proposed Action?

Because the operating permit program originally submitted by Maricopa 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 to the program in a rulemaking published on October 30, 1996 (61 FR 55910). The interim approval notice described the conditions that had to be met in order for the Maricopa program to receive full approval. Today's **Federal Register** notice describes the changes Maricopa has made to its operating permit program to correct conditions and obtain full approval.

EPA is proposing full approval of the operating permits program submitted by Maricopa based on the revisions submitted on September 7, 2001. These revisions satisfactorily address the program deficiencies identified in EPA's October 30, 1996 rulemaking. *See* 61 FR 55910. EPA is also proposing to approve, as a title V operating permit program revision, certain additional changes to the rules that have been made since Maricopa was granted interim approval. The interim approval issues, Maricopa's corrections, and the additional changes EPA is proposing to approve are described below under the section entitled, ''What are the program changes that EPA is approving?''

III. What Are the Program Changes That EPA Is Approving?

A. Corrections to Interim Approval Issues

In its October 30, 1996 rulemaking, EPA made full approval of Maricopa's operating permit programs contingent upon the correction of a number of interim approval issues. Each issue, along with the District's correction, is described below.

1. Rule deficiency: Maricopa's definition of ''Building, Structure, Facility, or Installation'' includes the caveat that, ''[p]roperties shall not be considered contiguous if they are connected only by property upon which is located equipment utilized solely in transmission of electrical energy.'' This language, which is linked to the District's definition of stationary source, is not consistent with the stationary source definition in § 70.2. In order to correct this deficiency, EPA required that the district delete the language from Regulation I, Rule 100, section 224 (the definition of ''Building, Structure, Facility, or Installation'').

Rule change: The ''Building, Structure, Facility, or Installation'' definition has been revised to correct the deficiency. The definition now reads: ''All the pollutant-emitting equipment and activities that belong to the same industrial grouping, that are located on one or more contiguous or adjacent properties, and that are under the control of the same person or persons under common control, except the activities of any vessel. Pollutant emitting activities shall be considered as part of the same industrial grouping if they belong to the same ''Major Group'' as described in the ''Standard Industrial Classification Manual, 1987.''

2. Rule deficiency: Regulation I, Rule 100, section 251.2 (part of the definition of ''major source'') did not clearly require that fugitive emissions of HAPs be included when determining a source's potential to emit. In order to correct the deficiency, the definition needed to be revised so that it would be clear that fugitive emissions of HAPs must be considered in determining whether the source is major for purposes of both the 10 ton per year and 25 ton per year HAP major source thresholds. See 40 CFR 70.2.

Rule change: The definition of major source has been revised to correct the deficiency. It now defines a major source under section 112 of the CAA to include, ''for pollutants other than radionuclides, any stationary source that emits, or has the potential to emit, in the aggregate *and including fugitive emissions,* 10 tons per year or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the CAA, 25 tons per year of any combination of such hazardous air pollutants * * *. '' (Emphasis added.)

3. Rule deficiency: Part 70 requires that certain records must be retained for five years. See § 70.6(a)(3)(ii)(B). In order to ensure this provision is implemented, EPA required that Regulation I, Rule 100, section 505 be revised to clarify that for title V sources, records of all required monitoring data and support information must be retained for a period of five years, as provided in Regulation II, Rule 210, section 302.1(d)(2).

Rule change: Maricopa has resolved this issue by amending Regulation I, Rule 100, section 505 to require that ''[i]nformation and records required by applicable requirements and copies of summarizing reports recorded by the owner and/or operator and submitted to the Control Officer shall be retained by the owner and/or operator for 5 years after the date on which the information is recorded or the report is submitted. Non-title V sources may retain such information, records, and reports for less than 5 years, if otherwise allowed by these rules.''

4. Rule deficiency: In order to ensure that the permits are available to the public, EPA required that Maricopa revise Regulation I, Rule 100, section 506 to clarify that for title V sources, all permits, including all elements of permit content specified in Rule 210, section 302, shall be available to the public, as provided in Regulation II, Rule 200, section 411.1. See § 70.4(b)(3)(viii).

Rule change: Regulation I, Rule 100 now specifies under section 402.1 that ''[t]he Control Officer shall make all permits, including all elements required to be in the permit under rule 210 (Title V Permit Provisions) of these rules and Rule 220 (Non-Title V Permit Provisions) of these rules, available to the public.''

5. Rule deficiency: In its interim approval, EPA noted that Maricopa's provisions regarding applicability needed to be clarified. In order to correct these deficiencies, EPA required that Maricopa revise Regulation II, Rule 200, section 312.2 to define when sources become subject to the requirements of Title V. In addition, EPA required that the District revise section 312.5 to require existing sources that do not hold a valid installation or operating permit to submit an application within 12 months of becoming subject to the requirements of title V.

Rule change: Maricopa added a new section 312.2 to Regulation II, Rule 200. The rule now reads, ''[f]ollowing November 29, 1996, the effective date of the Environmental Protection Agency's (EPA's) final interim approval of Maricopa County's Title V permit program, a source becomes subject to the requirements of the Title V permit program, when the source meets the applicability requirements as provided in this rule.'' Regulation II, Rule 200, section 312.5(c) has been amended to require that ''[a]ll sources in existence on the date these rules become effective and not holding a valid installation permit and/or a valid operating permit issued by the Control Officer, which have not applied for a Title V permit pursuant to these rules, shall submit to the Control Officer a title V permit application no more than 12 months after becoming subject to title V permit requirements.''

6. Rule deficiency: In its initial program, Maricopa's Regulation II, Rule 210, section 301.5(g) allowed any emissions source, equipment, or item listed under Regulation II, Rule 200, section 303.4(c) to be treated as ''insignificant.'' That is, applicants were not required to provide emissions data regarding the items listed under 303.4(c). Part 70 does allow certain equipment to be treated in this manner, but requires that the list be part of the approved title V program (§ 70.5(c)) and

that the permitting authority submit a demonstration that the activities are truly insignificant. See § 70.4(b)(2). Maricopa's failure to provide a demonstration that the activities listed in Regulation II, Rule 200, section 303.4(c) are insignificant was identified by EPA as an interim approval issue. EPA noted that Maricopa could correct the deficiency by removing from the list any activities that are subject to a unit-specific applicable requirement or by adding emissions cut-offs or size limitations to ensure that the listed activities are below any applicability thresholds for applicable requirements.

Rule changes: To correct the deficiency, Maricopa has submitted a demonstration and made changes to the following rules: (1) Regulation I, Rule 100, section 200.58; (2) Regulation II, Rule 200, section 308.1; (3) Regulation II, Rule 210, section 301.4(h); and (4) appendix D.

The first change is the addition of a definition of insignificant activity at Regulation I, Rule 100 section 200.58. It specifies that in order to be treated as an insignificant activity, an activity, process, or emissions unit cannot emit more than two tons per year of a regulated air pollutant, one-half ton per year of a hazardous air pollutant, and may not be subject to a source-specific applicable requirement. In addition, the activity must either be listed in appendix D or approved by the District and EPA as meeting the criteria for treatment as an insignificant activity.

The second change, at Regulation II, Rule 200, section 308.1, sets out how insignificant activities may be addressed in applications. Insignificant activities may be listed and generally grouped, and detailed information about the activities need not be supplied. It also provides that in its application a source may request that certain activities be treated as insignificant. Finally, it includes a caveat that, notwithstanding the provisions of the rules regarding insignificant activities, the following types of information may not be omitted from any application: information needed to determine the applicability of or to impose any requirement; information needed to determine the compliance status of the source; or information needed to determine the amount of fees the source must pay.

The third change, at Regulation II, Rule 210, section 301.4(h), occurs in the District's provisions regarding permit application processing procedures. It requires that, to be complete, an application must include a listing of insignificant activities.

The fourth change is the inclusion of appendix D, which is a list of activities that the District has determined may be treated as insignificant in accordance with the criteria set out in the definition of insignificant activity in Regulation I, Rule 100. It also reiterates the provisions of Regulation II, Rule 200, section 308.1 that require the applicant provide all information necessary to determine the applicability of requirements, to determine compliance, and to impose fees. The District included in its submittal a demonstration that the listed activities qualify for treatment as insignificant.

7. Rule deficiency: Section 70.6(a)(8) requires that title V permits contain a provision that ''no permit revision shall be required under any approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in the permit.'' Regulation II, Rule 210, section 302.1(j) included this exact provision but also included a sentence that negated this provision. EPA required that Maricopa either delete or revise the negating sentence to make the rule consistent with part 70.

Rule change: The problematic sentence has been deleted from the District's rule.

8. Rule deficiency: Section 70.4(b)(12) allows sources to make changes within a permitted facility without requiring a permit revision, if the changes are not modifications under any provision of title I of the Act and the changes do not exceed the emissions allowable under the permit. The District's rules provided for such permit conditions but did not restrict the allowable changes to those that are not modifications under title I of the Act and those that do not exceed the emissions allowable under the permit. Maricopa was required to revise Regulation II, Rule 210, section 302.1(n) to add these conditions. In addition, EPA required that Maricopa revise this provision to specify that the notice required by sections 403.4 and 403.5 will also describe how the increases and decreases in emissions will comply with the terms and conditions of the permit. See § 70.4(b)(12).

Rule change: Regulation II, Rule 210, section 302.1(n) has been revised to correct the deficiency by including the following language: ''Changes made under this subsection shall not include modifications under any provision of title I of the Act and may not exceed emissions allowable under the permit. The terms and conditions shall include notice that (1) conforms to subsection 403.4 and subsection 403.5 of this rule and (2) describes how the increases or decreases in emission will comply with the terms and conditions of the permit.''

9. Rule deficiency: Maricopa's Regulation II, Rule 210, section 404.1(e) provided that equipment removal that does not result in an increase in emissions could be processed as an administrative permit amendment. Equipment removal, even if it does not result in an increase in emissions, is not similar to the types of changes that EPA has included in the part 70 definition of ''administrative permit amendment.'' In some cases removal of equipment, such as monitoring equipment, will require processing as a significant permit revision. In other situations removal of equipment may qualify for processing as a minor permit revision or possibly for treatment under the operational flexibility provisions. See §§ 70.7(d) and 70.7(e)(4). In order to correct the deficiency, EPA required that Maricopa remove this provision from the list of changes that may be processed as administrative amendments.

Rule change: Section 404.1(e) of Regulation II, Rule 210 has been deleted.

10. Rule deficiency: The following language was included in Maricopa's Regulation II, Rule 210, section 405.1(c) as an exception to the prohibition against allowing case-by-case determinations to be processed as minor permit revisions:

''* * * other than a determination of RACT pursuant to Rule 241, Section 302 of these rules * * *.''

The definition of RACT in section 272 of Rule 100 states that, ''RACT for a particular facility, other than a facility subject to Regulation III, is determined on a case-by-case basis * * *'' Rule 241 is not in Regulation III, so RACT determinations made pursuant to this rule are done so on a case-by-case basis. Excepting RACT determinations from the prohibition against processing case-by-case determinations through the minor permit revision process violates the requirement of § 70.7(e)(2)(i)(A)(3). To correct this deficiency, EPA required that exception for case-by-case RACT determinations be deleted from the rule.

Rule change: The specified language has been deleted.

11. Rule deficiency: Section 70.7(h)(1) requires that permitting authorities provide public notice of certain types of permit actions. In addition to requiring newspaper notices and mailing list notification, part 70 includes a requirement that notice be provided ''by other means if necessary to assure adequate notice to the affected public.'' Because Maricopa's rules lacked such a provision, EPA required that the District revise Regulation II, Rule 210, section 408 to include it.

Rule change: Section 408.3(c) has been added. It requires that ''[t]he Control Officer shall give notice by any other means if necessary to assure adequate notice to the affected public.''

B. Other Changes

The rules the District has submitted for EPA approval incorporate extensive changes other than those necessary to correct interim approval deficiencies. Because of time constraints, we have limited our review to those sections that include interim approval issues. In this action EPA is, where possible, proposing to approve as a title V operating permit program revision additional program changes that are included in sections that were revised to correct interim approval issues or are relied upon or cross-referenced by those sections. EPA is not taking action on rules or sections that are not listed in Table 1, below.

One of these changes requires special explanation. Paragraph (c) of Maricopa's definition of major source lists source categories that must count fugitives. Maricopa revised subparagraph xxvii to read: ''All other stationary source categories regulated by a standard promulgated as of August 7, 1980 under section 111 or 112 of the Act, but only with respect to those air pollutants that have been regulated for that category.'' Emphasis added. The addition of this 1980 cutoff date restricts the types of sources that are required to count fugitives towards the major source threshold, which is inconsistent with the current version of part 70. EPA has, however, proposed a revision to part 70's major source definition that will incorporate the 1980 cutoff date. See 60 FR 45530 (August 31, 1995). We are therefore proposing to approve the District's definition of major source contingent upon EPA finalization of revisions to 40 CFR part 70 that will make the change approvable. If EPA does not finalize the changes to part 70 described above, Maricopa's major source definition will conflict with the operative version of part 70 and we will be unable to approve it. The remedy to one of Maricopa's interim approval issues (described above under III.A.2) resides within that same definition, so if we are barred from approving Maricopa's new major source definition because of the 1980 date, we will be unable to grant full approval to Maricopa's title V program. As a result, Maricopa would lose its authority to implement its title V operating permits program on December 1, 2001, and part 71 would be in effect.

Maricopa made a number of additional changes to the rules that implement their part 70 program, many of which were non-substantive (e.g., recodifications) or apply only to non-title V sources. A general description of the more substantive changes we are proposing to approve follows. For more detail on the all of the changes, refer to the technical support document.

Maricopa added new provisions to its rules that address the concept of trivial activities. EPA's title V implementation guidance document, ''White Paper for Streamlined Development of Part 70 Permit Applications,'' (July 10, 1995) explains that the inherent flexibility in § 70.5(c) ''encompasses the idea that certain activities are clearly trivial (i.e., emissions units and activities with specific applicable requirements and with extremely small emissions) can be omitted from the application even if they are not included on a list of insignificant activities approved in a State's part 70 program pursuant to § 70.5(c).'' Maricopa's treatment of trivial activities matches that of EPA's guidance. EPA is therefore proposing to approve the District's provisions regarding trivial activities.

In addition to the change that corrects an interim approval issue related to public availability of information (described above under II.A.4), Maricopa has made other changes to its provisions that pertain to the confidentiality of records and has amended the definition of trade secret. The revised confidentiality of information procedures, in conjunction with the revised definition of trade secret, include the following key elements: (1) The presumption is that information is public unless a source notifies the Control Officer in writing that it is making a claim of confidentiality; (2) information cannot be withheld from the Control Officer; and (3) emissions information cannot be considered confidential. EPA finds these additional changes to Maricopa's confidentiality provisions and to the definition of trade secret to be consistent with § 70.4(b)(3)(viii) and therefore approvable.

The emergency provisions that implement § 70.6(g) have been modified by the District to include a requirement that in the event of an emergency a source must notify the Control Officer by telephone as soon as possible. The rule did not previously require telephone notification, and this change ensures that the District will be notified more promptly than would have been the case under the older version of the rule.

Maricopa has also added language that clarifies that sources must obtain an air quality permit before beginning to construct. Because Maricopa's title V and preconstruction permitting programs are merged into a unitary permitting system, this approach is consistent with part 70.

IV. What Is the Effect of This Proposed Action?

Maricopa has adopted and submitted rule changes and requested program revisions that address the issues identified in EPA's interim approval and are described above. The rules proposed for approval today listed in Table 1.

TABLE 1

Rule No.	Rule title and specific sections proposed for approval	Adoption date
Regulation I, Rule 100	General Provisions and Definitions— • The following provisions from § 200 Definitions: § 200.26 ''Building, Structure, Facility, or Installation'' § 200.58 ''Insignificant Activity'' § 200.60 ''Major Source'' § 200.107 ''Trade Secret'' § 200.108 ''Trivial Activity'' • § 402, Confidentiality of Information • § 500 Monitoring of Records	8/22/01
Regulation I, Rule 130	Emergency Provisions	7/26/00
Regulation II Rule 200	Permit Requirements • § 308—Standards for Applications • § 312—Transition from Installation and Operating Permit Program to Unitary Permit Program	8/22/01

TABLE 1—Continued

Rule No.	Rule title and specific sections proposed for approval	Adoption date
Regulation II, Rule 210	Title V Permit Provisions • § 301.4(h) • § 302.1(j) • § 302.1(n) • § 404—Administrative Permit Amendments • § 405.1 • § 408—Public Participation	2/7/01
Appendix D	List of Insignificant Activities	8/22/01
Appendix E	List of Trivial Activities	8/22/01

As noted above, Maricopa has adopted and submitted the required changes and has fulfilled the conditions of the interim approval granted on October 30, 1996 (61 FR 55910). EPA is therefore proposing full approval of the Maricopa operating permit program, contingent on EPA finalizing its proposed change to the part 70 definition of major source.

Request for Public Comments

EPA requests comments on the program revisions discussed in this proposed action. Copies of the Maricopa submittal and other supporting documentation used in developing the 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 19, 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 District law as meeting federal requirements and imposes no additional requirements beyond those imposed by District 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 District law and does not impose any additional enforceable duties beyond that required by District 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 Districts, on the relationship between the national government and the Districts, 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 District law, and does not alter the relationship or the distribution of power and responsibilities between the District 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 District operating permit programs submitted pursuant to Title V of the Clean Air Act, EPA will approve District 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 District to use voluntary consensus standards (VCS), EPA has no authority to disapprove a District 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 District 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: October 5, 2001.

Keith Takata,

Acting Regional Administrator, Region IX.

[FR Doc. 01–26264 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 66, No. 202
Thursday, October 18, 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

Grain Inspection, Packers and Stockyards Administration

Proposed Posting of Stockyards

The Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in section 302 of the Packers and Stockyards Act (7 U.S.C. 202) and should be made subject to the provisions of the Packers and Stockyards Act (Act), 1921, as amended (7 U.S.C. 181 *et seq.*).

KY–177 Mayfield Auction Barn, Mayfield, Kentucky
SC–159 Hendrix Horse Auction, Hartsville, South Carolina

Pursuant to the authority under section 302 of the Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of said Act.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Office of Policy/Litigation Support, Grain Inspection, Packers and Stockyards Administration, Room 1521, South Building, U.S. Department of Agriculture, Washington, DC 20250–3646, by November 2, 2001.

All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director of the Office of Policy/Litigation Support during normal business hours.

Done at Washington, DC this 23rd day of August 2001.

David R. Shipman,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 01–26271 Filed 10–17–01; 8:45 am]

BILLING CODE 3410–EN–U

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Alabama Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee to the Commission will convene at 9 a.m. and adjourn at 8 p.m. on November 15, 2001, at the Crowne Plaza Birmingham, 2101 Fifth Avenue North, Birmingham, Alabama 35203. The purpose of the meeting is to plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 11, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–26221 Filed 10–17–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Arkansas Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Arkansas Advisory Committee to the Commission will convene at 4 p.m. and adjourn at 7 p.m. on November 1, 2001, at the Arlington Resort Hotel and Spa, 239 Central Avenue, Hot Springs, Arkansas 71902. The purpose of the meeting is to plan future projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Melvin L. Jenkins, Director of the Central Regional Office, 913–551–1400 (TDD 913–551–1414). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 11, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–26220 Filed 10–17–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Montana Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Montana Advisory Committee to the Commission will convene at 7 p.m. and adjourn at 8:30 p.m. on Tuesday, October 30, 2001, at the Best Western Billings, 5610 Frontage Road, Billings, Montana 59101. The purpose of the meeting is to review the recent statewide and local developments regarding education and civil rights issues in the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 11, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–26222 Filed 10–17–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Utah Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission will convene at 10:30 a.m. and recess at 12 p.m., on Friday, November 16, 2001, at the Sheraton Four Points, 1450 So. Hilton Drive, St. George, Utah 84770, to review regional and statewide civil rights issues, and discuss format and procedures for conducting a community forum. The Advisory Committee will reconvene for a community forum at 1:45 p.m. and adjourn at 6:30 p.m. to hear presentations from representatives of local, state, and federal agencies concerning services they provide to the minority community.

Persons desiring additional information, or planning a presentation to the Committee, should contact John Dulles, Director of the Rocky Mountain Regional Office, 303–866–1040 (TDD 303–866–1049). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 11, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–26223 Filed 10–17–01; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Vermont Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 4 p.m. on Friday, November 2, 2001, at the Blue Cross/Blue Shield of Vermont, Third Floor Conference Room, 1 East Road, Berlin, Vermont 05601. The Committee will hold a planning meeting to review its draft project proposal, discuss future coordination with educational leaders, and plan its next project activity.

Persons desiring additional information, or planning a presentation to the Committee, should contact Marc Pentino of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, October 11, 2001.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 01–26224 Filed 10–17–01; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–836]

Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Live Processed Blue Mussels From Canada

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 18, 2001.

FOR FURTHER INFORMATION CONTACT: Zev Primor at (202) 482–4114, Maisha Cryor at (202) 482–5831 or Paige Rivas at (202) 482–0651, AD/CVD Enforcement Office IV, Group II, Import Administration, Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Preliminary Determination

We preliminarily determine that live processed blue mussels from Canada are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the *Suspension of Liquidation* section of this notice.

Case History

This investigation was initiated on April 6, 2001.[1] *See Notice of Initiation of Antidumping Investigation: Live Processed Blue Mussels From Canada*, 66 FR 18227 (April 6, 2001) (*Initiation Notice*). Since the initiation of the investigation, the following events have occurred.

On April 25, 2001, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Canada of mussels. *See Mussels From Canada*, 66 FR 85 (May 2, 2001).

On May 8, 2001, in response to comments from interested parties pertaining the scope of the investigation, the Department issued a memorandum outlining the modifications to the scope language. *See* Memorandum to Tom Futtner ''Live Processed Blue Mussels from Canada: Modification to the Scope of the Subject Merchandise Following Comments from Interested Parties'' (May 8, 2001) on file in the Central Records Unit (CRU), room B–099 of the main Department of Commerce Building.

Also on May 8, 2001, the Department issued Section A of the antidumping questionnaire to Confederation Cove Mussel Co., Ltd. (Confederation Cove), PEI Mussel King, Inc. (Mussel King), Prince Edward Aqua Farms, Inc., (Prince Edward), and Atlantic Aqua Farms, Inc., (Atlantic Aqua). On May 18, 2001, the Department issued Sections B and C of the antidumping questionnaire to the four respondents.

On June 29, 2001, the petitioner requested a postponement of the preliminary determination in this investigation. On July 30, 2001, the Department published a **Federal Register** notice postponing the deadline for the preliminary determination until October 9, 2001. *See Live Processed Blue Mussels From Canada: Extension of Time Limit for Preliminary Determination of Antidumping Duty Investigation*, 66 FR 146 (July 30, 2001). Although the deadline for this preliminary determination was originally October 9, 2001, in light of the events of September 11, 2001 and the subsequent closure of the Federal Government for reasons of security, the time frame for issuing this preliminary determination has been extended by two days.

[1] The petitioner in this investigation is Great Eastern Mussel Farms, Inc.

Period of Investigation (POI)

The POI is April 1, 2000, through March 31, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, March 2000).

Postponement of the Final Determination

Section 735(a)(2) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise, or in the event of a negative preliminary determination, a request for such postponement is made by the petitioners. The Department's regulations, at 19 CFR 351.210(e)(2), require that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

On October 9, 2001, Confederation Cove and Atlantic Aqua requested that, in the event of an affirmative preliminary determination in this investigation, the Department postpone its final determination until 135 days after the publication of the preliminary determination. Confederation Cove and Atlantic Aqua also included a request to extend the provisional measures to not more than 135 days after the publication of the preliminary determination. Accordingly, since we have made an affirmative preliminary determination, and the requesting parties account for a significant proportion of exports of the subject merchandise, we have postponed the final determination until not later than 135 days after the date of the publication of the preliminary determination.

Scope of Investigation

Imports covered by the investigation are shipments of live processed blue mussels from Canada. Included in the scope are fresh, live, processed blue mussels (mytilus edulis). Processing may include, but is not limited to, purging, grading, debearding, picking, inspecting and packing. Processed mussels are mussels that are: (1) Free of sand or grit, broken product, defective product and beards (byssus threads); (2) uniform in size; and (3) packed or ready for packing. Mussels that meet the aforementioned characteristics, regardless of the methods used to achieve these characteristics, are covered by this investigation. The live processed blue mussels subject to this investigation are currently classifiable under subheading 0307.31.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and Customs purposes, the Department's written description of the scope of this investigation remains dispositive.

Selection of Respondents

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Act permits the Department to investigate either (1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or (2) exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined. Using company-specific export data for the POI, which we obtained from queries of U.S. Customs data under the HTS number that corresponds to the subject merchandise, we found that sixty producers/exporters may have exported mussels to the United States during the POI. Due to limited resources we determined that we could investigate only the four largest producers/exporters, accounting for more than 50 percent of total exports to the United States. *See* memorandum regarding Selection of Respondents for the Antidumping Investigation of Live Processed Blue Mussels from Canada (May 1, 2001) on file in the CRU. Therefore, we designated Atlantic Aqua, Prince Edward, Confederation Cove, and Mussel King as mandatory respondents and sent them the antidumping questionnaire.

Product Comparisons

In accordance with section 771(16) of the Act, all products produced by the respondents covered by the description in the *Scope of Investigation* section, above, and sold in Canada during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We have relied upon package type and, in the case of one respondent also size, to match U.S. sales of subject merchandise to comparison-market sales of the foreign like product or constructed value (CV). Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed above.

Fair Value Comparisons

During the POI, U.S. sales by the Canadian respondents were both export price (EP) and constructed export price (CEP) sales. To determine whether sales of mussels from Canada were made in the United States at LTFV, we compared EP and CEP to the normal value (NV), as described in the EP, CEP, and NV sections of this notice. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs and CEPs and compared these to weighted-average home market prices during the POI.

Date of Sale

For home market and U.S. sales, the four respondents reported the date of invoice as the most appropriate date of sale. These respondents stated that the invoice date best reflects the date on which the material terms of sale are established and that price and/or quantity can and do change between order confirmation date and invoice/shipment date. The Department is preliminarily using the dates of sale reported by each respondent (*i.e.*, date of invoice), as this is our preferred methodology. The Department uses invoice date under 19 CFR 351.401(i) unless there is sufficient evidence that material terms of sale initially set at some earlier date were not subject to change. However, we intend to fully examine establishment of material terms of sale at verification, and we will incorporate our findings, as appropriate, in our analysis for the final determination.

Export Price

For Mussel King, Atlantic Aqua, Prince Edward and a portion of Confederation Cove's sales, we used EP for the price to the United States, in accordance with section 772(a) of the Act, because the four respondents reported that they sold the merchandise directly to unaffiliated U.S. customers or sold the merchandise to unaffiliated trading companies, with knowledge that these companies in turn sold the merchandise to U.S. customers, and constructed export price was not otherwise warranted for these transactions. For Mussel King, Atlantic Aqua, Prince Edward and Confederation Cove, we calculated EP using the packed prices charged to the first unaffiliated customer in the United States (the starting price). We deducted

from the starting price, where applicable, amounts for discounts, rebates, billing adjustments (Mussel King reported warranty expense which we are treating as a billing adjustment, *see* Calculation Memorandum of the Preliminary Results for the Less-Than Fair-Value Investigation of PEI Mussel King Inc., (Mussel King) (October 11, 2001) in file in the CRU), and movement expenses in accordance with section 772(c)(2)(A) of the Act. In this case, movement expenses include foreign inland freight, international freight, foreign and U.S. brokerage and handling charges, insurance, U.S. duties, U.S. inland freight and U.S. warehousing. In the instant investigation, no additions to EP were warranted under section 772(c)(1) of the Act.

CEP

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d). For purposes of this investigation, Confederation Cove has classified a portion of its sales as CEP sales. For Confederation Cove, we calculated CEP based on packed prices to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, brokerage and handling, international freight, and U.S. warehousing. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (imputed credit expenses, repacking) and indirect selling expenses. For CEP sales, we also made an adjustment for profit in accordance with section 772(d)(3) of the Act. We recalculated Confederation Cove's reported U.S. freight expense by reallocating the freight expense over the quantity of subject merchandise sold during the POI. *See* Calculation Memorandum of the Preliminary Results for the Less-Than-Fair Value Investigation of Confederation Cove Mussel Co. Ltd., (October 11, 2001) on file in the CRU. In the instant investigation, no additions to CEP were warranted under section 772(c)(1) of the Act.

NV

A. Selection of Comparison Market

Section 773(a)(1) of the Act directs that NV be based on the price at which the foreign like product is sold in the home market, provided that the merchandise is sold in sufficient quantities (or has sufficient aggregate value, if quantity is inappropriate) and that there is no particular market situation in the home market that prevents a proper comparison with the EP transaction. The statute contemplates that quantities (or value) will normally be considered insufficient if they are less than five percent of the aggregate quantity (or value) of sales of the subject merchandise to the United States. For this investigation, we found that all four respondents each had a viable home market for mussels. Thus, the home market is the appropriate comparison market in this investigation, and we used the respondents' submitted home market sales data for purposes of calculating NV. In deriving NV, we made adjustments as detailed in the ''Calculation of NV Based on Home Market Prices'' and ''Calculation of NV Based on CV,'' sections below.

B. Affiliated-Party Transactions and Arm's-Length Test

If an exporter or producer sells the subject merchandise to an affiliated party, the Department may calculate normal value based on that sale only if satisfied that the price is comparable to the price at which the exporter or producer sold the subject merchandise to a person who is not affiliated with the seller (*i.e.,* arm's length price). *See* section 773(a)(1)(B)(i) of the Act and 19 CFR 351.403(c).

Mussel King, Prince Edward, and Atlantic Aqua reported that they only sold mussels in the home market to unaffiliated customers. Therefore, the Department's arm's-length test is inapplicable with regard to their home market sales. Confederation Cove reported that it sold mussels in the home market to affiliated customers. We applied the arm's-length test to Confederation Cove's affiliated party sales by comparing these sales to sales of identical merchandise by Confederation Cove to unaffiliated home market customers. If the affiliated party sales satisfied the arm's-length test, we used the sales in our analysis. Sales to affiliated customers in the home market which were not made at arm's-length prices were excluded from our analysis because we consider such sales to be outside the ordinary course of trade. *See* section 773(a)(1)(B)(i) of the Act. To test whether these sales were made at arm's-length prices, we compared on a model-specific basis the starting prices of sales to affiliated and unaffiliated customers net of all discounts and rebates, movement charges, direct selling expenses, and home market packing. Where, for the tested models of subject merchandise, prices to the affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to the affiliated party were at arm's-length. *See* 19 CFR 351.403(c) and *Antidumping Duties; Countervailing Duties; Final Rule* 62 FR 27296, 27355 (The Preamble) (May 19, 1997).

C. Cost of Production (COP) Analysis

On July 6 and July 12, 2001, the petitioner alleged that sales of mussels in the home market were made at prices below the fully absorbed COP with regard to Prince Edward and Atlantic Aqua, respectively. On July 19, 2001, the petitioner alleged that sales of mussels in the home market were made at prices below the fully absorbed COP with regard to both Mussel King and Confederation Cove. Accordingly, the petitioner requested that the Department conduct company-specific sales-below-COP investigations. Based upon the comparison of adjusted prices for the foreign like product to COP, and in accordance with section 773(b)(2)(A)(i) of the Act, we found reasonable grounds to believe or suspect that sales of mussels produced in Canada were made at prices below the COP with regard to all four respondents. As a result, the Department has conducted an investigation to determine whether the four respondents made sales in the home market at prices below their respective COPs during the POI within the meaning of section 773(b) of the Act. We conducted the COP analysis described below. *See* Memorandum to Holly A. Kuga ''Petitioner's Allegation of Sales Below the Cost of Production for Atlantic Aqua Farms, Inc., (Aug. 15, 2001); Memorandum to Holly A. Kuga ''Petitioner's Allegation of Sales Below the Cost of Production for Prince Edward Aqua Farms (Aug. 15, 2001); Memorandum to Holly A. Kuga ''Petitioner's Allegation of Sales Below the Cost of Production for Confederation Cove Mussel Co., Ltd., (Aug. 15, 2001); Memorandum to Holly A. Kuga ''Petitioner's Allegation of Sales Below the Cost of Production for PEI Mussel King (Aug. 15, 2001), all on file in the CRU.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted-average COP for each respondent based

on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the home market general and administrative (G&A) expenses, including interest expenses. We relied on the COP data submitted by Confederation Cove, Mussel King, Prince Edward, and Atlantic Aqua in their cost questionnaire responses.

2. Test of Home Market Sales Prices

On a model-specific basis, we compared the reported COP to the home market prices, less any applicable discounts and rebates, movement charges, selling expenses, commissions, and packing. We then compared the adjusted weighted-average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time (*i.e.,* a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product during the POI were at prices less than the COP, we do not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities'' within an extended period of time. Where 20 percent or more of a respondent's sales of a given product during the POI were at prices less than the COP, we determine such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with sections 773(b)(2)(B) and 773(b)(2)(C) of the Act. In such cases, because we compared prices to POI average costs, we also determine that such sales were not made at prices that would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

We found that, for certain specific products, more than 20 percent of Mussel King's and Confederation Cove's home market sales, within an extended period of time, were at prices less than the COP, in accordance with section 773(b)(1)(A) of the Act. We, therefore, excluded these sales and used the remaining above-cost sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. With respect to Atlantic Aqua's and Prince Edward's home market sales, we determined that less than 20 percent of their sales within an extended period of time were made at prices less than the COP. We, therefore, retained all home market sales for these two respondents and used them as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

D. Calculation of NV Based on Home Market Prices

We based home market prices on the packed prices to unaffiliated purchasers in Canada. We adjusted, where applicable, the starting price for discounts and rebates. We made adjustments for any differences in packing, in accordance with sections 773(a)(6)(A) and 773(a)(6)(B)(i) of the Act, and we deducted movement expenses pursuant to section 773(a)(6)(B)(ii) of the Act. In addition, where applicable, we made adjustments for differences in circumstances of sale (COS) pursuant to section 773(a)(6)(C)(iii) of the Act by deducting direct selling expenses incurred for home market sales (credit expense), and adding U.S. direct selling expenses. We also made adjustments, pursuant to 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other (the commission offset). Finally, we made a CEP offset adjustment to the NV for indirect selling expenses pursuant to section 773 (a)(7)(B) of the Act as discussed in the Level of Trade/CEP Offset section below. No other adjustments to NV were claimed or allowed.

E. Calculation of NV Based on CV

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison-market sales, NV may be based on CV. In the instant case, because NV can be based on home market sales, NV has not been calculated based on CV.

F. Level of Trade (LOT)/CEP Offset

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP or CEP transactions as appropriate. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general, and administrative (SG&A) expenses and profit. For EP sales, the U.S. LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to an affiliated importer after the deductions required under section 772(d) of the Act.

To determine whether NV sales are at a different LOT than EP or CEP transactions, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. Finally, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP-offset provision). *See Industrial Nitrocellulose From the United Kingdom; Notice of Final Results of Antidumping Duty Administrative Review,* 65 FR 6148, 6151 (February 8, 2000).

We obtained information from the respondents about the marketing stages involved in the reported U.S. and home market sales, including a description of the selling activities performed by the respondents for each channel of distribution. In identifying LOTs for EP and home market sales, we considered the selling functions reflected in the starting price before any adjustments. In identifying LOTs for CEP, we considered the selling functions reflected in the CEP, after the deduction of expenses and profit under section 772(d) of the Act. We expect that, if claimed levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. In this investigation, none of the respondents requested a LOT adjustment. However, Confederation Cove requested a CEP offset.

With regard to home market sales, Confederation Cove reported that its sales were made to four categories of home market customers (distributors, retailers, processors and end users) through two channels of distribution. For both channels, Confederation Cove performed similar selling functions for all its home market customers (packaging, negotiating terms of sale, issuing invoices, preparing product for shipment, and processing orders). Because channels of distribution do not qualify as separate LOTs when the

selling functions performed for each customer class are sufficiently similar, we determined that there is a single LOT for home market sales. See the memorandum entitled Live Processed Blue Mussels from Canada: Level-of-Trade Analysis, dated October 11, 2001, (*LOT Memorandum*). For its U.S. market sales, Confederation Cove reported that it made EP and CEP sales of subject merchandise to three types of customers (distributors, retailers and restaurants) through two channels of distribution. The two channels are as follows: (1) Sales from Confederation Cove directly to unaffiliated U.S. distributors (*i.e.* Confederation Cove's EP sales); and (2) sales from Confederation Coves to its U.S. affiliate, who then resold the merchandise to unaffiliated distributors, retailers and restaurants (*i.e.* Confederation Cove's CEP sales). Further, it indicated that for both EP and CEP sales, it performed certain types of selling functions (packaging, negotiation of sales terms, preparing product for shipment, issuing invoices and processing orders) to varying degrees for each channel of distribution. We examined the types of selling functions provided in each of the two U.S. market channels of distribution, and determined, based upon the selling functions performed, that EP sales and CEP sales are made at two different LOTs, specifically, LOT1 (the LOT for EP sales) for EP sales, and at a less remote stage of distribution, LOT2 (the LOT for CEP sales), for CEP sales. *See* LOT Memorandum. We then compared LOT1 to the home market LOT and found that EP sales are provided at the same LOT as home market sales. Thus, no LOT adjustment is warranted for EP sales. We also compared LOT2 to the home market and found that CEP sales are provided at a different LOT than home market transactions. Specifically, we examined the selling functions performed by Confederation Cove for its U.S. CEP sales (as adjusted under section 772(d) of the Act)) and determined that they are at a different LOT than its home market sales because the company's CEP transactions were at a less advanced stage of distribution. Therefore, we have preliminarily found that Confederation Cove's home-market sales occurred at a different and more advanced LOT than its CEP sales to the United States. Because we compared CEP sales to home market sales which were at a more advanced LOT, we examined whether a LOT adjustment may be appropriate. In this case, Confederation Cove only sold at one LOT in the home market. Therefore, there is no basis upon which to demonstrate a pattern of consistent price differences between LOTs based on sales of subject merchandise. Further, we do not have information which would allow us to examine pricing patterns based on Confederation Cove's sales of other products and there is no other record information on which such a LOT analysis could be based. Because the data available do not provide an appropriate basis for making a LOT adjustment and the LOT in the home market is at a more advanced stage of distribution than the LOT of the CEP sales, a CEP offset is appropriate. Thus, we made a CEP-offset adjustment to HM sales in accordance with section 773(a)(7)(B) of the Act for comparison to Confederation Cove's CEP sales. In accordance with section 773(a)(7)(B) of the Act, we calculated the CEP offset as the lesser of the following: (1) the indirect selling expenses incurred for the home-market sales, or (2) the indirect selling expenses deducted from the starting price in calculating CEP. See LOT Memorandum.

Mussel King reported that it made EP sales of subject merchandise to a single type of customer through a single channel of distribution in the U.S. market. Further, Mussel King indicated that it performed certain types of selling functions (freight and delivery arrangements, promotional services, and customer claim/returned product support) for the U.S. customers. Because there is only one type of customer, a single channel of distribution, and the same selling functions are performed for every customer, we preliminarily determine that there is a single level of trade with respect to Mussel King's EP sales. Because we found that home market sales of subject merchandise are made to a single type of customer through a single channel of distribution with identical selling functions and intensity as those provided in the U.S. market, we preliminarily determined that Mussel King's EP sales are provided at the same LOT as its home market sales. Thus, no LOT adjustment is warranted, and we have not made a LOT adjustment for Mussel King's sales.

Atlantic Aqua and Prince Edward reported that they sold subject merchandise to three different types of customers (distributor, retail and end user) in the home market. Further, they indicated that, for each of the reported channels of distribution, they provided the same types of selling functions (price negotiation, sales calls, interactions with customers, inventory maintenance, freight, and delivery) at the same levels of intensity. Since all types of customers received the same selling functions, at the same levels of intensity, we determine, preliminarily, that there is a single LOT in the home market with respect to Atlantic Aqua and Prince Edward. With regard to U.S. EP sales, both Atlantic Aqua and Prince Edward reported that their sales were made to the same type of customers and through the same channels of distribution as sales made in the home market (*e.g.,* distributor, retail and end user). Further, both companies indicated that the selling functions for the U.S. customers are very similar to those provided for the home market customers (*e.g.,* price negotiation, sales calls, interactions with customers, inventory maintenance, freight, and delivery). As a result, we preliminarily determine that there is a single level of trade for both companies for U.S. EP sales. Further, because the selling functions, offered by both companies, are very similar in nature and intensity in both the U.S. and the home markets, we have, preliminarily, found that both Atlantic Aqua's and Prince Edward's EP sales are provided at the same LOT as their home market sales. Thus, no LOT adjustment is warranted, and we have not made a LOT adjustment for Atlantic Aqua's and Prince Edward's sales.

Currency Conversions

We made currency conversions into U.S. dollars in accordance with section 773A of the Act based on exchange rates in effect on the dates of the U.S. sales, as obtained from the Federal Reserve Bank (the Department's preferred source for exchange rates).

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

All Others Rate

Section 735(c)(5)(A) of the Act provides for the use of an ''all others'' rate, which is applied to non-investigated firms. See SAA at 873. This section states that the all others rate shall generally be an amount equal to the weighted average of the weighted-average dumping margins established for exporters and producers individually investigated, excluding any zero and de minimis margins, and any margins based entirely upon the facts available. Therefore, we have preliminarily assigned to all other exporters of Canadian mussels, a margin that is the weighted average of the margins calculated for the respondents, excluding the zero margins.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of mussels from Canada, except for exports by Atlantic Aqua and Mussel King, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Because the estimated weighted-average dumping margins for Atlantic Aqua and Mussel King are zeros, we are not directing the Customs Service to suspend liquidation of entries of these companies from Canada. We are also instructing the Customs Service to require a cash deposit or the posting of a bond equal to the dumping margin, as indicated in the chart below.

These instructions suspending liquidation will remain in effect until further notice.

Manufacturer/exporter	Margin (percent)
Atlantic Aqua Farms, Inc.	0.00
Confederation Cove, Inc.	4.70
Prince Edward Aqua Farms, Inc.	3.48
PEI Mussel King, Inc.	0.00
All Others	4.33

Disclosure

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of the proceedings in this investigation in accordance with 19 CFR 351.224(b).

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. If our final antidumping determination is affirmative, the ITC will determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. The deadline for that ITC determination would be the later of 120 days after the date of this preliminary determination or 45 days after the date of our final determination.

Public Comment

For the investigation of live processed mussels from Canada, case briefs for this investigation must be submitted no later than one week after the issuance of the last verification reports. The Department will notify the parties accordingly. Rebuttal briefs must be filed within five business days after the deadline for submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Public versions of all comments and rebuttals should be provided to the Department and made available on diskette. Section 774 of the Act provides that the Department will hold a hearing to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by any interested party. If a request for a hearing is made in an investigation, the hearing will tentatively be held two days after the deadline for submission of the rebuttal briefs, at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. In the event that the Department receives requests for hearings from parties to several companies, the Department may schedule a single hearing to encompass all those companies. Parties should confirm by telephone the time, date, and place of the hearing 48 hours before the scheduled time.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request within 30 days of the publication of this notice. Requests should specify the number of participants and provide a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If this investigation proceeds normally, we will make our final determination in the investigation of live processed mussels from Canada no later than 135 days after the date of this preliminary determination.

This determination is issued and published pursuant to sections 733(d) and 777(i)(1) of the Act.

Dated: October 11, 2001.

Richard W. Moreland,

Acting Assistant Secretary for Import Administration.

[FR Doc. 01–26290 Filed 10–17–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Coastal Zone Management, Federal Consistency Appeal by John T. Keegan From an Objection by the Puerto Rico Planning Board

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Evidence of death of appellant and request for information.

By letter dated October 26, 1999, John T. Keegan filed with the Secretary of Commerce a notice of appeal pursuant to section 307(c)(3)(A) of the Coastal Zone Management Act (CZMA). The appeal is taken from an objection by the Puerto Rico Planning Board (PRPB) to Appellant's consistency certification for a permit to install 50 helix-screw anchor moorings at Guania Bay, Guanica, Puerto Rico. The CZMA provides that a timely objection by a state precludes any federal agency from issuing licenses or permits for the activity unless the Secretary finds that the activity is either ''consistent with the objectives'' of the CZMA or ''necessary in the interest of security.'' Section 307(c)(3)(A). On January 23, 2001, Mr. Keegan filed with the Secretary a brief supporting the appeal. The PRPB filed a reply brief on February 23, 2001. The Secretary published a **Federal Register** notice and request for comments on March 20, 2001.

The Department of Commerce has received information indicating that John T. Keegan died on May 30, 2001. The Secretary new invites any persons or entities who believe they have some right to continue the consistency appeal in the place of John T. Keegan or any entity in which he might have had an interest, to make their position known to the National Oceanic and Atmospheric Administration. Those persons who believe they have some rights in this particular appeal, as heirs, interest or assigns or otherwise representing John T. Keegan or any company or business of John T. Keegan, should send their views in writing, no later than 30 days from the date of this Notice, to Suzanne Bass, Office of the Assistant General Counsel for Ocean Services, National Oceanic and Atmospheric Administration U.S. Department of Commerce, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910, 301–713–2967.

Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance.

Dated: September 28, 2001.

Craig O'Connor,

Acting General Counsel.

[FR Doc. 01–26285 Filed 10–17–01; 8:45 am]

BILLING CODE 3510–08–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, November 2, 2001.

PLACE: 155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–26411 Filed 10–16–01; 1:02 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, November 9, 2001.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–26412 Filed 10–16–01; 1:02 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, November 16, 2001.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–26413 Filed 10–16–01; 1:02 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, November 23, 2001.

PLACE: 1155 21st St., NW., Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–26414 Filed 10–16–01; 1:02 pm]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 11 a.m., Friday, November 30, 2001.

PLACE: 1155 21st St., NW., Washington, DC 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 01–26415 Filed 10–16–01; 1:02 pm]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 02–1]

Chemetron Corporation, Chemetron Investments, Inc., Sunbeam Corporation, Sprinkler Corporation of Milwaukee, Inc., and Grucon Corporation; Complaint

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of a complaint under the Consumer Product Safety Act.

SUMMARY: Under provisions of its Rules of Practice for Adjudicative Proceeding (16 CFR part 1025), the Consumer Product Safety Commission must publish in the **Federal Register** Complaints which it issues. Published below is a Complaint in the matter of Chemetron Corporation, Chemetron Investments, Inc., Sunbeam Corporation, Sprinkler Corporation of Milwaukee, Inc., and Grucon Corporation.

SUPPLEMENTARY INFORMATION: The text of the complaint appears below.

Dated: October 15, 2001.

Todd A. Stevenson,

Acting Secretary.

Consumer Product Safety Commission

[CPSC Docket No.: 02–1]

In the matter of Chemetron Corporation, f/k/a Chemetron Investments, Inc. and Chemetron Investments, Inc., f/k/a Chemetron Corporation and Sunbeam Corporation and Sprinkler Corporation of Milwaukee, Inc., f/k/a Star Sprinkler Corporation, f/k/a Grunau Sprinkler Manufacturing Company, Inc. and Grucon Corporation; *Complaint*

Nature of Proceedings

1. This is an administrative proceeding pursuant to section 15 of the Consumer Product Safety Act (''CPSA''), 15 U.S.C. 2064, for public notification and remedial action to protect the public from a substantial product hazard presented by failure of the Star ME–1 fire sprinkler manufactured from 1977 to 1995. This proceeding is governed by the Rules of Practice for Adjudicative Proceedings before the United States Consumer Product Safety Commission, 16 CFR part 1025.

Jurisdiction

2. This proceeding is instituted pursuant to the authority contained in section 15(c), (d), and (f) of the CPSA, 15 U.S.C. 2064(c), (d), and (f).

Parties

3. Complaint Counsel is the staff of the Legal Division of the Office of Compliance of the United States Consumer Product Safety Commission (''Commission''), and independent regulatory commission established by section 4 of the CPSA, 15 U.S.C. 2053.

4. Respondent Chemetron Corporation (''CC''), formerly and also known as ''Chemetron Investments, Inc.'' and formerly doing business as ''Star Sprinkler,'' is a Delaware corporation, with its principal place of business at 2381 Executive Center Drive, Boca

Raton, Florida 33431. CC manufactured the Star ME–1 from in or about 1976 to in or about 1982.

5. Respondent Chemetron Investments, Inc. (''CI''), formerly and also known as ''Chemetron Corporation,'' is a Delaware corporation, with its principal place of business at 2381 Executive Center Drive, Boca Raton, Florida 33431.

6. Respondent Sunbeam Corporation (''Sunbeam'') is a Delaware corporation, with its principal place of business at 2381 Executive Center Drive, Boca Raton, Florida 33431. Under an Asset Purchase Agreement dated September 28, 1990, Sunbeam acquired the stock and assets of CC and CI. CC and CI have been and are Sunbeam subsidiaries. By virtue of the Asset Purchase Agreement and Sunbeam's stock and assets acquisition of CC and CI, Sunbeam assumed CC's and CI's liabilities for the Star ME–I relief sought herein.

7. Respondent Sprinkler Corporation of Milwaukee, Inc., formerly known as ''Star Sprinkler Corporation'' and ''Grunau Sprinkler Manufacturing Company, Inc.'' (''SCM''), is a Wisconsin corporation with its last known principal place of business at 307 West Layton Avenue, Milwaukee, Wisconsin 53207. SCM manufactured the Star ME–1 from in or about 1983 through in or about early 1996.

8. Respondent Grucon Corporation (''Grucon'') is Delaware corporation with its principal place of business at 1100 West Anderson Court, Oak Creek, Wisconsin 53154. From 1983 to the present, Grucon owned and operated SCM under a variety of names. Grucon and SCM have engaged in actions disregarding corporate form and identities, and/or they have failed to take actions to property maintain corporate form and identities. These actions, failures, and related effects include, but are not limited to, the following: common business interests, common control and management, SCM's dependence on Grucon, SCM's absence of assets or employees, SCM's undercapitalization, SCM's board of directors resolution to temporarily pay down the credit lines and debt obligations of Grucon and other Grucon subsidies with proceeds to SCM's assets sale, SCM's board of directors resolution to pay to Grucon proceeds to SCM 's assets sale, SCM's failure to make corporate filings, and/or Grucon's guarantees on behalf of SCM.

9. There was and/or is such unity of interest and ownership between SCM and Grucon that the purported separate personalities of the corporations did not and/or do not exist. Given the compelling public interest at stake in effectuating the relief sought herein, and SCM's reported lack of assets with which to fund such relief, adherence to the fiction of the separate corporate existences of SCM and Grucon would promote injustice and/or inequitable consequences.

10. Each of the Respondents was and/or is a ''manufacturer'' and/or a ''distributor'' as those terms are defined in section 3(a)(4) and (5) of the CPSA, 15 U.S.C. 2052(a)(4) and (5).

Consumer Product

11. The Star ME–1 fire sprinkler is a dry fire sprinkler manufactured under the ''Star'' brand name that was labeled and sold as model ''ME–1'' in various sizes, temperature ratings, finishes, and installation positions (''Star ME–1''). The Star ME–1 is intended to suppress and/or extinguish fire.

12. The Star ME–1 is an article produced and distributed for the personal use, consumption, and/or enjoyment of a consumer in or around a household or residence, in recreation, or otherwise. The Star ME–1 is used in, among other places, day care centers, nursing homes, and health care facilities. The Star ME–1 is a ''consumer product'' that was ''distributed in commerce,'' as those terms are defined in section 3(a)(1) and (11) of the CPSA, 15 U.S.C. 2052(a)(1), (11).

Defect

13. The Star ME–1 is intended to operate in accordance with applicable industry standards and building code requirements. The Star ME–1 is intended to operate when the temperature to which it is exposed reaches a particular level, at which point a thermal sensing element at the exposed end of the sprinkler should melt, and water would flow through and discharge from the sprinkler.

14. As a result of inadequate design and/or manufacturing, the Star ME–1 has failed and is likely to fail to operate as intended in fires.

15. The inadequate design and/or manufacturing of the Star ME–1 constitutes a ''defect'' as that term is used in section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2).

Substantial Risk of Injury and Substantial Product Hazard

16. From 1977 through 1995, Respondents manufactured and/or distributed approximately 700,000 Star ME–1's.

17. Star ME–1's are likely to fail to operate as intended in a fire. Failure of the Star ME–1 to operate as intended in a fire creates a likelihood the fire will grow and spread, exposing consumers to the risk of serious injury and death.

18. The defect in the Star ME–1 manufactured from 1977 through 1995 creates a ''substantial risk of injury to the public'' within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2).

19. The Star ME–1 manufactured from 1977 through 1995 constitutes a ''substantial product hazard'' as that term is defined and used in section 15(a)(2), (c), and (d) of the CPSA, 15 U.S.C. 2064(a)(2), (c), and (d).

Relief Sought

Wherefore, in the public interest, Complaint Counsel requests that the Commission:

A. Determine that the Star ME–1 manufactured from 1977 through 1995 was distributed in commerce and presents a ''substantial product hazard'' within the meaning of section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2).

B. Determine under section 15(c) of the CPSA, 15 U.S.C. 2064(c), that public notification is required to protect the public adequately from the substantial product hazard presented by the Star ME–1 manufactured from 1977 through 1995, and order that the respondents:

1. Give prompt public notice of the defect in the Star ME–1 manufactured from 1977 through 1995, the risk of injury and the hazard to the public, and the remedies available to remove the risk of injury and hazard;

2. Mail such notice to each person who is or has been a manufacturer, distributor, or retailer of the Star ME–1;

3. Mail such notice to each person to whom the Respondents know the Star ME–1 manufactured from 1977 through 1995 was delivered or sold; and

4. Include in such notice a complete description of the risk and hazard presented, a warning that the Star ME–1 manufactured from 1977 through 1995 must be replaced immediately, clear instructions informing consumers of the means by which to avail themselves of any and all remedies ordered by the Commission, and such other information as the Commission may order.

C. Determine that action under section 15(d) of the CPSA, 15 U.S.C. 2064(d), is in the public interest and order Respondents:

1. To elect to repair the defect in all the Star ME–1's manufactured from 1977 through 1995 so they will operate as intended and required and not present a risk of injury and hazard to the public; to replace all the Star ME–1's manufactured from 1977 through 1995 with a like or equivalent product that does not contain the defect, operates as

intended and required, and will not present a risk of injury and hazard to the public; or to refund to consumers the purchase price of the Star ME–1's manufactured from 1977 through 1995;

2. To make no charge to consumers and to reimburse them for any foreseeable expenses incurred in availing themselves of any remedy provided under any Commission Order issued in this matter;

3. To reimburse distributors, dealers, contractors, and installers for expenses in connection with carrying out any Commission Order issued in this matter;

4. To submit a plan satisfactory to the Commission for taking action under C(1) through (3) above;

5. To submit monthly reports documenting progress of the corrective action program;

6. For a period of five (5) years after entry of a Final Order in this matter, to keep records of all actions taken to comply with C(1) through (5) above, and to supply those records to the Commission, upon request, for the purpose of monitoring compliance with the Final Order;

7. To notify the Commission at least 60 days prior to any change in the Respondents' business (such as incorporation, dissolution, assignment, sale, or petition for bankruptcy) that results in, or is intended to result in, the emergence of successor ownership, the creation or dissolution of subsidiaries, going out of business, or any other change that might affect compliance with any Order issued by the Commission in this matter; and

8. To take such other and further actions as the Commission deems necessary to protect the public health and safety and to comply with the CPSA.

Issued by Order of the Commission.

Alan H. Schoem,

Assistant Executive Director, Office of Compliance, U.S. Consumer Product Safety Commission, (301) 504–0621.

Eric L. Stone,

Director, Legal Division, Office of Compliance.

Seth B. Popkin,

Complaint Counsel, Office of Compliance, 4330 East West Highway, Room 613, Bethesda, Maryland 20814, (301) 504–0626, ext. 1358.

[FR Doc. 01–26287 Filed 10–17–01; 8:45 am]

BILLING CODE 6350–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

TRICARE Formerly Known as the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 2002 Mental Health Rate Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of updated mental health per diem rates.

SUMMARY: This notice provides for the updating of hospital-specific per diem rates for high volume providers and regional per diem rates for low volume providers; the updated cap per diem for high volume providers; the beneficiary per diem cost-share amount for low volume providers for FY 2002 under the TRICARE Mental Health Per Diem Payment System; and the updated per diem rates for both full-day and half-day TRICARE Partial Hospitalization Programs for fiscal year 2002.

EFFECTIVE DATE: The fiscal year 2002 rates contained in this notice are effective for services occurring on or after October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Stan Regensberg, Office of Medical Benefits and Reimbursement Systems, TRICARE Management Activity, telephone (303) 676–3742.

SUPPLEMENTARY INFORMATION: The final rule published in the **Federal Register** on September 6, 1988, (53 FR 34285) set forth reimbursement changes that were effective for all inpatient hospital admissions in psychiatric hospitals and exempt psychiatric units occurring on or after January 1, 1989. The final rule published in the **Federal Register** on July 1, 1993, (58 FR 35–400) set forth maximum per diem rates for all partial hospitalization admissions on or after September 29, 1993. Included in these final rules were provisions for updating reimbursement rates for each Federal fiscal year.

As stated in the final rules, each per diem shall be updated by the Medicare update factor for hospitals and units exempt from the Medicare Prospective Payment System. For fiscal year 2002, Medicare has recommended a rate of increase of 3.3 percent for hospitals and units excluded from the prospective payment system. TRICARE will adopt this update factor for FY 2002 as the final update factor. Hospitals and units with hospital-specific rates (hospitals and units with high TRICARE volume) and regional specific rates for psychiatric hospitals and units with low TRICARE volume will have their TRICARE rates for FY 2001 updated by 3.3 percent for FY 2002. Partial hospitalization rates for full day and half day programs will also be updated by 3.3 percent for FY 2002. The cap amount for high volume hospitals and units will also be updated by the 3.3 percent for FY 2002. The beneficiary cost-share for low volume hospitals and units will also be updated by the 3.3 percent for FY 2002.

Consistent with Medicare, the wage portion of the regional rate subject to the area wageadjustment will remain at 71.553 percent for FY 2002. The following reflect an update of 3.3 percent.

REGIONAL SPECIFIC RATES FOR PSYCHIATRIC HOSPITALS AND UNITS WITH LOW TRICARE VOLUME

United States census region	Rate@
Northeast:	
New England	$578
Mid-Atlantic	555
Midwest:	
East North Central	479
West North Central	452
South:	
South Atlantic	572
East South Central	619
West South Central	522
West:	
Mountain	521
Pacific	614
@Wage portion of the rate, subject to the area wage adjustment (in percent)	71.553

Beneficiary Cost-Share: Beneficiary cost-share (other than dependents of active duty members) for care paid on the basis of a regional per diem rate is the lower of $154 per day or 25 percent of the hospital billed charges effective for services rendered on or after October 1, 2001

Cap Amount: Updated cap amount for hospitals and units with high TRICARE volume is $725 per day for FY 2002.

The following reflect an update of 3.3 percent for FY 2002.

PARTIAL HOSPITALIZATION RATES FOR FULL-DAY AND HALF-DAY PROGRAMS FY 2002

United States census region	Full-day rate (6 hours or more)	Half-day rate (3–5 hours)
Northeast:		
New England (ME, NH, VT, MA, RI, CT)	$232	$175
Mid-Atlantic (NY, NJ, PA)	250	188
Midwest:		
East North Central (OH, IN, IL, MI, WI)	220	165
West North Central (MN, IA, MO, ND, SD, NE, KS)	220	165
South:		
South Atlantic (DE, MD, DC, VA, WV, NC, SC, GA, FL)	239	179
East South Central (KY, TN, AL, MS)	257	193
West South Central (AR, LA, TX, OK)	257	193
West:		
Mountain (MT, ID, WY, CO, NM, AZ, UT, NV)	260	195
Pacific (WA, OR, CA, AK, HI)	254	191

The above rates are effective for services rendered on or after October 1, 2001.

Dated: October 12, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–26239 Filed 10–12–01; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Acquisition University, Department of Defense.

ACTION: Board of Visitors Meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held in the Executive Conference Room, Building 202, Ft. Belvoir, Virginia on Wednesday October 31, 2001 from 0900 until 1500. The purpose of this meeting is to report back to the BoV on continuing items of interest. This meeting is in lieu of the meeting originally scheduled for Wednesday September 19, 2001, which DAU postponed in light of events that took place September 11, 2001.

The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Mr. John Michel at 703–805–4575.

Dated: October 12, 2001.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01–26238 Filed 10–17–01; 8:45 am]

BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Draft Programmatic Environmental Impact Statement (PEIS) for Army Transformation

AGENCY: Department of the Army, DoD.

ACTION: Notice of Availability (NOA).

SUMMARY: The Department of the Army announces the availability of the Draft PEIS for Army Transformation.

The PEIS details the environmental concerns which may affect various aspects of Army Transformation including, but not limited to: unit location; materiel acquisition and testing; training areas; range requirements; and strategic deployment.

DATES: The comment period for the Draft PEIS will end 45 days after publication of the NOA in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: To obtain a copy of the PEIS write to Headquarters, Department of the Army, Attn: DAMO–FMF (Mr. Jim Lucas), 400 Army Pentagon, Washington, DC 20310–0400.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Lucas, Headquarters, Department of the Army, ATTN: ODCSOPS (DAMO–FMF), 400 Army Pentagon, Washington, DC 20310–0400 or at (703) 602–9794.

SUPPLEMENTARY INFORMATION: The prospect of a rapidly changing and more turbulent, unpredictable, global security environment underscores the need for a high level of U.S. defense preparedness. To meet the challenges of a wider range of threats and a more complex set of operating environments, the U.S. will require an Army capable of rapid response and dominance across the entire spectrum of operations in joint, interagency, and multinational configurations. Today's Army force structure and supporting systems were designed for a different era and enemy. They lack the capability to operate optimally across the full range of likely future operations. The Army's superb heavy forces are unequalled in their ability to gain and hold terrain in the most intense, direct fire combat imaginable; and, once deployed, are the decisive element in major theater wars. The current heavy forces, however, are challenged to get to contingencies where we have not laid the deployment groundwork; and once deployed, these forces have a large logistical footprint. On the other hand, the Army's current light forces can strike quickly but lack survivability; lethality and tactical mobility once inserted. Therefore, to meet the defense challenges of the future and provide the National Command Authority the decisive land power forces necessary to support the National Security Strategy and National Military Strategy, the Secretary of the Army and the Chief of Staff of the Army have articulated a clear Army Vision

that includes transforming the most respected Army in the world into a strategically responsive force that is dominant across the full spectrum of operations.

The Army proposes to implement transformation as rapidly as possible, while continually maintaining the warfighting readiness of its operational forces, improving its installations and business practices, and taking care of its people. The proposed program of Army Transformation would be the mechanism used to integrate and synchronize the implementation of the Army Vision. To validate early transformation concepts, an Initial Force of two brigade combat teams at Fort Lewis, Washington, is receiving off-the-shelf equipment to support evaluation and refinement of new doctrinal organizational and operational concepts. An Interim Force of six to eight brigade combat teams will follow in the future. The Interim Force would be a transition force—one that seeks the Objective Force state of the art technology, but leverages today's technology together with modernized legacy forces as a bridge to the future. The Objective Force would be the force that achieves our transformation objective. It would be a future force that would be a strategically responsive Army capable of dominating at every point across the full spectrum of operations and rapidly transitioning across mission requirements without loss of momentum. It would be able to operate as an integral member of joint, multinational, interagency teams and would be dominant against the asymmetric application of conventional, unconventional, and weapons of mass destruction threat capabilities.

The PEIS complies with the National Environmental Policy Act (NEPA) of 1969. Implementation of the Army Transformation, as envisioned, will be a major undertaking entailing a series of changes in equipment, force structure and training practices. As changes are proposed for specific sites and for equipment acquisition and testing, there will likely be a range of adverse and beneficial effects on the environment. The PEIS informs the public, regulators, concerned groups and Army decision-makers about potential environmental concerns that should be factored into all aspects of Army Transition. Additionally, the PEIS provides all stakeholders with an opportunity to present their views to Army decision-makers.

Alternatives: (1) No Action Alternative—whereby Army Transformation would not be implemented and needed changes to Army equipment, force structure and training practices would be separately analyzed on a piecemeal basis; and (2) Action Alternative—whereby Army Transformation, as envisioned by Army decision-makers, would be implemented to better meet present and future national security requirements and fulfill the Army Vision.

Significant issues: The PEIS addresses issues including noise, impacts to wetlands and riparian areas, soil erosion, air and water quality, endangered species, and cultural resources.

Comments received as a result of the NOA will be used to assist the Army in identifying potential impacts to the quality of human and natural environments. Individuals or organizations may participate in this process by mailing written comments or by facsimile through the Army Homepage web site www.army.mil/a-z.htm, and scrolling to ''Programmatic Environmental Impact Statement.''

Dated: October 10, 2001.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army, (Environment, Safety and Occupational Health) OASA(I&E).

[FR Doc. 01–26309 Filed 10–17–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent To Grant an Exclusive License of a U.S. Government-Owned Patent

AGENCY: U.S. Army Medical Research and Materiel Command, DoD.

ACTION: Notice.

SUMMARY: In accordance with 35 U.S.C. 209(e) and 37 CFR 404.7 (a)(I)(i), announcement is made of the intent to grant an exclusive, royalty-bearing, revocable license to U.S. patent number 5,607,979 issued March 4, 1997 entitled ''Topical Skin Protectants'' to DFB Pharmaceuticals, Inc. with its principal place of business at 3909 Hulen Street, Fort Worth, Texas 76107. The exclusive field of use will be the prevention or treatment of contact and allergic dermatitis, as well as dermatitis or wounds caused by incontinence.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664. Both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Anyone wishing to object to the grant of this license can file written objections along with supporting evidence, if any, on or before November 2, 2001. Written objections are to be filed with the Command Judge Advocate, U.S. Army Medical Research and Materiel Command, 504 Scott Street, Fort Detrick, Frederick, Maryland 21702–5012.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 01–26191 Filed 10–17–01; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Prospective Grant of an Exclusive License

AGENCY: U.S. Army Soldier and Biological Chemical Command (SBCCOM), DoD.

ACTION: Notice of intent.

SUMMARY: In accordance with the provisions of 15 U.S.C. 209(c)(1) and 37 CFR part 404.7(a)(1)(I), SBCCOM hereby gives notice that it is contemplating the grant of an exclusive license in the United States to practice the invention embodied in U.S. Provisional Patent Application Number 60/298,858, filed 6/15/01, entitled, ''Photovoltaic Cell'' to University of Massachusetts, Lowell having a place of business in Lowell, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier and Biological Chemical Command, Kansas Street, Natick, MA 01760, Phone; (508) 233–4928 or e-mail *Robert.rosenkrans@natick.army.mil.*

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted, unless within fifteen (15) days from the date of this published Notice, SBCCOM receives written evidence and argument to establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. The following Patent Number, Title and Issue date is provided:

Provisional Patent Application Number: 60/298,858.

Title: Photovoltaic Cell.
Filing Date: June 15, 2001.

Luz D. Ortiz,
Army Federal Register Liaison Officer.
[FR Doc. 01–26193 Filed 10–17–01; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Estuary Habitat Restoration Council

AGENCY: Army Corps of Engineers, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 105(h) of the Estuary Restoration Act of 2000, (Title I, Public Law 106–457), announcement is made of the forthcoming meeting of the Estuary Habitat Restoration Council. The meeting is open to the public.

DATES: The meeting will be held from 10:30 a.m. to 12:30 p.m. on Friday, October 26, 2001.

ADDRESSES: The meeting will be in room 3M60/70, 441 G Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Cummings, Headquarters, U.S. Army Corps of Engineers, Washington, DC 20314–1000, (202) 761–4558; or Ms. Cynthia Garman-Squier, Office of the Assistant Secretary of the Army (Civil Works), Washington, DC (202) 512–6668.

SUPPLEMENTARY INFORMATION: The Estuary Habitat Restoration Council consists of representatives of five agencies. These are the National Oceanic and Atmospheric Administration (NOAA), Environmental Protection Agency, U.S. Fish and Wildlife Service, Department of Agriculture, and Army. Among the duties of the Council is development of a national estuary restoration strategy designed in part to meet the goal of restoring one million acres by 2010. At this first meeting of the Council, procedural matters will be decided, and a framework for conducting Council business will be established.

Current security measures require that persons interested in attending the meeting must pre-register with us before 2 p.m. October 24, 2001. Please contact Ellen Cummings at 202–761–4558 to pre-register. The public should enter on the ''G'' Street side of the GAO building. All attendees are required to show photo identification and must be escorted to the meeting room by Corps personnel. Attendee's bags and other possessions are subject to being searched. All attendees arriving between one-half hour before and one-half hour after 10:30 a.m. will be escorted to the hearing. Those that are not pre-registered and/or arriving later than the allotted time will be unable to attend the public hearing.

Luz D. Ortiz,
Army Federal Register Liaison Officer.
[FR Doc. 01–26192 Filed 10–17–01; 8:45 am]
BILLING CODE 3710–92–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 17, 2001.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 12, 2001.

John Tressler,
Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of the Undersecretary

Type of Review: New.
Title: Reading Excellence Act: School and Classroom Implementation and Impact Study.
Frequency: Annually.
Affected Public: State, local, or tribal gov't, SEAs or LEAs; Federal Government.
Reporting and Recordkeeping Hour Burden:
Responses: 4,090.
Burden Hours: 3,192.
Abstract: The Reading Excellence Act School and Classroom Implementation and Impact Study (REA–SCII) is a six-year study to learn about the implementation and impact of the REA legislation on instructional practice in reading and on student reading achievement. The study has three components: (1) A large-scale study in which survey data are collected from teachers, principals, and district staff from a nationally-representative random sample of 400 REA schools; and (2) an in-depth study of a subset of 60 schools in which we will collect data from classroom observation as well as measures of student reading; and (3) in-depth case studies in ten REA-funded schools in which we will collect data from classroom observation, teacher interviews, and focus groups.

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 Jacqueline Montague at (202) 708–5359 or via her Internet address *Jackie.Montague@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information

Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 01–26206 Filed 10–17–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Acting 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 November 19, 2001.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Cristal Thomas, 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 *CAThomas@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 Acting 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 12, 2001.

William Burrow,

Acting Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Student Financial Assistance Programs

Type of Review: Revision.

Title: Student Aid Report.

Frequency: Annually.

Affected Public: Individuals or households.

Reporting and Recordkeeping Hour Burden:

Responses: 16,807,154.

Burden Hours: 4,462,468.

Abstract: The Student Aid Report (SAR) is used to notify all applicants of their eligibility to receive Federal student aid for postsecondary education. The form is submitted by the applicant to the institution of their choice.

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 Joseph Schubart at (202) 708–9266 or via his Internet address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Office of Student Financial Assistance Programs

Type of Review: Reinstatement, with change, of a previously approved collection for which approval has expired.

Title: Federal Perkins/NDSL Loan Assignment Form (JS)

Frequency: On occasion.

Affected Public: Not-for-profit institutions (primary), Individuals or household (primary), Businesses or other for-profit.

Reporting and Recordkeeping Hour Burden:

Responses: 21262.

Burden Hours: 10631.

Abstract: This form is used to collect pertinent data regarding defaulted student loans from institutions participating in the Federal Perkins Loan Program. The ED Form 553 serves as the transmittal document in the assignment of such defaulted loans to the Federal government for collection.

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 Joe Schubart at (202) 708–9266. 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. 01–26303 Filed 10–17–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Civilian Radioactive Waste Management

Site Recommendation Consideration Process—Extended Hours for Las Vegas Science Center

AGENCY: Office of Civilian Radioactive Waste Management, Department of Energy.

ACTION: Notice of extended hours for receiving comments on site recommendation consideration for Yucca Mountain.

SUMMARY: The Department of Energy (the Department) has announced in a separate **Federal Register** notice published on October 2, 2001, that its Las Vegas Science Center will be used to receive public comments on the possible recommendation of the Yucca Mountain Site in Nevada for development as a spent nuclear fuel and high-level radioactive waste geologic repository. This notice announces that the Las Vegas Science Center will have extended hours to receive comments on October 19, the last day of the public comment period.

DATES: Starting on September 26, 2001, and continuing through October 19, 2001, the Las Vegas Science Center will be open from 10 a.m. to 6 p.m. Tuesday through Friday, and on Saturdays, from 10 a.m. to 4 p.m. Hours will be extended on Friday, October 19 to accommodate

those wishing to comment; the hours will be from 10 a.m. to Midnight.

ADDRESSES: The location for the Science Center in Las Vegas is 4101–B Meadows Lane.

Written comments may also be addressed to Carol Hanlon, U.S. Department of Energy, Yucca Mountain Site Characterization Office (M/S #205), P.O. Box 30307, North Las Vegas, Nevada, 89036–0307.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Civilian Radioactive Waste Management, Yucca Mountain Site Characterization Office, (M/S #025), P.O. Box 30307, North Las Vegas, Nevada 89036–0307, 1–800–967–3477.

SUPPLEMENTARY INFORMATION: In the August 21, 2001, **Federal Register** Notice (66 FR 43850–43851), the Department announced the scheduling of public hearings in Las Vegas, Nevada on September 5, 2001, in Amargosa Valley, Nevada on September 12, 2001, and in Pahrump, Nevada on September 13, 2001. The Department decided to postpone the latter two hearings in light of the recent terrorist attacks on the United States. In a notice published on September 27, 2001 (66 FR 49372–49373), the latter two hearings were rescheduled to October 10 and October 12, 2001, in Amargosa Valley, Nevada and Pahrump, Nevada respectively.

For those members of the public who do not participate in these public hearings, the Department is providing an additional opportunity to submit comments at the Las Vegas Science Center, prior to the end of the comment period, on the possible recommendation of the Yucca Mountain Site for development as a spent nuclear fuel and high-level radioactive waste repository. A Department official and court reporter will be available to provide project information and receive public testimony from anyone wishing to provide official comments. All comments will be considered as part of the official public record. Written testimony may also be submitted as part of the official record. Posters and relevant information materials on the Yucca Mountain project will also be available at the Science Center.

Citizens are encouraged to reserve time slots to offer testimony by calling 1–800–967–3477. Oral testimony will be limited to 10 minutes in order to provide proper consideration to all individuals wishing to testify. Citizens are encouraged to arrive no later than 15 minutes prior to their scheduled testimony time; citizens arriving after their timeslot has passed will be accommodated to the extent possible. Walk-in testimony will be accepted as the schedule permits, with priority given to those who have reserved time in advance. Individuals who visit the Las Vegas Science Center to provide testimony will do so in the FOIA (Freedom of Information Act) Reading Room.

In addition, citizens can visit DOE Science Centers located in Pahrump, Nevada, and Beatty, Nevada, to submit written comments until the close of the comment period. Comments can also be submitted via e-mail through the web site at www.ymp.gov.

Additional information on the comment process at the Science Centers and on the Civilian Radioactive Waste Management program may be obtained at the Yucca Mountain Web site at *www.ymp.gov* or by calling 1–800–967–3477.

Issued in Washington, DC on October 15, 2001.

Lake H. Barrett,

Acting Director, Office of Civilian Radioactive Waste Management.

[FR Doc. 01–26306 Filed 10–17–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02–4–000]

American National Power, Inc. v. KeySpan Generation, Inc., Long Island Power Authority, and Long Island Lighting Company d/b/a/ LIPA.; Notice of Complaint

October 12, 2001.

Take notice that on October 11, 2001, American National Power, Inc. filed its Complaint Requesting Fast Track Processing with the Federal Energy Regulatory Commission. In its Complaint, American National Power, Inc. requests that the Commission find certain provisions of Rate Schedule No. 1 of KeySpan Generation, Inc. to be unjust and unreasonable because those contract provisions have caused the Long Island Power Authority to engage in anticompetitive conduct directed at American National Power, Inc. and other developers of new generation on Long Island. The relief requested by American National Power, Inc. in its Complaint includes the reformation of these anticompetitive contract provisions.

American National Power, Inc. has requested Fast Track Processing of its Complaint pursuant to Section 206(h) of the Commission's Rules of Practice and Procedure, 18 CFR 385.206(h).

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed on or before October 31, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Answers to the complaint shall also be due on or before October 31, 2001. 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. 01–26253 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES02–3–000]

Duquesne Light Company; Notice of Application

October 12, 2001.

Take notice that on October 4, 2001, Duquesne Light Company filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, to issue not more than $400,000,000 of promissory notes and commercial paper and other evidences of indebtedness from time to time with a final maturity date of not later than October 31, 2004.

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 22, 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. 01–26252 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–18–000]

Enbridge Pipelines (Midla) Inc.; Notice of Proposed Changes in FERC Gas Tariff

October 12, 2001.

Take notice that on October 8, 2001, Enbridge Pipelines (Midla) Inc., formerly Mid Louisiana Gas Company, (Midla) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets to be made effective October 1, 2001:

First Revised Sheet No. 27
First Revised Sheet No. 28
First Revised Sheet No. 33
First Revised Sheet No. 38
First Revised Sheet No. 44
First Revised Sheet No. 49

Midla states that the purpose of the filing is to reflect its current fuel reimbursement percentage as approved by the Commission in its Order dated September 19, 2001 in FERC Docket No. RP01–512–000. Midla further states that, at the time it filed its FERC Gas Tariff, Fourth Revised Volume No. 1 on September 7, 2001, to reflect a name change in FERC Docket No. GT01–30–000, the Commission had not accepted Mid Louisiana Gas Company's proposed modification to its fuel reimbursement provisions, therefore that filing did not reflect those modifications. Midla also states that it is not proposing any changes to its FERC Gas Tariff, Fourth Revised Volume No. 1, other than those already approved in FERC Docket No. RP01–512–000.

Midla states that copies of its transmittal letter and appendices have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–26241 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–4–000]

Northwest Pipeline Corporation; Notice of Application

October 12, 2001.

Take notice that on October 3, 2001 Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah, 84158, filed in Docket No. CP02–4–000, an application, pursuant to Sections 7(c) and 7(b) of the Natural Gas Act and Part 157 of the Federal Energy Regulatory Commission's regulations for a certificate of public convenience and necessity to construct and operate mainline loop and compression facilities (referred to as the Evergreen Expansion Project) and for permission and approval to abandon certain compression facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be viewed on the Web at *http://www.ferc.gov* using the ''RIMS'' link—select ''Docket #'' and follow the instructions (call (202)208–2222 for assistance).

Specifically, Northwest requests:

(1) A certificate of public convenience and necessity authorizing Northwest to construct and operate: (a) Approximately 27.79 miles of 36-inch mainline loop in four segments in Skagit, King and Pierce Counties, Washington and 83,500 horsepower compression facilities (67,150 ISO horsepower net increase plus 16,350 horsepower replacement compression) at five existing stations in Whatcom, Skagit, Snohomish, Pierce and Lewis Counties, Washington to expand south flow capacity in the Sumas, Washington to Chehalis, Washington corridor (''Sumas-Chehalis Corridor'') by up to approximately 220,514 Dth/d to help provide 276,625 Dth/d of long-term, incremental firm transportation service under Rate Schedule TF–1, commencing June 1, 2003; (b) compression facilities (24,430 ISO horsepower increase) at five existing stations in Clark, Skamania, Klickitat and Benton Counties, Washington to expand north flow capacity in the Plymouth, Washington to Washougal, Washington corridor (''Columbia Gorge Corridor'') by approximately 57,000 Dth/d to replace approximately 54,000 Dth/d of north flow design day displacement capacity required for existing long-term Rate Schedule TF–1 service and reduce the operational flow order (''OFO'') risks for existing firm services through that corridor; and (c) associated system enhancement facilities for existing shippers in the Sumas-Chehalis Corridor, consisting of the required lowering of an existing segment of partially exposed mainline loop at a stream crossing, the required overhaul replacements of two existing turbines, tie-ins of two existing laterals to the new loops, and modification of an existing mainline valve manifold for north flow operation optionality at one of the compressor stations;

(2) Permission and approval to abandon 16,350 horsepower compression facilities that will be replaced by the proposed new facilities and to abandon 54,000 Dth/d of existing Rate Schedule TF–1 north flow design day displacement capacity in the Columbia Gorge Corridor that will be replaced by the proposed additional physical capacity;

(3) Approval of levelized, incremental 15-year and 25-year term transportation rates, and associated incremental compressor fuel reimbursement provisions and factors, for 276,625 Dth/

d of incremental Rate Schedule TF–1 service in the Sumas-Chehalis Corridor;

(4) An up-front determination that the portions of the Evergreen Expansion Project that are designed to benefit existing customers, rather than the new incremental transportation shippers, will qualify for rolled-in rate treatment; and

(5) Approval of the proposed regulatory asset accounting treatment for the differences between book depreciation for the proposed incrementally-priced facilities and the depreciation component of the proposed levelized incremental transportation rates.

As a result of an open season for new firm service in the Sumas-Chehalis Corridor, Northwest states it entered into long-term transportation agreements under Rate Schedule TF–1 with five shippers (''Evergreen Shippers''), for a total of 276,625 Dth/d of capacity from Sumas, commencing June 1, 2003, with a primary 15-year term for 186,625 Dth/d and a primary 25-year term for 90,000 Dth/d, with primary delivery points at mainline interconnects with new delivery laterals that are independently being built to connect new and planned gas-fired power plants to Northwest's system in Washington.

Northwest states that the proposed facilities will provide up to approximately 220,514 Dth/d of incremental south flow capacity in the Sumas-Chehalis Corridor. The remainder of the capacity required to serve the new long-term shippers will be provided by 14,789 Dth/d of existing ''long-term'' Sumas to Wyoming capacity that will be relinquished as a result of the open season, plus 41,322 Dth/d of existing available capacity from Sumas that Northwest has been marketing on a short-term basis.

Further, Northwest states it has agreed, pursuant to a settlement agreement between Northwest and most of its major customers, to build facilities to reduce its north flow design day displacement capacity reliance through the Columbia Gorge Corridor and the customers have agreed to support rolled-in rate treatment for the approximately 87% portion of such facilities that is not allocable to the Evergreen Shippers. Northwest plans to complete the proposed facilities by June 1, 2003 in the Sumas-Chehalis Corridor and by November 1, 2003 in the Columbia Gorge Corridor. Northwest requests that the Commission issue a preliminary determination on non-environmental issues by April 2002 and a final order in this proceeding by no later than July 2002.

Northwest states that the estimated total cost of the proposed facilities is approximately $239.8 million, comprised of $197.4 million for the Sumas-Chehalis Corridor facilities ($194.0 million for incremental service plus $3.4 million for existing system reliability/flexibility enhancements) and $42.4 million for the Columbia Gorge Corridor facilities ($5.2 million allocable to the incremental shippers plus $37.2 million for existing system displacement capacity replacement).

On a 100% load factor basis and exclusive of surcharges and fuel, Northwest's proposed initial incremental rates for the 15-year service are $0.41656 per Dth for the June through October 2003 period and $0.42721 per Dth thereafter, and the proposed incremental rates for the 25-year service are $0.39794 per Dth for the first period and $0.40795 per Dth thereafter. These rates include a $0.03 per Dth volumetric charge, with a reservation charge for the remainder. The initial incremental compressor fuel in-kind reimbursement factor for the Evergreen Shippers is proposed to be 2.15%, plus the then applicable system lost and unaccounted for gas factor.

The portions of the project that are designed to benefit existing customers by reducing displacement reliance, mitigating associated OFO exposure, and enhancing existing service flexibility and reliability are proposed to be treated on a rolled-in basis consistent with Commission policy. The illustrative first year, rolled-in rate impact is approximately $0.00879 per Dth for Columbia Gorge Corridor facilities and approximately $0.00077 per Dth for Sumas-Chehalis Corridor facilities.

Any questions regarding this application should be directed to Mr. Gary Kotter, Manager, Certificates, Northwest Pipeline Corporation, P.O. Box 58900, Salt Lake City, Utah 84158–0900 or call (801) 584–7117.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before November 2, 2001, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this

proposal, it is important either to file comments or to intervene as early in the process as possible.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.fed.us/efi/doorbell.htm.*

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

David P. Boergers,

Secretary.

[FR Doc. 01–26255 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP95–168–006]

Sea Robin Pipeline Company; Notice of Informal Settlement Conference

October 12, 2001.

Take notice that an informal settlement conference in this proceeding will be convened on Thursday, October 18, 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 exploring the possible settlement of 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 Thomas J. Burgess at 208–2058.

David P. Boergers,

Secretary.

[FR Doc. 01–26256 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–17–000 and CP00–65–005]

Tennessee Gas Pipeline Company; Notice of Compliance Filing and Associated Tariff Filing

October 12, 2001.

Take notice that on October 4, 2001, Tennessee Gas Pipeline Company (Tennessee) hereby tenders for filings as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the tariff sheets identified in Appendix A of the filing, with an effective date of November 3, 2001.

Tennessee states that the filing is being made in compliance with the Commission's February 23, 2001 ''Order Issuing Certificates and Authorizing Abandonment'' and April 23, 2001 ''Order on Rehearing and Clarification in Docket Nos. CP00–65–000, *et al.*

Tennessee states that the purpose of this filing is to implement the recourse rates authorized by the Orders and to establish a new firm rate schedule applicable to incrementally priced lateral facilities in response to, and in compliance with, the service conditions placed on the Stagecoach Lateral by the Orders.

Tennessee states that copies of the filing has been mailed to each of its customers and affected state regulatory commissions and to each of the parties that intervened in the certificate docket referenced above.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–26242 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–035]

TransColorado Gas Transmission Company; Notice of Compliance Filing

October 12, 2001.

Take notice that on October 4, 2001,TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Thirty-Fifth Revised Sheet No. 21, Twenty-Fifth Revised Sheet No. 22 and Eighth Revised Sheet No. 22A, to be effective October 4, 2001.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000, and acceptance.

TransColorado states that the tendered tariff sheets propose to revise TransColorado's Tariff to reflect a new negotiated-rate contract and the deletion of two expired contracts.

TransColorado stated that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–26243 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–359–006]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

October 12, 2001.

Take notice that on October 1, 2001 Transcontinental Gas Pipeline Corporation (Transco) tendered for filing with the Federal Energy Regulatory Commission (Commission) copies of the executed service agreements that contain a negotiated rate under Rate Schedule FT applicable to Phase 1 of the MarketLink Expansion Project between Transco and various MarketLink customers.

Transco states that the purpose of the instant filing is to comply with filing requirements specified in the Commission's Order issued December 13, 2000, ''Order Amending Certificate and Denying Request for Stay'' which required Transco, among other things, to file, not less than 30 days nor more than 60 days prior to the commencement of service on Phase 1 of the MarketLink Project, the negotiated rate agreements or tariff sheets reflecting the essential elements of its negotiated rate agreements. The effective date of these negotiated rate agreements is November 1, 2001.

Transco states that copies of the filing are being mailed to its affected customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before October 17, 2001. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection. 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. 01–26244 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ES02–4–000]

UtiliCorp United Inc.; Notice of Filing

October 12, 2001.

Take notice that on October 4, 2001, UtiliCorp United Inc. (Applicant) filed with the Federal Energy Regulatory Commission (Commission), an application seeking an order under Section 204(a) of the Federal Power Act authorizing the Applicant to issue (1) up to and including 15,000,000 shares of common stock, (2) up to and including $500,000,000 of debt securities in one or more public offerings. Applicant also requests an exemption from the Commission's competitive bidding and negotiated placement requirements as it relates to the shares of common stock to be issued.

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 22, 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.

David P. Boergers,

Secretary.

[FR Doc. 01–26251 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02–1–000, et al.]

Mattco Funding, Limited Partnership, et al.; Electric Rate and Corporate Regulation Filings

October 11, 2001.

Take notice that the following filings have been made with the Commission:

1. Mattco Funding, Limited Partnership

[Docket No. EG02–1–000]

Take notice that on October 3, 2001, Mattco Funding, Limited Partnership (Mattco), Four World Financial Center, New York, New York 10080, filed with the Federal Energy Regulatory Commission (Commission) an Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's Regulations.

The Application seeks a determination that Mattco qualifies for Exempt Wholesale Generator status. Mattco is a Delaware limited partnership that will own, but not operate a gas-fired combined cycle cogeneration facility rated at approximately 525 MW capacity. The facility will be used for the generation of electricity exclusively for sale at wholesale.

Copies of this application have been served upon the Securities and Exchange Commission and the Indiana Utility Regulatory Commission.

Comment date: November 1, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Caithness Operating Company, LLC

[Docket No. EG02–2–000]

Take notice that on October 4, 2001, Caithness Operating Company, LLC (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an Application for Determination of Exempt Wholesale Generator Status pursuant to Part 365 of the Commission's regulations.

Applicant states that it will operate the following eligible facilities: the Sun-

Peak Facility, a 222 megawatt gas-fired peaking facility located in Las Vegas, Nevada; (ii) the Beowawe Geothermal Facility, a 16.6 megawatt geothermal power plant located in Beowawe, Nevada; (iii) the Dixie Valley Geothermal Facility, a 58 megawatt small power production facility, located at Dixie Valley, Nevada and (iv) the Steamboat Geothermal facility, a 13 megawatt geothermal power production facility located in Washoe County, Nevada.

Comment date: November 1, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

3. PPL Electric Utilities Corporation

[Docket No. EL02–3–000]

On October 5, 2001, PPL Electric Utilities Corporation filed with the Federal Energy Regulatory Commission (Commission) a Petition for Declaratory Order Regarding Repurchase of Common Stock.

Comment date: November 13, 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. 01–26202 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TX02–1–000, et al.]

Pinnacle West Capital Corporation, et al.; Electric Rate and Corporate Regulation Filings

October 12, 2001.

Take notice that the following filings have been made with the Commission:

1. Pinnacle West Capital Corporation

[Docket No. TX02–1–000]

Take notice that on October 9, 2001, Pinnacle West Capital Corporation (PWCC), P.O. Box 53999, Phoenix, Arizona 85072–3999, filed with the Federal Energy Regulatory Commission (Commission), an application requesting that the Commission order Electrical District No. Three of the County of Pinal and the State of Arizona (ED–3) to provide transmission services pursuant to Section 211 of the Federal Power Act.

PWCC requests firm network transmission service over ED–3's electric transmission and distribution system of the same character and nature as the service that Arizona Public Service Company (APS) has previously received from ED–3, pursuant to a lease agreement. PWCC requests sufficient transmission capacity to meet APS' loads served using the ED–3 system. PWCC proposes that this transmission service commence on October 9, 2001.

Comment date: October 29, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. DukeSolutions, Inc.

[Docket No. ER98–3813–007]

Take notice that on October 9, 2001, DukeSolutions tendered for filing with the Federal Energy Regulatory Commission (Commission) a summary of triennial market analysis report in compliance with the Commission's Order issued September 17, 1998.

Comment date: October 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Westmoreland—LG&E Partners

[Docket No. ER01–537–001]

Take notice that on October 2, 2001, Westmoreland—LG&E Partners (WLP) notified the Federal Energy Regulatory Commission (Commission) that it has relinquished its QF status.

Comment date: October 23, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. New England Power Pool

[Docket No. ER01–2534–002]

Take notice that on October 9, 2001, the New England Power Pool (NEPOOL) Participants Committee tendered for filing with the Federal Energy Regulatory Commission (Commission) a Substitute 2nd Revised Sheet No. 1169 of NewEngland Power Pool FERC Electric Rate Schedule No. 6, and a black line showing the correction. The amendment corrects the date through which a specific contract is exempt from changes to the treatment of Installed Capability (ICAP) transactions NEPOOL has proposed in this docket.

The NEPOOL Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in the New England Power Pool.

Comment date: October 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. ISO New England Inc.

[Docket No. ER01–2559–001]

Take notice that on October 9, 2001, ISO New England (the ISO) has tendered for filing with the Federal Energy Regulatory Commission (Commission) a compliance filing pursuant to the Commission's Order of September 7, 2001, on rejected material as discussed in the Order.

Comment date: October 30, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. NRG Audrain Generating LLC

[Docket No. ER01–2969–001]

Take notice that on October 3, 2001, NRG Audrain Generating LLC (NRG Audrain) filed with the Federal Energy Regulatory Commission (Commission) a Notice of Succession informing the Commission that the name Duke Energy Audrain, LLC has been changed to NRG Audrain.

Comment date: October 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Xcel Energy Services Inc.

[Docket No. ER02–29–000]

Take notice that on October 3, 2001, Xcel Energy Services Inc. (XES), on behalf of Southwestern Public Service (SPS), submitted for filing with the Federal Energy Regulatory Commission (Commission) an Interconnection Agreement between SPS and Llano Estacado Wind, LP.

SPS requests that the Commission accept the agreement effective March 2, 2001, and requests waiver of the Commission's notice requirements in

order for the agreements to be accepted for filing on the date requested.

Comment date: October 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Longhorn Power, LP,

[Docket No. ER02–30–000]

Take notice that on October 3, 2001, Longhorn Power, LP (Longhorn)tendered for filing with the Federal Energy Regulatory Commission (Commission) acceptance of Longhorn Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Longhorn intends to engage in wholesale electric power and energy purchases and sales as a marketer. Longhorn is not in the business of generating or transmitting electric power. Longhorn is a Limited Partnership and has no corporate affiliates.

Comment date: October 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Alliant Energy Corporate Services, Inc.

[Docket No. ER02–31–000]

Take notice that on October 4, 2001, Alliant Energy Corporate Services, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Service Agreements with Exelon Generation Company, LLC Exelon establishing Exelon as a Short-Term Firm and Non-Firm Point-to-Point Transmission Customer under the terms of the Alliant Energy Corporate Services, Inc. Open Access Transmission Tariff.

Alliant Energy Corporate Services, Inc. requests an effective date of September 17, 2001, and accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: October 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. California Independent System Operator Corporation

[Docket No. ER02–32–000]

Take notice that on October 3, 2001, the California Independent System Operator Corporation, (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Meter Service Agreement for ISO Metered Entities between the ISO and CalPeak Power—Enterprise, LLC for acceptance by the Commission. The ISO states that this filing has been served on CalPeak Power—Enterprise, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made September 26, 2001.

Comment date: October 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. California Independent System Operator Corporation

[Docket No. ER02–33–000]

Take notice that on October 3, 2001, the California Independent System Operator Corporation, (ISO) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Participating Generator Agreement between the ISO and CalPeak Power—Enterprise, LLC for acceptance by the Commission. The ISO states that this filing has been served on CalPeak Power—Enterprise, LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective September 26, 2001.

Comment date: October 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. California Independent System Operator Corporation

[Docket No. ER02–34–000]

Take notice that on October 3, 2001, the California Independent System Operator Corporation, (ISO) , tendered for filing with the Federal Energy Regulatory Commission (Commission) a Meter Service Agreement for ISO Metered Entities between the ISO and CalPeak Power—Border LLC for acceptance by the Commission.

The ISO states that this filing has been served on CalPeak Power—Border LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Meter Service Agreement for ISO Metered Entities to be made effective September 27, 2001.

Comment date: October 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

13. California Independent System Operator Corporation

[Docket No. ER02–35–000]

Take notice that on October 3, 2001, the California Independent System Operator Corporation, (ISO) , tendered for filing with the Federal Energy Regulatory Commission (Commission) a Participating Generator Agreement between the ISO and CalPeak Power—Border LLC for acceptance by the Commission.

The ISO states that this filing has been served on CalPeak Power—Border LLC and the California Public Utilities Commission.

The ISO is requesting waiver of the 60-day notice requirement to allow the Participating Generator Agreement to be made effective September 27, 2001.

Comment date: October 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

14. New England Power Company

[Docket No. ER02–36–000]

Take notice that on October 3, 2001, New England Power Company (NEP) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Second Revised Service Agreement No. 10 (Service Agreement) between NEP and Littleton Electric Light Department for network integration transmission service under NEP's open access transmission tariff—New England Power Company, FERC Electric Tariff, Second Revised Volume No. 9. This Service Agreement is a fully executed version of First Revised Service Agreement No. 10, that was filed unexecuted on August 8, 2001, in Docket No. ER01–2802–000. On October 9, 2001, NEP also submitted the Network Operating Agreement as part of NEP's October 3, 2001 filing where it submitted a second revised Service Agreement No. 10 between NEP and Littleton. No other changes have been made to the Service Agreement and the terms remain the same as originally filed on August 8, 2001.

NEP states that a copy of this filing has been served upon the Department of Telecommunications and Energy of the Commonwealth of Massachusetts and parties to the agreement.

Comment date: October 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

15. Green Mountain Power Corporation

[Docket No. ER02–37–000]

Take notice that on October 3, 2001, Green Mountain Power Corporation (Green Mountain) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service

Agreement for sale of power to Connecticut Energy Cooperative pursuant to its Wholesale Market-Based Rate Power Sales Tariff and a Confirmation Letter thereunder dated September 20, 2001 for a long-term sale of Unit Firm Energy from its Searsburg Windpower Facility. Green Mountain is proposing to make the Service Agreement and accompanying Confirmation Letter effective as of October 1, 2001.

Comment date: October 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

16. Duke Energy Merchants, LLC

[Docket No. ER02–38–000]

Take notice that on October 3, 2001, Duke Energy Merchants, LLC (DEM) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notice of Cancellation of its Market-Based Rate Schedule, Rate Schedule FERC No. 1.

DEM requests an effective date for cancellation of October 4, 2001.

Comment date: October 24, 2001, in accordance with Standard Paragraph E at the end of this notice.

17. Attala Energy Company, LLC

[Docket No. ER02–40–000]

Take notice that on October 4, 2001, Attala Energy Company, LLC (Attala) submitted for filing with the Federal Energy Regulatory Commission (Commission), pursuant to Section 205 of the Federal Power Act, and Part 35 of the Commission's regulations, an application for authorization to make sales, as a power marketer, of capacity, energy, and certain Ancillary Services at market-based rates; to reassign transmission capacity; and to resell firm transmission rights (FTRs).

Comment date: October 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

18. NorthWestern Energy Marketing, LLC

[Docket No. ER02–41–000]

On October 4, 2001, NorthWestern Energy Marketing, LLC, a limited liability corporation organized under the laws of the State of Delaware, filed with the Federal Energy Regulatory Commission (Commission), under Section 205 of the Federal Power Act (FPA), an application requesting that the Commission (1) accept for filing its proposed market-based FERC Rate Schedule No. 1; (2) grant blanket authority to make market-based wholesale sales of capacity and energy under the FERC Rate Schedule No. 1; (3) grant authority to sell ancillary services at market-based rates; and (4) grant such waivers and blanket authorizations as the Commission has granted in the past to other nonfranchised entities with market-based rate authority.

Comment date: October 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

19. Reliant Energy Aurora, LP; Reliant Energy Coolwater, LLC; Reliant Energy Desert Basin, LLC; Reliant Energy Ellwood, LLC; Reliant Energy Etiwanda, LLC; Reliant Energy Indian River, LLC; Reliant Energy Mandalay, LLC; Reliant Energy Maryland Holdings, LLC; Reliant Energy Mid-Atlantic Power Holdings, LLC; Reliant Energy New Jersey Holdings, LLC; Reliant Energy Ormond Beach, LLC; Reliant Energy Osceola, LLC; Reliant Energy Services, Inc.; Reliant Energy Shelby County, LP; and El Dorado Energy, LLC

[Docket No. ER02–39–000]

Take notice that on October 4, 2001, Reliant Energy Aurora, LP, Reliant Energy Coolwater, LLC, Reliant Energy Desert Basin, LLC, Reliant Energy Ellwood, LLC, Reliant Energy Etiwanda, LLC, Reliant Energy Indian River, LLC, Reliant Energy Mandalay, LLC, Reliant Energy Maryland Holdings, LLC, Reliant Energy Mid-Atlantic Power Holdings, LLC, Reliant Energy New Jersey Holdings, LLC, Reliant Energy Ormond Beach, LLC, Reliant Energy Osceola, LLC, Reliant Energy Services, Inc., Reliant Energy Shelby County, LP and El Dorado Energy, LLC (collectively, the Reliant Affiliates) tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to Section 205 of the Federal Power Act, 16 U.S.C. 824d (1994), and Part 35 of the Commission's Regulations, 18 CFR 35 (2001), revisions to their market-based rate tariffs to prohibit transactions with the franchised utility affiliate of their proposed merger partner, Orion Power Holdings, Inc., while the proposed transaction is pending.

The Reliant Affiliates request waiver of the prior notice requirements of Section 35.3 of the Commission's regulations, 18 CFR 35.3 (1999), to permit their filing to become effective September 27, 2001.

Comment date: October 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

20. GWF Energy LLC

[Docket No. ER02–42–000]

Take notice that on October 4, 2001, GWF Energy LLC (GWF) filed with the Federal Energy Regulatory Commission (Commission), a long-term power sales agreement between GWF and the California Department of Water Resources (the Agreement). Confidential treatment is being sought for the Agreement.

Comment date: October 25, 2001, in accordance with Standard Paragraph E at the end of this notice.

21. PPL Brunner Island, LLC

[Docket No. EG01–125–000]

Take notice that on October 10, 2001, PPL Brunner Island, LLC (PPL Brunner Island) tendered for filing a Second Amended Request for Redetermination of Exempt Wholesale Generator Status. This request amends an Amended Request for Redetermination of Exempt Wholesale Generator Status originally filed by PPL Brunner Island on August 21, 2001.

Comment date: November 2, 2001, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

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. 01–26201 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2541–035]

Cascade Power Company; Notice of Availability of Environmental Assessment

October 12, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, the Office of Energy Projects has reviewed the application dated April 2, 2001, requesting the Commission's authorization to surrender the license for the existing Cascade Power Project, located on the Little River near the town of Brevard in Transylvania County, North Carolina, and has prepared an Environmental Assessment (EA) for the proposed and alternative actions.

Copies of the EA can be viewed at the Commission's Public Reference Room, Room 2A, 888 First Street, NE., 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, 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.

Any comments on the EA should be filed within 30 days from the date of this notice and should be addressed to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix ''Cascade Power Project, No. 2541–035'' to the first page of your comments. All timely filed comments will be considered in the Commission order addressing the proposed license surrender.

For further information, please contact Jim Haimes, staff environmental protection specialist, at (202) 219–2780 or at his E-mail address: *james.haimes@ferc.fed.us.*

David P. Boergers,

Secretary.

[FR Doc. 01–26248 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2901–008 and Project No. 2902–009]

Nekoosa Packaging Corporation; Notice of Availability of Final Environmental Assessment

October 12, 2001.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for license for the Big Island Hydroelectric Project and the Holcomb Rock Hydroelectric Project, located on the James River in Bedford and Amherst Counties, Virginia, and has prepared a Final Environmental Assessment (FEA) for the project. No federal lands or Indian reservations are occupied by project works or located within the project boundary.

The FEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the FEA are available for review at the Commission's Public Reference Room, located at 888 First Street, NE., Washington, DC 20426, or by calling (202) 208–1371. The FEA may also be viewed on the web at *http://www.ferec.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 01–26247 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

October 12, 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.:* 12114–000.

c. *Date filed:* September 4, 2001.

d. *Applicant:* Big Rock Power Partners.

e. *Name and Location of Project:* The Old Campbell Project would be located on Old Campbell (AKA Madden) Creek in Humboldt County, California. The project would be located within the Six Rivers National Forest administered by the U.S. Forest Service.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant contact:* Mr. Patrick Shannon, P.O. Box 1275, 42042 Highway 299, Willow Creek, California 95573.

h. *FERC Contact:* Tom Papsidero, (202) 219–2715.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. 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 (P–12114–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would consist of: (1) a proposed 40-foot-long, 10-foot-high concrete diversion dam, (2) a proposed 2,500-foot-long, 48-inch-diameter steel penstock, (3) a proposed powerhouse containing two generating units having a total installed capacity of 3 MW, (4) a proposed one-mile-long, 12-kV transmission line, and (5) appurtenant facilities. The project would have an annual generation of 8.4 GWh.

k. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. 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). A copy is also available for inspection and reproduction at the address in item g above.

l. *Preliminary Permit*—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Preliminary Permit*—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of Intent*—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Secretary.

[FR Doc. 01–26246 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request To Use Alternative Procedures in Preparing a License Application

October 12, 2001.

Take notice that the following request to use alternative procedures to prepare a license application has been filed with the Commission.

a. *Type of Filing:* Request to use alternative procedures to prepare a new license application.

b. *Project No.:* 2219–013.

c. *Date filed:* September 26, 2001.

d. *Applicant:* Garkane Power Association Inc.

e. *Name of Project:* Boulder Creek Hydroelectric Project.

f. *Location:* On Boulder Creek, in Garfield County, approximately 100 miles east of Cedar City, in the Boulder Mountains, in a remote area of south-central Utah. The Project occupies 36.86 acres of federal lands within the Dixie National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Garkane Power Association, Mike Avant, Engineering Manager, 1802 South 175 East, Kanab, UT 84741 or Jones & DeMille Engineering, John Spedlove, Project Manager, 1440 South Pipe Lane, Richfield, UT 84701 (435) 896–8266.

i. *FERC Contact:* Dianne E. Rodman at (202) 219–2830; e-mail *Dianne.Rodman@ferc.fed.us.*

j. 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 (call202–208–2222 for assistance).

k. Deadline for Comments: 30 days from the date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comments 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 *(http://www.ferc.gov)* under the ''e-Filing'' link.

l. The existing project consists of: A rock-fill diversion dam on the West Fork of Boulder Creek, having a rolled earth filled core and a maximum height of approximately 24 feet; two ungated spillways; diversion gate facilities; a

buried 27-inch diameter conduit 17,600 feet long to a penstock forebay formed by an earth-fill dam 25 feet high and 34 feet long with an ogee concrete spillway on the East Fork of Boulder Creek; a concrete gravity dam about 4 feet high and 45 feet in length located near the toe of the West Fork diversion dam; a recovery pond; a pumphouse containing a 3 horsepower (hp) pump; an 8-inch diameter steel pipe about 60 feet long from the pumphouse and connecting with the buried 27-inch diameter conduit; 22,200 feet of 34 to 30-inch steel penstock; a powerhouse containing three 1975-hp impulse turbines operating under a static head of 1,527 feet, connected to three 1,400-kilowatt (kW) generators; an afterbay reregulating pool with gates and ditches to return water to water-right owners; access roads; a return ditch to Boulder Creek; a switchyard; a 69-kilovolt (kV) transmission line extending 28 miles to a substation at Escalante and a 69-kV line 23 miles long between the Escalante and Henrieville substations; and other appurtenant structures and equipment. There are no proposed changes to the project facilities.

m. Garkane Power Association (Garkane Power) has demonstrated that it has made an effort to contact all federal and state resources agencies, non-governmental organizations (NGO), and others affected by the project. Garkane Power has also demonstrated that a consensus exists that the use of alternative procedures is appropriate in this case. Garkane Power has submitted a communications protocol that is supported by the stakeholders.

The purpose of this notice is to invite any additional comments on Garkane Power's request to use the alternative procedures, pursuant to Section 4.34(i) of the Commission's regulations. Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date. Garkane Power will complete and file a preliminary Environmental Assessment, in lieu of Exhibit E of the license application. This differs from the traditional process, in which an applicant consults with agencies, Indian tribes, NGOs, and other parties during preparation of the license application and before filing the application, but the Commission staff performs the environmental review after the application is filed. The alternative procedures are intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

Garkane Power has met with federal and state resources agencies, NGOs, elected officials, flood control and downstream interests, environmental groups, business and economic development organizations, the boating industry, and members of the public regarding the Boulder Creek Project. Garkane Power intends to file 6-month progress reports during the alternative procedures process that leads to the filing of a license application by April 30, 2005.

David P. Boergers,

Secretary.

[FR Doc. 01–26249 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request to Use Alternative Procedures in Preparing a License Application

October 12, 2001.

Take notice that the following request to use alternative procedures to prepare a license application has been filed with the Commission.

a. *Type of Filing:* Request to use alternative procedures to prepare a new license application.

b. *Project No.:* 632–008

c. *Date filed:* September 26, 2001.

d. *Applicant:* City of Monroe.

e. *Name of Project:* Lower Monroe Hydroelectric Project.

f. *Location:* On Monroe Creek near the City of Monroe in Sevier County, Utah. The project occupies 6.69 acres of federal lands within Fishlake National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Jones & DeMille Engineering, Darin Robinson, Engineer, 1440 South Pipe Lane, Richfield, UT 84701 (435) 896–8266.

i. *FERC Contact:* Dianne E. Rodman at (202) 219–2830; e-mail *Dianne.Rodman@ferc.fed.us.*

j. 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).

k. *Deadline for Comments:* 30 days from the date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comments 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 *(http://www.ferc.gov)* under the ''e-Filing'' link.

l. The existing project consists of: (1) a 3-foot-high and 13-foot-long concrete overflow-type diversion dam topped with 3-foot-high flashboards; (2) a concrete intake structure with a trash rack and a 21-inch diameter cast iron pipeline 100 feet long; (3) a 4,405-foot-long welded steel penstock of which 24 feet is 20-inch diameter pipe and 4,381 feet is 16-inch diameter pipe; (4) a powerhouse containing a Pelton wheel connected to a generator rated at 100-kilowatts (kW); (5) a 2.4-kilovolt (kV), 3-phase generator lead and a transmission line approximately 3,570 feet long; and (6) appurtenant facilities. There are no proposed changes to the project facilities.

m. The City of Monroe (Monroe City) has demonstrated that it has made an effort to contact all federal and state resources agencies, non-governmental organizations (NGO), and others affected by the project. Monroe City has also demonstrated that a consensus exists that the use of alternative procedures is appropriate in this case. Monroe City has submitted a communications protocol that is supported by the stakeholders.

The purpose of this notice is to invite any additional comments on Monroe City's request to use the alternative procedures, pursuant to Section 4.34(i) of the Commission's regulations. Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date. Monroe City will complete and file a preliminary Environmental Assessment, in lieu of Exhibit E of the license application. This differs from the traditional process, in which an applicant consults with agencies, Indian tribes, NGOs, and other parties during preparation of the license application and before filing the application, but the Commission staff performs the environmental review after the application is filed. The alternative procedures are intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

Monroe City has met with federal and state resources agencies, NGOs, elected officials, flood control and downstream interests, environmental groups, business and economic development organizations, the boating industry, and members of the public regarding the Lower Monroe Project. Monroe City intends to file 6-month progress reports during the alternative procedures process that leads to the filing of a license application by February 14, 2004.

David P. Boergers,

Secretary.

[FR Doc. 01–26250 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–68–000]

Investigation of Wholesale Rates of Public Utility Sellers of Energy and Ancillary Services in the Western Systems Coordinating Council; Notice of Technical Conference Concerning West-Wide Price Mitigation for the Winter Season and Procedures for Seeking Participation

October 12, 2001.

Take notice that the Commission is convening a technical conference to be held on Monday, October 29, 2001, at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The Technical Conference will commence at 1 p.m. and will be open to all interested persons. On June 19, 2001, the Commission prescribed price mitigation for California spot markets and markets throughout the West.[1] In that order, the Commission also invited interested parties to file with the Commission comments and proposals for the purpose of revisiting the mitigation methodology for future periods, if necessary. This technical conference will address possible modifications to the current West-wide price mitigation methodology for the winter season.

As a starting point for discussions at the conference, and based on the comments that were filed, possible modifications to the current price mitigation methodology include the following: (1) Eliminate the 10 percent adder for sales into California; and (2) require the California Independent System Operator to not only recalculate the price for spot market transactions when there is a Stage 1 reserve deficiency, but also recalculate the price when the average of the three gas indices increase by 10 percent above the level last used for calculating the mitigated price (*i.e.,* 66 cents based on the current average of $6.64/MMBtu).

Persons wishing to speak at the conference must submit a request to make a statement in the above-captioned dockets. The request should be submitted by e-mail to David Boergers at *david.boergers@ferc.fed.us* (include Docket No. EL01–68–000 in the subject heading of the e-mail), and should be followed up, at the same time, with a letter to the Secretary of the Commission. The request should clearly specify the name of the person desiring to speak, his or her title and affiliation, and the party or parties the speaker represents. There will be limited opportunity to participate via teleconferencing. Persons wanting to participate in this manner should specify their interest in their request to speak. In addition, the request should include a telephone number for notifying the speaker. The request should also include a brief summary of the issue or issues the speaker wishes to address, not to exceed one page. All e-mail requests must be submitted on or before Wednesday, October 17, 2001.

The number of persons desiring to speak at the conference may exceed the time available. Thus, interested persons are encouraged to join with other persons with similar interests. Based on the requests to participate, panels of speakers will be specified. The Secretary will issue a notice listing the speakers and panels for the conference.

In addition, all interested persons are invited to submit written comments on matters addressed at the conference. These comments should be submitted on or before November 9, 2001, in the above-captioned proceedings. All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington, DC 20426, during regular business hours. Additionally, all comments may be viewed, printed, or downloaded remotely via the Internet through FERC's Homepage using the RIMS link. User assistance for RIMS is available at 202–208–2222, or by e-mail to *rimsmaster@ferc.fed.us.*

Comments related to this proceeding may be filed either in paper format or electronically. Those filing electronically do not need to make a paper filing.

For paper filings, the original and 14 copies of the comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and should refer to Docket No. EL01–68–000.

Comments filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the comments, access the Commission's website at *www.ferc.gov* and click on ''Make An E-Filing,'' and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's e-mail address upon receipt of comments. User assistance for electronic filing is available at 202–208–0258 or by e-mail to *efiling@ferc.fed.us.* Comments should not be submitted to the e-mail address.

The conference will be transcribed. Those interested in obtaining transcripts need to contact ACE Federal Reporters, at 202–347–3700.

The Capitol Connection will broadcast the conference via the Internet and by phone. To find out more about The Capitol Connection's live Internet and phone bridge, contact David Reininger or Julia Morelli at 703–993–3100 or go to *www.capitolconnection.gmu.edu.*

Live and archived audio of the conference will also be available for a fee via National Narrowcast Network. Live audio is available by telephone at 202–966–2211 and by subscription on the Web at *www.hearing.com.* The Web audio will be archived and available for listening after the event is completed. Billing is based on listening time.

Anyone interested in purchasing videotapes of the conference should call VISCOM at 703–715–7999.

Questions about the conference program should be directed to: Camilla Ng, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, 202–208–0706, camilla.ng@ferc.fed.us.

David P. Boergers,

Secretary.

[FR Doc. 01–26254 Filed 10–17–01; 8:45 am]

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[1] *See* San Diego Gas & Electric Company v. Sellers of Energy and Ancillary Service Into Markets Operated by the California Independent System Operator Corporation and the California Power Exchange, 95 FERC ¶ 61,418 at 62,570 (2001).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01–9–001]

Reporting of Natural Gas Sales to California Market

Issued October 11, 2001.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order on rehearing.

SUMMARY: The Federal Energy Regulatory Commission is denying rehearing of the Commission's July 25, 2001 order, 66 FR 40245 (August 2, 2001), imposing certain reporting requirements on natural gas sellers and transporters serving the California market.

DATES: The reporting requirement covers activity for the six months from August 1, 2001, to January 31, 2002, and the first report is due October 1, 2001.

FOR FURTHER INFORMATION CONTACT: Jacob Silverman, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–2078.

SUPPLEMENTARY INFORMATION:

Before Commissioners: Pat Wood III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell.

Order on Rehearing

Issued October 11, 2001.

On July 25, 2001, the Commission issued an order (July 25 order) imposing a reporting requirement on natural gas sellers and transporters serving the California market.[1] The specific information to be collected was set forth in a series of questions included as an appendix to the order. The Commission concluded that it has the authority to request the information in order for the Commission to understand why the disparity in the price of natural gas between the price in California and the remainder of the country had occurred, and was continuing. The information is to be submitted monthly for the six-month period covering August 1, 2001, through January 31, 2002, with the report due 30 days after the end of each month.[2] Requests for rehearing or clarification were filed by a number of parties.

The Commission denies rehearing. The reporting requirement is in the public interest, since the information is necessary for the Commission to better understand how the California natural gas market operates so the Commission can determine whether there is anything else the Commission can do to protect California consumers. Without the information the Commission can not determine whether it has authority to meaningfully address the problem of disparate prices in the California natural gas market. Further, the information is necessary for the Commission to advise Congress as to whether it should change the existing regulatory framework under which the Commission now operates. The Commission also denies the requests for clarification.

Background

On May 18, 2001, the Commission issued an order (the May 18 order) proposing to impose a reporting requirement on natural gas sellers and transporters serving the California market, and requested comments on the proposal.[3] The order discussed the Commission's concern about a sharp increase in the price of natural gas sold in the California market, which exceeded the increase in other markets, including those markets supplied by the same producing areas.[4] The May 18 order stated that the information should assist the Commission in carrying out its regulatory responsibilities in a number of ways. First, it would help the Commission determine what part of the problem, if any, is within the scope of its jurisdiction by enabling the Commission to determine what percentage of the volumes sold into the California market is domestically produced gas sold by marketers affiliated with pipelines[5] and LDCs in sales for resales, which are the only sales of natural gas now being made that the Commission has jurisdiction to regulate. The information would also give the Commission an accurate picture of the overall average gas costs being incurred by all purchasers of natural gas moving into the California market. The Commission also stated that the information would enable it to determine the extent to which the cost of interstate transportation, which is subject to the Commission's jurisdiction, affects the price of gas at the California border.

The specific information to be collected was set forth in a series of questions included as an appendix to the May 18 order. Twenty-nine responses were filed to the May 18 order. Some commenters who supported the proposal also sought to broaden the scope of information gathered. Other commenters raised a number of issues, such as the extent of the Commission's authority to collect the information, the period in which the information is to be collected, and the confidential treatment of certain information, particularly the data on individual transactions. In addition, some commenters urged clarification of a number of the questions.

The July 25 order concluded that under NGA sections 14[6] and 16 the Commission has the authority to request the information from entities that may not be natural gas companies subject to the Commission's NGA section 1 jurisdiction.[7] In addition to the reasons discussed in the May 18 order, the Commission pointed out that the information being sought would be relevant in determining the effect of legislative proposals addressing the California energy situation in the current session of Congress.[8]

Moreover, the Commission stated that it was also concerned about the operation of the California natural gas market because gas-fired electric generators in California help to establish the market clearing price for electric generation pursuant to the bidding system used by the California Independent System Operator. On June 19, 2001, the Commission issued an

[1] 96 FERC ¶ 61,119 (2001).

[2] On September 17, 2001, the Office of Management and Budget (OMB) approved the information collection, and assigned it OMB No: 1902–0187. The order stated that the Commission intended to seek an extension of the reporting requirement, upon approval by OMB, through September 30, 2002, to coincide with the end date of the Commission's mitigation plan regarding wholesale electricity prices in California and the West. See San Diego Gas & Electric Company, *et al.*, 95 FERC ¶ 61,418 (2001), *reh'g pending*.

[3] 95 FERC ¶ 61,262 (2001).

[4] The May 18 order stated that the Commission's legal authority to take actions that would affect those prices is limited by the existing statutory framework, specifically the Natural Gas Policy Act of 1978, and the Natural Gas Wellhead Decontrol Act of 1989. As a result, the only sales of natural gas that the Commission currently has jurisdiction to regulate are sales for resale of domestic gas by pipelines, LDCs, or their affiliates.

[5] For the most part, interstate pipelines no longer sell natural gas.

[6] Section 14(a) provides:

The Commission may investigate any facts, conditions, practices, or matters which it may find necessary or proper in order to determine whether any person has violated or is about to violate any provision of [the NGA] or any rule, regulation, or order hereunder, or to aid in the enforcement of the provisions of this act or in prescribing rules or regulations thereunder, or in obtaining information to serve as a basis for recommending further legislation to the Congress.

[7] Moreover, with respect to concerns over confidentiality, the order found that the specific information gas sellers are required to report concerning sales transactions is exempt from disclosure under the Freedom of Information Act (FOIA). In addition, in response to the comments received, certain of the proposed questions were modified.

[8] [See *e.g.* S. 764, and H.R. 1974 which would instruct the Commission to require natural gas sellers of bundled sales to the California market to disclose the commodity portion and the transportation portion of the sale price.

order establishing price mitigation for the California power markets.[9] Under that mitigation plan, generators' price bids during reserve emergencies must reflect the marginal cost of obtaining natural gas used for generation in the California ISO's single price auctions. The ISO's clearing price will act as a maximum price for spot sales outside the ISO's single price auctions, which are bilateral sales in California and the rest of the WSCC. That number is derived using an average of the mid-point of the monthly bid-week prices at certain reported California natural gas market price points. Thus, the price for electric power would be dependent, to some extent, on the price of natural gas at certain California market points.

Under these circumstances, not only was the Commission's NGA section 14 and 16 authority applicable, but the Commission found that Section 311 of the Federal Power Act (FPA)[10] also applies. That section authorizes the Commission, ''as a basis for recommending legislation,'' to request information ''regarding the generation * * * of electric energy, however produced * * * whether or not subject to the jurisdiction of the Commission * * *'' As a result the Commission has the authority to ''investigate nonjurisdictional sales of nonjurisdictional companies.''[11] The FPA section 311 authority includes authorization to secure information concerning ''the cost of generation.'' Since natural gas is used in many generating plants to produce the electricity, the cost of natural gas is obviously a crucial element in any investigation of the cost of generating electricity. Thus, in the current situation, FPA section 311 is another basis for the Commission's authority to issue the reporting requirement.

Requests for rehearing or clarification were filed by e prime, Inc, Tractebel Energy Marketing, Inc. (TEMI), and Enron North America and Enron Energy Services (Enron). The Public Utilities Commission of the State of California (CPUC), and Southern California Gas Company and San Diego Gas & Electric Company (collectively Sempra Utilities) filed requests for clarification.

Discussion

1. For the Purpose of the Reporting Requirement the Commission Has the Authority To Require Reports From Entities Not Subject to Its Jurisdiction

The requests for rehearing objected to the requirement that non-jurisdictional entities report information regarding non-jurisdictional transactions to the Commission. They contend that there is no basis to permit the Commission to collect data from entities that are not subject to the Commission's jurisdiction under the Natural Gas Act.

TEMI also argues that even if the Commission declines to grant rehearing, it should exclude from the reporting requirement those entities whose gas sale volumes could not have a material effect on gas prices in the California market. It asserts that the order should be limited to entities whose volumes exceed 1 billion cubic feet per month of physical volumes in the California market. E prime, Inc. contends that since the Commission cannot require the information it seeks from those not subject to its jurisdiction, information from the limited universe of persons concerning the limited number of sales transactions over which the Commission does have jurisdiction, will not aid the Commission in its search for a solution to the California problem, so the rulemaking should be rescinded in its entirety.

The July 25 order explained that NGA sections 14 and 16, and FPA section 311 provide the Commission's authority to require all entities selling gas in the California market, including non-jurisdictional entities, to file the report. The order explained that because of the disparity in the price between California and the rest of the country, the Commission needs the information to carry out its statutory responsibilities. Thus, contrary to e prime, which asserts that the Commission has not explained why it needs the information, the July 25 order has an extensive discussion on this very point.[12]

Without repeating the discussion in the July 25 order as to why the Commission needs the information, suffice it to say that without the information from non-jurisdictional parties, the Commission can not determine whether it has authority to meaningfully address the disparity in price of natural gas in the California market. Further, the information is necessary for the Commission to advise Congress as to whether it should change the existing regulatory framework under which the Commission now operates.

There is no merit in e prime's contention that NGA section 14 cannot be a basis for the Commission's order here because that section cannot expand the Commission's jurisdiction over persons or transactions excluded by Congress, citing *Federal Power Commission* v. *Panhandle Eastern Pipe Line Co.,* 337 U.S. 498. In that case, the Commission sought to enjoin the company, a regulated entity, from transferring property from which gas was being produced. The Court held that such action was outside the Commission's jurisdiction because it involved the ''production and gathering'' of gas, an activity specifically excluded from the Commission's jurisdiction under NGA section 1(b). However, the Court noted that in support of its position, the Commission relied on a number of sections of the NGA, one of which was Section 14(b). The Court stated:

> Section 14 (b) * * * comes closest to supporting the Commissions' argument, *but that confers only power to obtain information* (emphasis added).[13]

That is exactly what is at issue here, the Commission's authority to obtain information relevant to carrying out its statutory responsibilities. Contrary to e prime's contention, the Commission's action is not a fishing expedition, but has been taken ''for the purpose of investigating a specific problem that is a matter of urgent concern both to it and the Congress.''[14]

Similarly, TEMI's argument that case law conflicts with the Commission's position is unconvincing.[15] The cases TEMI cites found that the Commission has authority to require natural gas companies to submit information both as to jurisdictional and non-jurisdictional matters. It does not follow from that, as TEMI argues, that the Commission has no authority to require non-jurisdictional entities to submit information. In fact, in *Superior Oil,* cited by TEMI, at issue was the Commission's order requiring natural gas companies to file information concerning their exploration and development related expenditures, as well as those of their affiliates, including affiliates not themselves natural gas companies. Petitioners contended the Commission had exceeded its statutory power to the extent the order applied to affiliates not natural gas companies. The Court

[9] *See* San Diego Gas & Electric Co. *et al.*, 95 FERC ¶ 61,418 (2001) (*San Diego*), establishing a price mitigation plan for Western States Coordinating Council (WSSC) area, including California.

[10] 16 U.S.C. § 825j. That section provides, in part, that ''the Commission is authorized and directed to conduct investigations regarding * * * electric energy, however produced, throughout the United States, * * * whether or not subject to the jurisdiction of the Commission. * * *''

[11] Continental Oil Co. v. FPC, 549 F.2d 31 at 34 (5th Cir. 1975).

[12] 96 FERC at 61,464–66.

[13] 337 U.S. at 505–06.

[14] 96 FERC at 61,464.

[15] TEMI cites Continental Oil v. FPC, 519 F.2d 31, 34 (5th Cir. 1975); Union Oil v. FPC, 542 F.2d 1036 (9th Cir. 1976), and Superior Oil Co. v FERC, 563 F2d 191 (5th Cir. 1977).

upheld the Commission because the information as to affiliates was necessary to ensure that the Commission could determine the true cost of production of interstate sales of the regulated gas. Moreover, the Court stated that ''[O]ther sections of the Act,'' such as section 14(a):

> while falling short of specifically empowering the FPC to gather from affiliates the information sought by Form 64, support the view that *the [Commission's] investigatory powers are broad and are not limited by the constraints which Congress* has placed on the regulatory and rate-setting jurisdiction of the [Commission](emphasis added).[16]

Here, the Commission relies upon NGA sections 14 and 16, and FPA section 311, for its authority to act here with respect to the specific problem being addressed.

With regard to the Commission's authority under FPA section 311, the July 25 order explained that in light of the Commission's electric mitigation order; *supra,* n 2., it is essential that the Commission understands the operation of the natural gas market in California because the price of natural gas is an element in determining the cost of generating electricity. To argue, as does TEMI, that the price of natural gas is like ''any subject matter that could possibly affect the cost of electricity generation'' [17] fails to recognize the crucial role natural gas plays in determining the price of electricity under the mitigators plan. Under the mitigation plan generators' price bids during reserve emergencies must reflect the marginal cost for each generator by using a proxy which is to be determined by ''averag[ing] the mid-point of the monthly bid-week prices * * * for three spot market prices reported for California.'' [18]

This clearly falls within the scope of FPA section 311 which authorizes ''investigations regarding the generation, transmission, distribution, and sale of electrical energy, however produced, throughout the United States * * * whether or not subject to the jurisdiction of the Commission. * * * ''That section also expressly authorizes the Commission to secure information concerning ''the cost of generation.'' Moreover, to understand the operation of natural gas market in California, the Commission must have information from all participants in that market. Thus, the Commission will not limit the reporting requirement to only the larger participants in that market, as TEMI has requested.

2. Other Issues Raised in the Rehearing Requests Are Without Merit

Enron takes a different position than the others seeking rehearing. It argues that:

> the situation does not present an adequate legal basis for the imposition of the burden of formal reporting requirements on all parties; rather, the burden should only be imposed on parties and at such times as is reasonably necessary to investigate specific matters. The formalized and generally applicable reporting requirements adopted go far beyond that scope.[19]

However, the experience in the past year supports the need for the information requested. The Commission is seeking information covering a limited time period. It is needed to address a specific problem in the California natural gas market to enable the Commission to determine whether it can take any meaningful action with respect to that problem, and, if not, whether Congress should consider changes in the regulatory framework.

Enron contends that based upon its experience in responding to similar data requests, the Commission underestimated the burden of the reporting requirement set forth in the July 25 order, and seems to imply that this is a basis for not complying. The Commission can only make an average projection of that burden. The fact that Enron believes the burden will exceed that estimate provides no grounds for rescinding the reporting requirement.

In addition, Enron argues that the reporting requirements were based on a business method that does not reflect how Enron manages its business. Specifically Enron asserts that the reporting requirement seeks daily pricing and volume information for gas transportation and purchase contracts ''associated with the sales contracts'' for gas physically delivered to California, and Enron does not have daily information about its sales, nor does it have purchase contracts that relate to specific sales contracts because its business is managed on an aggregated basis. It argues that to associate purchases to sales would be an ''arbitrary after the-fact-determination.'' Instead, Enron asks that the Commission should ''clarify that sellers of natural gas need to file information that they have that is responsive to the questions, but that they do not have to create data to respond to these questions when that data does not otherwise exist.'' [20]

Question 2 to natural gas sellers requires them to provide, on a daily basis, certain information for each contract under which they sold gas that was physically delivered at points on the California border or in California. Question 3 requires sellers to identify separately the transportation and gas commodity components for each of the sales contracts identified in Question 2. Question 4 requires sellers to provide certain information on a daily basis ''for each of your gas purchase contracts associated with the sales contracts you identified in response to Question 2.''

Enron reads Questions 3 and 4 as requiring gas sellers to match specific contracts under which it purchases transportation service and natural gas with particular gas sales contracts on a daily basis. Enron suggests that it cannot do this, primarily because its business is managed on an aggregated basis. It does not '''back-to-back' its sales with specific packages of gas or of transportation it purchases.'' [21] Therefore, it asserts, any association of purchase and transportation contracts with particular sales contracts would be purely arbitrary. Enron also states any association of transportation and sales contracts with its sales contracts on a daily basis is complicated by the fact that it does not have daily information about most of its sales, since they are done on a monthly billing cycle basis.

Questions 3 and 4 as adopted by the Commission do not require sellers to make arbitrary associations of the sellers' transportation and gas purchases with particular sales contracts. Rather, those questions can, and should, be answered in a manner consistent with the way the particular gas seller does business. For example, if a seller, such as Enron, operates its business on an aggregated basis without attributing purchases under any particular purchase contract to sales under any particular sales contract, then all the contracts under which it purchases gas each day during a particular month supply the gas sold under all its sales contracts during that month, whether in California or elsewhere. In effect, the purchases under each of the seller's gas purchase contracts must be considered to have been pro-rated among each of the seller's sales contracts, including both the California sales contracts identified in response to Question 2 and any other sales contracts that the seller might have. In such circumstances, the seller should report the information requested in Question 4 as to all its gas purchase contracts, since a pro-rated portion of the gas purchased under each gas purchase contract supplies the gas sold under each California sales

[16] 563 F.2d at 198.

[17] 95 FERC at 62,560–61.

[18] San Diego, 95 FERC at 62,560–61.

[19] Rehearing request at 2.

[20] Rehearing request at 5.

[21] Rehearing request at 4.

contract.[22] In response to Question 4(d) concerning the daily volumes purchased, the seller would report a pro rata share of the volumes purchased under that contract equal to the pro rata share that the seller's California sales represent of its overall sales.[23]

To the extent that Enron is contending that it should only be required to report aggregated information concerning its gas purchase contracts, the Commission finds that limiting the reported information in such a manner would be unacceptable. First, the individual contract-by-contract information is necessary to verify the aggregated data. Second, the information about the terms of each seller's gas purchase contracts is necessary for the Commission to understand how the California gas market works and thus what actions, if any, the Commission should take within its jurisdiction, or recommend that Congress take. For example, while spot prices of natural gas at the California border and, to a somewhat lesser extent, in producing basins have been very volatile, the Commission does not know to what extent sellers must pay spot prices for the gas they sell in California. The information required in response to Question 4 about the terms of the seller's gas purchase contracts and whether the price in those purchase contracts is fixed or indexed, will enable the Commission to determine this.

Question 3 to gas sellers requires them to identify separately the transportation component and the gas commodity component of the price in their sales contracts identified in response to Question 2. The July 25 order stated that if the sales contract only includes an overall price, then the seller shall report the transportation cost it incurred in moving the gas from the point where it purchased the gas to the point where it sold the gas, and how it determined that amount. If a seller operates its business on an aggregated basis, it still must maintain particular transportation contracts for the purpose of delivering gas to California. Therefore, to the extent its California sales contracts do not separately identify the transportation and gas commodity components of the sales price, then it should pro-rate the costs incurred under its transportation contracts used for delivering gas to California among the gas sales contracts identified in response to Question 2.

Finally, Enron asserts that the filing deadline should be extended from 30 to 45 days after the end of each month. It argues that the current filing deadline creates additional problems because it ''tends to be the busiest time for the personnel in gas accounting who will have to prepare the reports.'' [24]

We note that Enron was the only party seeking such an extension. Moreover, we fail to understand how the filing of the report thirty days after the month in which the activity occurred imposes too difficult a burden on gas accountants. The report due on October 1, 2001, is for the activity that occurred during August. The information for that activity would be processed, and compiled in September, and the filing would be made by October 1. Accordingly, we deny that request.

The Commission recognized, as e prime argues, that some of the information to be furnished might include highly confidential, sensitive marketing information. However, the order gave protection to such information, so that argument as a grounds for not furnishing the information is baseless.

3. Requests for Clarification

CPUC requests that all the information furnished to the Commission should be given to CPUC as well.[25] Although the CPUC has regulatory authority in California, we do not believe that that alone is a sufficient basis for granting its request. Certain of the information will not be entitled to confidential treatment, and will be available to all, including the CPUC. However, the July 25 order found that individual sales or purchase contracts, which include sensitive price data will be exempt from public disclosure. We will not make exceptions to this ruling because, by assurance of confidential treatment, parties will have no basis for not complying.

Moreover, the purpose in seeking the information is to enable the Commission to understand the operation of the market for gas sales into California, not to investigate the conduct of particular participants in that market. First, the information would help the Commission to determine what part of the problem, if any, is within the scope of its jurisdiction, and enable it to determine the extent to which the cost of interstate transportation, which is subject to the Commission's jurisdiction, affects the price of gas at the California border. In addition, the information being sought would be relevant in determining whether Congress should consider changes in the regulatory framework. None of these purposes would be aided by giving to the CPUC the confidential data concerning individual sales or purchase contracts.

Sempra requests that the Commission clarify that the ''sellers and transporters of natural gas serving the California market'' required to provide data include LDCs and utilities upstream of California that are interconnected with or served by interstate pipelines ultimately serving the California markets. Sempra argues that it is impossible for the Commission to gain a comprehensive understanding of the pricing disparity between California and the rest of the nation unless, at a minimum, it obtains data on capacity utilization by entities upstream of California.

The Commission denies the request. Not only is the request so broad and ambiguous that it is difficult to understand what it covers, but the Commission is satisfied that the questions in their present form will furnish the Commission with the necessary information.

The Commission orders:

(A) The requests for rehearing are denied.

(B) The requests for clarification are denied.

By the Commission.

David P. Boergers,

Secretary.

[FR Doc. 01–26240 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

[22] Question 4 requires the following information concerning gas purchase contracts:

a. The purchase contract's identification number;

b. The pipeline upstream of the point of delivery; and the pipeline downstream of the point of delivery;

c. The term of the purchase contract (beginning and ending dates);

d. The daily volumes (on a MMBtu basis) purchased;

e. The price paid;

f. Whether the price is fixed or indexed (identify the index),

g. Identify the entity from whom the responder purchased the gas; and,

h. Identify the point where responder took title to the gas.

[23] If a seller does make gas purchases to supply particular gas sales contracts, then the only purchase contracts it need report in response to Question 4 are those purchase contracts which supply the gas sales contracts it identified in response to Question 2. The Commission has requested daily information, because market conditions change on a daily basis, and there can be significant changes in at least the spot price of gas from day to day.

[24] Rehearing request at 5.

[25] Sempra Energy Trading Corp. (SET) moved to respond to the CPUC's request, and that good cause exists to accept the answer since it had no opportunity to respond to CPUC's initial request. SET objects to the CPUC's request, and points out that the CPUC is a litigant in many ongoing Commission proceedings, so it should not have access to the confidential data furnished.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record Communications; Public Notice

October 12, 2001.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. Copies of this filing are on file with the Commission and are available for public inspection. The documents may 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).

EXEMPT

1. CP01–176–000	10–3–01	Laura Turner.
2. Project No. 2175, et al	10–9–01	Hon. Ron W. Goode.
3. CP01–45–000	10–9–01	David Swearington.
4. Project Nos. 10865–000 and 11495–000	10–10–01	Carol Gleichman.
5. Project No. 2016–000	10–10–01	Allyson Brooks (signature page).

David P. Boergers,

Secretary.

[FR Doc. 01–26245 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL02–1–000]

Before Commissioners: Pat Wood, III, Chairman; William L. Massey, Linda Breathitt, and Nora Mead Brownell; Treatment of Previously Public Documents; Statement of Policy on Treatment of Previously Public Documents

Issued October 11, 2001.

The September 11, 2001 terrorist attacks on America have prompted the Commission to reconsider its treatment of certain documents that have previously been made available to the public through the Commission's Internet site, the Records and Information Management System (RIMS), and the Public Reference Room. For the time being, the Commission will no longer make available to the public through these means documents, such as oversized maps, that detail the specifications of energy facilities licensed or certificated under Part I of the Federal Power Act, 16 U.S.C. 791a, *et seq.*, and Section 7(c) of the Natural Gas Act, 15 U.S.C. 717f(c), respectively. Rather, anyone requesting such documents must follow the procedures set forth in 18 CFR 388.108 (Requests for Commission records not available through the Public Reference Room (FOIA Requests)).

The Commission does not know how long this process will stay in place, and directs staff to report on its impact on agency business in 90 days. In the meantime, staff is also directed to make every effort to respond timely to legitimate requests for documents that have been made available to the public previously but that are no longer available through the means noted above.

By the Commission.

David P. Boergers,

Secretary.

[FR Doc. 01–26200 Filed 10–17–01; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7086–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, Compliance Assurance Monitoring Program Information Collection Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Compliance Assurance Monitoring Program, 40 CFR part 64, OMB Control Number 2060–0376, expiration date September 30, 2001. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 19, 2001.

ADDRESSES: Send comments, referencing EPA ICR No. 1663.03 and OMB Control No. 2060–0376, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR contact Susan Auby at EPA by phone at (202) 260–4901, by E-Mail at auby.susan@epamail.epa.gov or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1663.03. For technical questions about the ICR contact Barrett Parker at (919)–541–5635.

SUPPLEMENTARY INFORMATION:

Title

Compliance Assurance Monitoring Program, OMB Control Number 2060–0376, EPA ICR Number 1663.03, expiration date September 30, 2001. This is a request for extension of a currently approved collection.

Abstract

The Clean Air Act contains several provisions directing us to require owners or operators to conduct monitoring and to certify that they are complying with applicable requirements. These provisions are set forth in both title V (operating permits provisions) and section 114 of title I (enforcement provisions) of the Act. Title V directs us to implement monitoring certification requirements through the operating permits program. Section 504(b) of the Act allows us to prescribe by rule, methods and procedures for determining compliance and states that continuous emission monitoring systems need not be required if other methods or procedures provide sufficiently reliable and timely information for determining compliance. Under section 504(c), each operating permit must ''set forth inspection, entry, monitoring, compliance, certification, and reporting requirements to assure compliance with the permit terms and conditions.'' Section 114(a)(3) requires us to promulgate rules on enhanced monitoring and compliance certifications. Section 114(a)(1) of the Act provides additional authority concerning monitoring, reporting, and recordkeeping requirements. That section provides the Administrator with the authority to require any owner or operator of a source to install and operate monitoring systems and to record the resulting monitoring data. Regulations to implement these authorities were promulgated at 62 FR 54900 (October 22, 1997). In accordance with section 503(e) of the Act, monitoring information to be submitted by source owners and operators as part of their monitoring reports and compliance certifications shall be available to the public, except as entitled to protection from disclosure as allowed in section 114(c) of the Act.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on April 26, 2001, (66 FR 20987); no comments were received.

Burden Statement

The annual public reporting and recordkeeping burden for this collection of information is estimated to average 43 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owner/operators of Title V sources, CAM Rule.

Estimated Number of Respondents: 2,020.

Frequency of Response: On occasion, Semi-annually.

Estimated Total Annual Hour Burden: 172,698.

Estimated Total Annualized Capital, O&M Cost Burden: $9,699,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the addresses listed above. Please refer to EPA ICR No. 1663.03 and OMB Control No. 2060–0376 in any correspondence.

Dated: September 26, 2001.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 01–26266 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7085–2]

Notice of Availability of the Draft Guidance on Demonstrating Compliance With the Land Disposal Restrictions Alternative Soil Treatment Standards, and the Draft Interpretative Memorandum on the Stabilization of Organic-Bearing Hazardous Wastes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice, request for comments.

SUMMARY: The intent of this notice is to announce the availability for public comment of two draft documents. The first document is titled ''Guidance on Demonstrating Compliance With the Land Disposal Restrictions Alternative Soil Treatment Standards.'' The second document is titled ''Interpretative Memorandum on the Stabilization of Organic-Bearing Hazardous Wastes.'' By making these documents available for review and comment, we hope to encourage greater involvement by states, industry, and the public.

DATES: To make sure we consider your comments on these documents, we must receive them by December 3, 2001.

ADDRESSES: If you wish to comment on the draft ''Guidance on Demonstrating Compliance With the Land Disposal Restrictions Alternative Soil Treatment Standards,'' you must submit an original and two copies of the comments referencing Docket No. F–2001–DRG1–FFFFF. If you wish to comment on the draft ''Interpretative Memorandum on the Stabilization of Organic-Bearing Hazardous Wastes,'' you must submit an original and two copies of the comments referencing Docket No. F–2001–DRG2–FFFFF. If using regular U.S. Postal Service mail to: RCRA Docket Information Center (RIC), Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA HQ), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. If using special delivery, such as overnight express service, send to: RCRA Information Center (RIC), located at Crystal Gateway

One, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia 22202. Hand deliveries of comments should be made to the Arlington, VA address above. You may also submit comments electronically by sending electronic mail through the Internet to: *rcra-docket@epamail.epa.gov.* You should identify comments in electronic format with the appropriate docket number. You must submit all electronic comments as an ASCII (text) file, avoiding the use of special characters and any type of encryption. If you do not submit comments electronically, EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (text) format or a word processing format that can be converted to ASCII (text). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow us to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. We emphasize that submission of diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter.

You should not submit electronically any confidential business information (CBI). You must submit an original and two copies of the CBI under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

The Agency urges commenters submitting data in support of their views to include data evidence that appropriate quality assurance/quality control [1] (QA/QC) procedures were followed in generating the data. Data that the Agency cannot verify through QA/QC documentation may be given less consideration or disregarded in developing the final documents.

You may view public comments and supporting materials in the RCRA Information Center (RIC), located at Crystal Gateway One, 1235 Jefferson Davis Highway, First Floor, Arlington, Virginia. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, except for Federal holidays. To review docket materials, the public must make an appointment by calling 703–603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15 per page. Each docket index and notice is available electronically. See the **SUPPLEMENTARY INFORMATION** section for information on accessing these materials.

FOR FURTHER INFORMATION CONTACT: For general information or to obtain copies of the draft documents, contact the RCRA Hotline at (800) 424–9346 (toll-free) or TDD (800) 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For information on specific aspects of the draft ''Guidance on Demonstrating Compliance With the Land Disposal Restrictions Alternative Soil Treatment Standards,'' contact Rhonda Minnick, Office of Solid Waste (5302W), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Rhonda Minnick may be reached at 703–308–8771, *minnick.rhonda@epa.gov.* For specific information on specific aspects of the draft ''Interpretative Memorandum on the Stabilization of Organic-Bearing Hazardous Wastes,'' contact Rita Chow, Office of Solid Waste (5302W), U.S. EPA, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Rita Chow may be reached at 703–308–6158, *chow.rita@epamail.epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Availability of Draft Documents on Internet

Please follow these instructions to access the draft documents from the World Wide Web (WWW): (1) For the draft ''Guidance on Demonstrating Compliance With the Land Disposal Restrictions Alternative Soil Treatment Standards,'' type *http://www.epa.gov/* and (2) For the draft ''Interpretative Memorandum on the Stabilization of Organic-Bearing Hazardous Wastes,'' type *http://www.epa.gov/.*

II. Guidance on Demonstrating Compliance With the Land Disposal Restrictions Alternative Soil Treatment Standards

A. What Are the Land Disposal Restrictions (LDR) Alternative Soil Treatment Standards?

The Agency promulgated alternative LDR treatment standards for hazardous soil in the Phase IV rule, published May 26, 1998 (63 FR 28556 and 40 CFR 268.49). The LDR treatment standards apply to soils contaminated with hazardous wastes which are excavated and will be land disposed. Under the LDR regulations, you may elect to meet either the alternative soil treatment standards at 40 CFR 268.49, or the more generic treatment standards at 40 CFR 268.40. The alternative treatment standards require that such hazardous soil be treated to reduce concentrations of hazardous constituents by 90 percent, or to meet the hazardous constituent concentrations that are 10 times the Universal Treatment Standard (UTS) found at 40 CFR 268.48, whichever is greater.

B. What Is Included in the Draft Guidance Document?

The interim guidance discusses the alternative treatment standards and why they were developed. It then presents step-by-step guidance on statistical and non-statistical approaches that can help you measure compliance with the alternative soil treatment standards.

C. Can the Draft Guidance Be Used Now?

We are requesting comment on the guidance before it is finalized. However, since the document provides guidance regarding existing rules, and does not impose any regulatory requirements, it may be referred to for assistance in how to apply those underlying rules.

III. Interpretative Memorandum on the Stabilization of Organic-Bearing Hazardous Wastes

A. What Is the Purpose of This Draft Interpretative Memorandum?

The use of stabilization for organic-bearing hazardous wastes to comply with Land Disposal Restrictions (LDR) has been of interest to the regulated community. This draft interpretative memorandum discusses circumstances where stabilization of hazardous organic constituents may be a permissible form of treatment, where it may be classified as impermissible dilution under the LDR program, and describes factors to consider when making these evaluations.

B. Request for Comment

The Agency is requesting comment on this draft interpretative memorandum prior to being finalized. Specifically, the Agency is seeking comment on the need for this interpretative memorandum, additional situations and factors where stabilization may be inappropriate, as well as appropriate for organic-bearing hazardous wastes, and treatment performance data on cases where stabilization was used to treat organic-bearing hazardous wastes.

The guidance document is not a binding regulation, and any decisions regarding legality of organic stabilization activities must still be

[1] For guidance as to how to do so, see Final Best Demonstrated Available Technology (BDAT) Background Document for Quality Assurance/Quality Control Procedures and Methodology; USEPA, October 23, 1991.

justified on a case-by-case basis, not merely by reference to the guidance document. Within these constraints, persons are free to consult the interpretive memorandum as an aid in addressing issues regarding legality under existing rules of organic stabilization activities.

Dated: October 4, 2001.

Elizabeth A. Cotsworth,

Director, Office of Solid Waste.

[FR Doc. 01–26087 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7086–5]

Clean Water Act Class II: Proposed Consent Agreement and Opportunity To Comment Regarding the South Eastt Regional Reclamation Authority (''S.E.R.R.A.'') Proceeding Under Clean Water Act Section 309(g)(i), (2)(B) and 40 CFR 22.13(b)

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Notice.

SUMMARY: EPA is providing notice of a proposed Complaint/Consent Agreement for alleged violations of the Clean Water Act (''Act''). EPA is also providing notice of opportunity to comment on the proposed Complaint/Consent Agreement.

EPA is authorized under section 309(g) of the Act, 33 U.S.C. 1319(g), to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under section 309(g), any person who violates section 405 of the Clean Water Act, 33 U.S.C. 1345, may be assessed a penalty in a ''Class II'' administrative penalty proceeding.

Class II proceedings under section 309(g) are conducted in accordance with the ''Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits,'' 40 CFR part 22 (''Consolidated Rules''), published at 64 FR 40138, 40177 (July 23, 1999). The procedures through which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order under 40 CFR 22.13(b) and 22.45(b) is forty (40) days after publication of this notice.

On September 28, 2001 EPA filed with Danielle Carr, Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1391, the following Complaint/Consent Agreement:

In the Matter of South East Regional Reclamation Authority (S.E.R.R.A.), Docket No. CWA–9–2001–0004.

For the alleged violations set forth in the Complaint/Consent Agreement, Respondent S.E.R.R.A. agrees to pay to the United States a civil penalty of $72,000 (seventy-two thousand dollars) for violations of section 405 of the Act, 33 U.S.C. 1345, for the preparation and application of improperly treated sewage sludge.

Procedures by which the public may comment on a proposed Class II penalty or participate in a Class II penalty proceeding are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II penalty is forty (40) days after issuance of public notice in a proceeding pursuant to section 309(g)(1) of the Act and 40 CFR 22.13(b) and 22.45(b).

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaint/Consent Agreement or other documents filed in this proceeding comment upon the proposal assessment, or otherwise participate in the proceeding should contact Danielle Carr, Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1391. The administrative record for this proceeding is located in the EPA Regional Office identified above, and the file will be open for public inspection during normal business hours. All information submitted by S.E.R.R.A. is available as part of the administrative record, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final order assessing a penalty in these proceedings prior to forty (40) days after the date of publication of this notice.

Dated: September 28, 2001.

Mike Schultz,

Director, Water Division.

[FR Doc. 01–26267 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 01–2393]

Renewal of North American Numbering Council Charter

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On October 15, 2001, the Commission released a public notice announcing GSA approves renewal of North American Numbering Council charter through October 4, 2003. The intended effect of this action is to make the public aware of the renewal of the North American Numbering Council charter through October 4, 2003.

FOR FURTHER INFORMATION CONTACT: Deborah Blue, Special Assistant to the Designated Federal Officer (DFO) at (202) 418–2320 or *dblue@fcc.gov.* The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, SW, Room 6–A207, Washington, DC 20554. The fax number is: (202) 418–2345. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: Released: October 15, 2001.

The GSA has renewed the charter of the North American Numbering Council (Council) through October 4, 2003. The Council will continue to advise the Federal Communications Commission (Commission) on rapidly evolving and competitively significant numbering issues facing the telecommunications industry.

In October 1995, the Commission established the North American Numbering Council, a Federal advisory committee created pursuant to the Federal Advisory Committee Act, 5 U.S.C., App. 2 (1988), to advise the Commission on issues related to North American Numbering Plan (NANP) administration in the United States, including local number portability administration issues. The original charter of the Council was effective on October 5, 1995, establishing an initial two-year term. The first amended charter was effective on October 5, 1997, renewing the term of the Council for an additional two years. The second amended charter was effective on October 5, 1999, renewing the term of the Council for an additional two years.

Since the last charter renewal, the Council has provided the Commission with critically important recommendations regarding numbering issues. During the term of the prior amended charter, the Council made

recommendations on issues which included: (1) Thousands-block number pooling procedures and administrator; (2) cost for the COCUS replacement tool used to collect number utilization and forecast data; (3) Industry Numbering Committee (INC) NANP Expansion Assumptions; (4) NANPA electronic file transfer capability for receiving utilization and forecast data; (5) secondary definitions for numbering categories; (6) number administration auditor technical requirements; (7) thousands-block number pooling administrator technical requirements; (8) fees for reserved numbers; and (9) wireless number portability technical, operational and implementation requirements.

The Council is currently considering and formulating recommendations on other important numbering-related issues that will require work beyond the term of the present charter. The term of the Council's third amended charter begins October 5, 2001 and runs through October 4, 2003.

The value of this federal advisory committee to the telecommunications industry and to the American public cannot be overstated. Numbers are the means by which consumers gain access to, and reap the benefits of, the public switched telephone network. The Council's recommendations to the Commission will facilitate fair and efficient numbering administration in the United States, and will ensure that numbering resources are available to all telecommunications service providers on a fair and equitable basis, consistent with the requirements of the Telecommunications Act of 1996.

Federal Communications Commission.

Diane Griffin Harmon,

Acting Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 01–26372 Filed 10–17–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 96–197]

RIN 3060–AG53

Newspaper/Radio Cross-Ownership Waiver Policy

AGENCY: Federal Communications Commission.

ACTION: Notice; termination of proceeding.

SUMMARY: The Commission terminates this proceeding because it has initiated a new rulemaking proceeding that considers broader issues that subsume those raised in the proceeding being terminated.

DATES: The Commission terminates MM Docket No. 96–197 effective October 18, 2001.

FOR FURTHER INFORMATION CONTACT: Eric J. Bash, (202) 418–2130 or *ebash@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Commission began this proceeding in 1996 when it released a Notice of Inquiry (*NOI*) 61 FR 53694 (October 15, 1996) in MM Docket No. 96–197. The *NOI* asked whether the Commission should change its policies regarding waiver of the newspaper/broadcast cross-ownership rule for newspaper/radio combinations. The Commission now has released a Notice of Proposed Rulemaking (*NPRM*), 66 FR 50991 (October 5, 2001), that asks whether the Commission should eliminate or modify the newspaper/broadcast cross-ownership rule. As a result, the *NPRM* seeks comment not just on whether the Commission should change its waiver policies for newspaper/radio combinations, but also on whether the Commission should change its rule and/or waiver policies for newspaper/radio and newspaper/television combinations. The issues raised in the *NPRM* therefore subsume those raised in the *NOI.* As a result, the Commission terminates the *NOI* proceeding. In doing so, the Commission recognizes that it has, in a handful of cases, waived the newspaper/broadcast cross-ownership rule, subject to the outcome of the *NOI.* All such waivers will now be subject to the outcome of the *NPRM.*

Ordering Clauses: The Commission terminates MM Docket No. 96–197.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–26175 Filed 10–17–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, October 23, 2001 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PREVIOUSLY ANNOUNCED DATE & TIME: Thursday, October 25, 2001, Meeting Open to the Public.

This meeting has been cancelled.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 01–26464 Filed 10–16–01; 2:59 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 1, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Abdula Family Limited Partnership, Fred Abdula Revocable Trust, Anna Marie Abdula Revocable Trust, Fred Abdula, and Anna Abdula, all of Waukegan, Illinois; to retain voting shares of Northern States Financial Corporation, Waukegan, Illinois, and thereby indirectly retain voting shares of Bank of Waukegan, Waukegan, Illinois.

Board of Governors of the Federal Reserve System, October 12, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–26195 Filed 10–17–01; 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 13, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Home Federal Bancorp, Seymour, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Home Federal Savings Bank, Seymour, Indiana.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. First Banks, Inc., St. Louis, Missouri; to acquire 100 percent of the voting shares of Plains Financial Corporation, Des Plaines, Illinois, and thereby indirectly acquire voting shares of PlainsBank of Illinois, National Association, Des Plaines, Illinois.

Board of Governors of the Federal Reserve System, October 12, 2001.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 01–26196 Filed 10–17–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of August 21, 2001

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on August 21, 2001. Subsequently, that domestic policy directive was amended at a telephone conference meeting held on September 17, 2001.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long-run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with reducing the federal funds rate to an average of around 3-1/2 percent.

On September 17, 2001, the Committee reduced the intended federal funds rate by a further 1/2 percentage point to an average of around 3 percent.

By order of the Federal Open Market Committee, October 12, 2001.

Donald L. Kohn,

Secretary, Federal Open Market Committee.

[FR Doc. 01–26304 Field 10–17–01; 8:45 am]

BILLING CODE 6210–01–S

[1] Copies of the Minutes of the Federal Open Market Committee meeting of August 21, 2001, which include the domestic policy directive issued at that meeting and the subsequent amendment, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0121]

Submission for OMB Review; Comment Request Entitled Contractor's Report of Sales

AGENCY: General Services Administration (GSA).

ACTION: Notice of request for public comments regarding extensino of an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration (GSA) has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Contractor's Report of Sales. A request for public comments was published at 66 FR 37233, July 17, 2001. No comments were received.

DATES: Comments must be submitted on or before November 19, 2001.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Ed Springer, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration, Regulatory Secretariat, 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Beverly Cromer, Acquisition Policy Division, GSA (202) 501–1224.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0121, concerning Contractor's Report of Sale. The information is used primarily by contracting officers to estimate requirements for the subsequent year, evaluate the effectiveness of a schedule, negotiate better prices based on volume and for special reports.

B. Annual Report Burden

Number of Respondents: 9,214.

Total Annual Responses: 184,280.

Percentage of these responses collected electronically: 100.

Average hours per response: .0083 hrs.

Total Burden Hours: 1530.

Obtaining Copies of Proposals

Requester may obtain a copy of the proposal from the General Services Administration, Regulatory Secretariat (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–-121, Contractor's Report of Sales, in all correspondence.

Dated: October 11, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–26291 Filed 10–17–01; 8:45 am]

BILLING CODE 6820–34–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0080]

Submission for OMB Review; Comment Request Entitled Contract Financing

AGENCY: General Services Administration (GSA).

ACTION: Notice of a request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration (GSA) has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Contract Financing. A request for public comments was published at 66 FR 36789, July 13, 2001. No comments were received.

DATES: Comments may be submitted on or before November 19, 2001.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration (MVP), 1800 F street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Jeremy Olson, Acquisition Policy Division, GSA (202) 501–3221.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0080, concerning Contract Financing. This clause at 552.232–79 in the GSA Acquisition Manual requires building services contractors to submit a release of claims before final payment is made. GSA Form 1142, Release of Claims, is the vehicle for this release and standardizes information, that eliminates the necessity for contractors to prepare their own release of claims.

B. Annual Reporting Burden.

Respondents: 2,000.
Annual Responses: 2,000.
Average Hours Per Response: .1.
Burden Hours: 200.

Obtaining Copies of Proposals

A copy of this proposal may be obtained from the General Services Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0080, Contract Financing, in all correspondence.

Dated: October 11, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–26292 Filed 10–17–01; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0007]

Submission for OMB Review; Comment Request Entitled Contractor's Qualifications and Financial Information

AGENCY: Office of the Chief Financial Officer (B), GSA.

ACTION: Notice of request for public comments regarding extension of a currently approved OMB clearance (3090–0007).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Office of Acquisition Policy has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning Contractor's Qualifications and Financial Information. A request for public comments was published at 66 FR 41029, August 6, 2001. No comments were received.

DATES: Comments may be submitted on or before November 19, 2001.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: Edward Springer, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration (MVP), 1800 F Street NW., Room 4035 Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Michael J. Kosar, Office of the Chief Financial Officer, GSA (202) 501–2029.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Service Administration is requesting the Office of Management and Budget (OMB) to extend information collection, 3090–0007, concerning Contractor's Qualifications and Financial Information. This form is used to determine the financial capability of prospective contractors as to whether they meet the financial responsibility standards in accordance with the Federal Acquisition Regulation (FAR) and the General Services Administration Acquisition Regulation (GSAR).

B. Annual Reporting Burden

Respondents: 2,306.
Annual responses: 2,767.
Average hours per response: 2.5.
Burden hours: 6,917.

Copy of Proposal

A copy of this proposal may be obtained from the General Service Administration, Acquisition Policy Division (MVP), Room 4035, 1800 F Street NW, Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0007, Contractor's Qualifications and Financial Information, in all correspondence.

Dated: October 11, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–26293 Filed 10–17–01; 8:45 am]

BILLING CODE 6820–61–M

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0027]

Submission for OMB Review; Comment Request Entitled GSAR, Part 542, Contract Administration, and Part 546, Quality Assurance

AGENCY: Acquisition Policy, GSA.

ACTION: Notice of a request for an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration (GSA) has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning GSAR, Part 542, Contract Administration, and Part 546, Quality Assurance. A request for public comments was published at 66 FR 37232, July 17, 2001. No comments were received.

DATES: Comments may be submitted on or before November 19, 2001.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden,

should be submitted to: Edward Springer, GSA Desk Officer, OMB, Room 10236, NEOB, Washington, DC 20503, and a copy to Stephanie Morris, General Services Administration (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Linda Klein, Acquisition Policy Division, GSA (202) 501–3775.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration is requesting the Office of Management and Budget (OMB) to review and approve information collection, 3090–0027, concerning GSAR, Part 542, Contract Administration, and Part 546, Quality Assurance. Under certain contracts, because of reliance on contractor inspection in lieu of Government inspection, GSA's Federal Supply Service (FSS) requires documention from its contractors to effectively monitor contractor performance and ensure that it will be able to take timely action should that performance be deficient.

B. Annual Reporting Burden

Respondents: 4604.
Annual Responses: 116,869.
Burden Hours: 7830.

Obtaining Copies of Proposals:

A copy of this proposal may be obtained from the General Services Administration, Acquisition Policy Division (MVP), 1800 F Street, NW., Room 4035, Washington, DC 20405, or by telephoning (202) 501–4744, or by faxing your request to (202) 501–4067. Please cite OMB Control No. 3090–0027, GSAR, Part 542, Contract Administration, and Part 546, Quality Assurance, in all correspondence.

Dated: October 11, 2001.

Al Matera,

Director, Acquisition Policy Division.

[FR Doc. 01–26294 Filed 10–17–01; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–R–249]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

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, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Hospice Cost Report and Supporting Regulations in 42 CFR 413.20, and 413.24; *Form No.:* CMS–R–0249 (OMB# 0938–0758); *Use:* Medicare certified hospice programs must file an annual cost report with CMS. This report contains information on overhead costs, assets, depreciation, and compensation which will be used for hospice rate evaluations.; *Frequency:* Annually; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Government; *Number of Respondents:* 1,720; *Total Annual Responses:* 1,720; *Total Annual Hours:* 302,720.

To obtain copies of the supporting statement and any related forms 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, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address:

CMS, Office of Information Services, Security and Standards Group, Division of CMS Enterprise Standards Attention: Dawn Willinghan, CMS–R–249, Room N2–14–26 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: October 10, 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. 01–26286 Filed 10–17–01; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Anti-Infective Drugs 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: Anti-Infective Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on November 7, 2001, from 8 a.m. to 5 p.m.

Location: Holiday Inn, Kennedy Ballroom, 8777 Georgia Ave., Silver Spring, MD.

Contact: Thomas H. Perez, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–6758, e-mail: PerezT@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12530. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will consider the safety and efficacy of a new drug application (NDA) 50–710, Pfizer, Inc., for 1-day and 3-day dosing regimens of azithromycin suspension for the treatment of otitis media.

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 October 30, 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 October 30, 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 11, 2001.

Linda A. Suydam,

Senior Associate Commissioner.

[FR Doc. 01–26276 Filed 10–17–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; The National Cancer Institute Information Service Comprehensive Evaluation

SUMMARY: 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 National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: The National Cancer Institute Cancer Information Service Comprehensive Evaluation. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* The NCI Office of Communications has dedicated resources to the Cancer Information Service Branch to conduct an independent, scientifically designed and implemented evaluation of the Cancer Information Service (CIS), an NCI program that serves as a national resource for information and education about cancer. The study will assess the extend to which the program has been implemented and the impact and outcomes of the program in affecting the public and CIS partners. Partners are national, state, and regional organizations that collaborate with CIS.

For this study, four separate data collection efforts will be conducted: (1) The National User Survey, a survey of a sample of CIS Information Service users; (2) The National Partner Survey, a survey of a sample of CIS networking, education program, and program development partners; (3) The Case Study Partner Survey in-depth interviews with selected partners; and (4) The Case Study Audience Survey, a survey of audiences served by selected partners. The National User Survey, The National Partner Survey, and The Case Study Partner Survey will be collected using telephone interviews. The Case Study Audience Survey will be collected using self-administered paper and pencil surveys of target audiences. The findings will form the basis of annual reports on evaluation findings. These reports will provide assistance in improving the programs, products, and services of CIS. *Frequency of Response:* One time only with the exception of the Case Study Incidence Survey which includes a pre and post survey. *Affected Public:* Organizations, individuals and households. *Type of Respondents:* Adults using CIS services and CIS partners. The annual reporting burden is as follows:

TABLE 1.—RESPONDENT AND BURDEN ESTIMATE

Type of respondents	Estimated number of respondents	Estimated number of responses of per respondent	Average burden hours per response	Estimated total burden hours requested	Estimated annualized burden (over 3 years)
The National User Survey					
Screener respondent	625	1	0.08	50	17
CIS users	1875	1	0.42	788	263
The National Partner Survey					
CIS partners	1000	1	0.75	750	250
The Case Study Partner Survey					
CIS partners	24	1	0.75	18	6
The Case Study Audience Survey					
Event audience	1200	2	0.25	600	200
Total	4724		0.45	2206	736

The annualized cost to respondents is estimated at: $7,592. There are no Capital Cost to report. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans, contact Madeline La Porta, Project Officer for Evaluation, Cancer Information Service

Branch, National Cancer Institute, 6116 Executive Boulevard, MSC 8322, Bethesda, Maryland 20892–8322, telephone (301) 594–8025, fax (301) 402–0555.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before December 17, 2001.

Dated: October 9, 2001.

Reesa L. Nichols,

NCI Project Clearance Liaison.

[FR Doc. 01–26218 Filed 10–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Alternative Medicine; Federal Assistance to the Thomas Jefferson University Hospital Center for Integrative Medicine

ACTION: Notice of grant award.

SUMMARY: The National Center for Complementary and Alternative Medicine (NCCAM), National Institutes of Health (NIH), awarded a grant for $500,000 in fiscal year (FY) 2001 to Thomas Jefferson University Hospital in Philadelphia, PA. The grant provides federal assistance to support the Center for Integrative Medicine. The award was made from funds appropriated under Public Law 106–544 (Health and Human Services Appropriation Act for FY 2001).

Availability of Funds: Total costs of $500,000 were made available for obligation to support this project for a single project/budget period beginning in FY 2001, from September 30, 2001 to August 31, 2002.

Other Award Information: This is intended to be a one-time program.

FOR FURTHER INFORMATION CONTACT: Victoria C. Carper, MPA Grants Management Officer, National Center for Complementary and Alternative Medicine, 6707 Democracy Blvd. Bethesda, MD 20892; telephone 301–594–9102.

Dated: September 9, 2001.

Yvonne Maddox,

Acting Deputy Director, National Institutes of Health.

[FR Doc. 01–26219 Filed 10–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Information Resources For Radiation Science.

Date: November 8, 2001.

Time: 1 PM to 2 PM.

Agenda: To review and evaluate grant applications.

Place: 6116 Executive Boulevard, 8th Floor, Room 8146, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Gerald G. Lovinger, PhD, Scientific Review Administrator, Grants Review Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8101, Rockville, MD 20892–7405, 301/496–7987.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 11, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26213 Filed 10–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–B(J3).

Date: November 7, 2001.

Time: 9 AM to 10 AM.

Agenda: To review and evaluate grant applications.

Place: 2 Democracy Plaza, 6707 Democracy Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michele L. Barnard, PhD., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892, 301/594–8898.

Name of Committee: National Institutes of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–5(J3).

Date: November 15, 2001.

Time: 2 PM to 3 PM.

Agenda: To review and evaluate grant applications.

Place: 2 Democracy Plaza, 6707 Democracy Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Francisco O. Calvo, PhD., Chief, Review Branch, DEA, NIDDK, Room 752, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8897.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: October 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26207 Filed 10–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.
Date: November 7, 2001.
Time: 8 AM to 6 PM.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.
Contact Person: Stanley C. Oaks, Jr., PhD., Scientific Review Branch, Division of Extramural Research, Executive Plaza South, Room 400C, 6120 Executive Blvd., Bethesda, MD 20892–7180, 301–496–8683.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: October 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26208 Filed 10–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Institute on Aging Special Emphasis Panel, September 19, 2001, 7 p.m. September 20, 2001, 5 p.m. Hallmark Inn, 110 F Street, Davis, CA, 95616 which was published in the **Federal Register** on September 19, 2001, 66 FR 48266.

The meeting will now be held October 23–24 at the same location and time. The meeting is closed to the public.

Dated: October 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26209 Filed 10–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: October 29, 2001.
Time: 2 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).
Contact Person: Joel Sherrill, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD 20892–9606, 301–443–6102. *jsherril@mail.nih.gov*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: November 5, 2001.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892.
Contact Person: Joel Sherrill, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD 20892–9606, 301–443–6102, *jsherril@mail.nih.gov*

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: November 13, 2001.
Time: 9 a.m. to 10 a.m.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: Harry J. Haigler, PhD, Associate Director for Staff Development, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Rm. 6150, MSC 9608, Bethesda, MD 20892–9608, 301–443–7216, *hhaigler@mail.nih.gov*

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: November 19, 2001.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Joel Sherrill, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD 20892–9606, Bethesda, MD 20892–9606, 301–443–6102, *jsherril@mail.nih.gov*

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: November 19, 2001.
Time: 3 p.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: November 28, 2001.
Time: 3 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).
Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606, 301–443–6470, *dsommers@mail.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research

Service Awards for Research Training, National Institutes of Health, HHS)

Dated: October 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26211 Filed 10–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Prevention and Epidemiology Alcohol Research Special Emphasis Panel.

Date: October 26, 2001.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: River Inn, 924 25th Street, NW., Washington, DC 20037.

Contact Person: Sean O'Rourke, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892–7003, 301–443–2861.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: October 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26212 Filed 10–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: November 19, 2001.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Peter J. Sheridan, PhD., Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@mail.nih.gov*

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: November 20, 2001.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Peter J. Sheridan, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC 9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@mail.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: October 11, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26214 Filed 10–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel Program Project.

Date: November 29, 2001.

Time: 9:00 AM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: Monarch Hotel, 2400 M St., NW., Washington, DC 20037.

Contact Person: Khursheed Asghar, PhD, Chief, Basic Sciences Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, 6001 Executive Boulevard, Room 3158, Msc 9547, Bethesda, MD 20892–9547, (301) 443–2620.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.78, Drug Abuse National Research Programs, National Institutes of Health, HHS)

Dated: October 11, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26215 Filed 10–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, ''Research Dissemination to the Entertainment Communities''.

Date: October 24, 2001.

Time: 9:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1439.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: October 11, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26216 Filed 10–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: October 11–12, 2001.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

Contact Person: Michael H. Chaitin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 10, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–26210 Filed 10–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: ''Analogs of Thalidomide as Potential Angiogenesis Inhibitors''

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the inventions embodied in U.S. Patent Application S/N 60/271,941, entitled ''Analogs of Thalidomide as Potential Angiogenesis Inhibitors,'' filed on February 27, 2001, to Celgene Corporation of Warren, NJ.

The prospective exclusive license territory will be worldwide and the field of use may be therapeutics for the treatment of oncology and inflammatory diseases.

DATES: Only written comments and/or license applications which are received by the National Institutes of Health on or before December 17, 2001 will be considered.

ADDRESSES: Requests for copies of the patent, inquiries, comments and other materials relating to the contemplated exclusive license should be directed to: Matthew B. Kiser, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD. 20852–3804. Telephone: (301) 496–7056, X224; Facsimile (301) 402–0220; E-mail kiserm@od.nih.gov.

SUPPLEMENTARY INFORMATION: U.S. Patent Application S/N 60/271,941 discloses several novel thalidomide analogs that mimic the effects of the ''active'' thalidomide. The compounds show enhanced potency in the inhibition of angiogenesis without the undesirable effects of administration of thalidomide.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within sixty (60) days from the date of this published notice, the NIH receives written evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Applications for a license in the field of use filed in response to this notice will be treated as objections to the grant of the contemplated exclusive license. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: October 4, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–26217 Filed 10–17–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address below) and must be received within 30 days of the date of this notice.

Applicant: Tom Szafranski, Troy, OH, PRT–048293.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species

Applicant: Jorge L. Del Rosal, Coral Gables, FL, PRT–048245.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Dirk Arthur & Jan Giacinto, Las Vegas, NV, PRT–704301.

The applicants request the re-issuance of their permit to export, re-export and re-import tigers (*Panthera tigris*), African leopards (*Panther pardus*), and jaguars (*Panthera onca*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

Applicant: Pablo Quinones, Pelham, AL, PRT–045849.

The applicant request a permit to export live captive born Swinhoe's pheasants (*Lophura swinhoii*), Humes bartail pheasants (*Syrmaticus humiae*). Mikado pheasants (*Syrmaticus mikado*), Elliot's pheasants (*Syrmaticus ellioti*) to Quito, Ecuador for scientific research purposes and to enhance the survival of the species through propagation.

Applicant: U.S. Geological Survey, National Wildlife Health Center, Madison, WI, PRT–048370.

The applicant requests a permit to import multiple shipments of biological samples from wild, captive-held, and captive-born endangered species for the purpose of scientific research. No animals can be intentionally killed for the purpose of collecting specimens. Any invasively collected samples can only be collected by trained personnel. This notification covers activities conducted by the applicant over a period of 5 years.

Applicant: Mary K. Gonder & John F. Oates, Department of Anthropology, Hunter College—City University of New York, New York, NY, PRT–810330.

The applicant requests a permit to import hair samples from wild chimpanzees (*Pan troglodytes*) collected from their sleeping nests and hair and skin sections collected from preserved zoo and museum specimens in Nigeria and Cameroon. In addition, the applicant requests to import hair samples from wild gorillas (*Gorilla gorilla*) collected from sleeping nests in Nigeria, for the purpose of scientific research. This notification covers activities conducted by the applicant over a period of 5 years.

Applicant: The Denver Zoo, Denver, CO PRT–045329.

The applicant requests a permit to conduct interstate commerce by paying a management fee to the Dickerson Zoo, Springfield, MO, for successful breeding of their female captive held Asian elephant (*Elaphus maximus*) as recommended by the American Zoological Association's Species Survival Coordinator, for the purpose of enhancement of survival of the species.

Applicant: Hawthorn Corporation, Grayslake, IL, PRT–843874.

The applicant requests the re-issuance of the permit to re-export and re-import tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone 703/358–2104 or fax 703/358–2281.

Dated: September 21, 2001.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–26237 Filed 10–17–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Issuance of Permit for Marine Mammals

On June 15, 2001, a notice was published in the **Federal Register** (66 FR 32635), that an application had been filed with the Fish and Wildlife Service by Richard T. Adams for a permit (PRT–043591) to import one polar bear (*Ursus maritimus*), taken from the Norwegian Bay population, Canada for personal use.

Notice is hereby given that on September 7, 2001, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203, telephone (703) 358–2104 or fax (703) 358–2281.

Dated: September 21, 2001.

Anna Barry,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 01–26236 Filed 10–17–01; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Consultation Meetings With Interested Parties on Preparing Contract Regulations Governing the Use of the Authority in 25 U.S.C. 47, as Amended (aka the Buy Indian Act)

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: Notice is given that the Bureau of Indian Affairs will conduct three consultation meetings to receive oral comments on the content of rules being prepared to govern the award and administration of acquisitions made under the authority of 25 U.S.C. 47, as amended (aka the Buy Indian Act).

DATES: The consultation meeting dates are:

1. October 25, 2001, Oklahoma City, Oklahoma.
2. November 8, 2001, Scottsdale, Arizona.
3. November 15, 2001, Portland, Oregon.

All meetings will begin at 1 p.m. and continue until 4:30 p.m. or until all meeting participants have had an opportunity to make comments.

Attendees are requested to provide written notice of their intent to attend a specific meeting to the contact person listed in **FOR FURTHER INFORMATION CONTACT** section.

ADDRESSES: The meeting locations are:

1. Oklahoma City—Westin, One North Broadway, Oklahoma City, OK.
2. Scottsdale—Doubletree La Posada, 4949 East Lincoln Drive, Scottsdale, AZ.
3. Portland—Doubletree Columbia River, 1401 N. Hayden Island Drive, Portland, OR.

FOR FURTHER INFORMATION CONTACT: Peter Markey, Procurement Analyst, Bureau of Indian Affairs, Division of Acquisition and Property Management, 2051 Mercator Drive, Reston, Virginia 20191; Telephone: (703) 390–6479.

SUPPLEMENTARY INFORMATION: The meetings will provide interested parties an opportunity to comment on the key points expected to be included in the Buy Indian Act regulations. The regulations will not govern self-determination or self-governance agreements made with Indian tribal governments. The regulations will govern the set-aside process for the award of contracts with Indian economic enterprises that are at least 51 percent Indian owned or are tribally owned economic enterprises. If not tribally owned, one or more Indian owners must be involved in the daily business management of the enterprise. The majority of profits must accrue to the Indian owners or, if the contractor is a nonprofit organization, the majority of the board of directors must be members of federally recognized tribes.

The attendees at the meetings will be briefed on the key points planned for inclusion in the regulations and questions and comments will be received at the meetings. After the consultation meetings, draft regulations will be published in the **Federal Register** and written comments will be received. The regulations are intended to provide a regulatory basis for the policy followed by the Bureau of Indian Affairs when contracting with Indian economic enterprises on a preferential basis.

This notice is published under the authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 Departmental Manual 8.1.

Dated: October 10, 2001.

Neal A. McCaleb,

Assistant Secretary—Indian Affairs.

[FR Doc. 01–26225 Filed 10–17–01; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

National Park Service

Sixty-Day Notice of Intention To Request Clearance of Data Collection; Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the National Park Service's (NPS') intention to request an extension of a currently approved collection. Specifically five information collections will be carried out pursuant to the Government Performance and Results Act and the NPS Strategic Plan. All of the proposed information collections are surveys of customer satisfaction with certain NPS programs and types of assistance. NPS' National Center for Recreation and Conservation (NCRC) will conduct surveys of the clients of three recreation and conservation assistance programs to assess client satisfaction with the services received and to identify needed program improvements. The NPS goal in conducting these surveys is to use the information to identify areas of strength and weakness in its recreation and conservation assistance programs, to provide an information base for improving those programs, and to provide a required performance measurement (Goal lllb2 of the 2000 National Park Service Strategic Plan) under the Government Performance and Results Act.

NPS' National Center for Cultural Resources (NCCR) proposes to continue to collect information on customer satisfaction with historic preservation technical assistance, training, and educational materials that NPS provides to its partners including the general public. The NPS goal in collecting this information is to provide an information base for maintaining a high level of performance in those programs and to provide a required performance measurement (Goal llla3) of the 2000 National Park Service Strategic Plan that NPS promulgated under the Government Performance and Results Act.

Estimated numbers of:

	Responses	Burden hours
NPS Partnership Programs GPRA Information Collections	1,984	205.65

Under provisions of the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Record Keeping Requirements, the National Park Service is soliciting comments on the need for all five information collections. The NPS also is asking for comments on the practical utility of the information being gathered; the accuracy of the burden hour estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden to respondents, including use of automated information collection techniques or other forms of information technology.

DATES: Public comments will be accepted on or before December 17, 2001.

Send Comments To: Beth Porter—Voice: 202–565–1187, e-mail: *Beth_Porter@nps.gov* information regarding the surveys related to Recreation and Conservation Assistance customer satisfaction, or John Renaud—Voice: 202–343–1059, e-mail: *John_Renaud@nps.gov* regarding the collection of data related to historic preservation technical customer satisfaction.

FOR FURTHER INFORMATION CONTACT: Contact Beth Porter—Voice: 202–565–1187, e-mail: *Beth_Porter@nps.gov*—for further information regarding the surveys related to Recreation and Conservation Assistance customer satisfaction. Contact John Renaud—Voice: 202–343–1059, e-mail: *John_Renaud@nps.gov*—for further information regarding the collection of data related to historic preservation technical customer satisfaction.

SUPPLEMENTARY INFORMATION: *Titles:* National Park Service Partnership Programs' GPRA Information Collections; Recreation and Conservation Assistance Customer Satisfaction Survey, Historic Preservation Technical Assistance Customer Satisfaction Questionnaires, and Historic Preservation Technical Assistance Training (etc.) Customer Satisfaction Questionnaires.

Bureau Form Number: None.

OMB Number: 1024–0226.

Expiration Date: To be requested.

Type of request: Extension of a currently approved collection.

Description of need: The Government Performance and Results Act requires Federal agencies to prepare annual performance reports documenting the progress made toward achieving long-term goals. The National Park Service needs the information in the proposed collections to assess the annual progress being made toward meeting Long-term Goals IIIa3, and IIIb2 of the National Park Service Strategic Plan of 2000. The information sought is not collected elsewhere by the Federal Government. The proposed information collections impose no data collection or record keeping burden on the potential respondents. Responding to the proposed collections is voluntary and is based on data that the respondents already collected and/or personal opinion. The National Park Service needs information to help evaluate and improve its recreation and conservation assistance programs and its historic preservation and technical assistance programs.

Automated data collection and statistical sampling: NPS will collect information using two data collection procedures, mail survey and an on-line format. Respondents will be chosen using two procedures: For the NCRC programs, a census of all cooperating partners and organizations will be used. For the NCCR programs, a systematic random sampling procedure will be used. NCCR respondents will be drawn from a list of those persons who received NPS historic technical assistance information publications, attended a workshop, conference, or participated in an on-line course.

Description of respondents: The type of respondents will vary depending upon the information collection.

For the Recreation and Conservation Assistance Customer Satisfaction Surveys, the potential respondents will be all contact persons of all principal cooperating organizations and agencies which have received substantial assistance from any of the three participating programs during the prior Fiscal Year (October 1 through September 30).

For the Historic Preservation Technical Assistance Customer Satisfaction Questionnaires, respondents will be drawn from a list of those persons who received NPS historic technical assistance publication, hard copy or on-line and those who attended a training workshop, conference, or participated in an on-line course during the prior Fiscal year (October 1 through September 30).

Estimated average number of respondents: 1,984. See the chart below for a breakdown by each information collection.

Estimated average number of responses: 1,234. See the chart below for a breakdown by each information collection.

Estimated average burden hours per response: 10 minutes. See the chart below for a breakdown by each information collection.

Frequency of Response: Various. For the Historic Preservation Publications and Technical Assistance Customer Satisfaction Questionnaires, the frequency of response is one time per publication or technical assistance event.

Estimated annual reporting burden: 205.65 hours. See the chart below for a breakdown by each information collection.

Estimated number of:

Avg. time per response in total information collection	Respondents	Responses	Minutes	Hours
Rivers, Trails and Conservation Assistance Program	200	200	10	33.33
Federal Lands to Parks Program	80	80	10	13.33
Wild and Scenic Rivers Coordination Program	4	4	10	.66
Subtotal	284	284	10	47.32
Historic Preservation Technical Assistance Publications Customer Satisfaction	1,500	750	10	125.00
Historic Preservation Technical Assistance Training (etc.) Customer Satisfaction	200	200	10	33.33
Subtotal	1,700	950	NA	158.33
Grand Total	1,984	1,234	NA	205.65

August 3, 2001.

Leonard E. Stowe,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 01–26257 Filed 10–17–01; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Colorado River Basin Salinity Control Advisory Council

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public meeting.

SUMMARY: The Colorado River Basin Salinity Control Advisory Council (Council) was established by the Colorado River Basin Salinity Control Act of 1974 (Public Law 93–320) (Act) to receive reports and advise Federal agencies on implementing the Act. In accordance with the Federal Advisory Committee Act, the Bureau of Reclamation announces that the Council will meet as detailed below.

DATES: The Advisory Council will conduct its annual meeting November 7, 2001. The meeting will begin at 10 a.m. and recess at 1 p.m.; it will reconvene briefly the following day at about 1 p.m.

To the extent that time permits, the Council chairman may allow public presentation of oral statements at the meeting. If you want to make an oral statement, written notice must be provided to David Trueman at the address listed below at least 5 days prior to the meeting. Any written comments received will be provided to the Advisory Council members at the meeting.

Any member of the public may file written statements with the Council before, during, or up to 30 days after the meeting, in person or by mail.

ADDRESSES: The meeting will be held in Conference Room B of the Arizona Department of Water Resources Building, 500 North Third Street, Phoenix, Arizona.

Send written comments and requests to make oral presentations to David Trueman, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 6107, Salt Lake City, Utah 84138–1102; faxogram (801) 524–5499; e-mail at: *drueman@uc.usbr.gov.*

FOR FURTHER INFORMATION CONTACT: David Trueman, telephone (801) 524–3753.

SUPPLEMENTARY INFORMATION: The meeting of the Council is open to the public. To the extent that time permits, the Council chairman may allow public presentation of oral statements at the meeting. See the **DATES** and **ADDRESSES** sections above for information on how to submit written comments and/or make oral statements. Any written comments received will be provided to the Advisory Council members at the meeting.

Agenda

The purpose of the meeting will be to discuss the accomplishments of Federal agencies and make recommendations on future activities to control salinity. Council members will be briefed on the status of salinity control activities and receive input for drafting the Council's annual report. The Department of the Interior, the Department of Agriculture, and the Environmental Protection Agency will each present a progress report had a schedule of activities on salinity control in the Colorado River Basin. The Council will discuss salinity control activities and the content of their report.

Public Disclosure Statement

Our practice is to make comments, including names and home addresses of respondents, available for public review. Individual respondents may request that we withhold their home address from public disclosure, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or business, available for public disclosure in their entirety.

Dated: October 4, 2001.

John W. Keys III,

Commissioner, Bureau of Reclamation.

[FR Doc. 01–26307 Filed 10–17–01; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Notice of Realty Action—Competitive Bulk Sale of Federal Land

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of realty action, competitive bulk sale of federal land.

SUMMARY: The tracts of land described below have been identified for sale and transfer out of Federal ownership under the Public Law 105–277 Title X-Canyon Ferry Reservoir, Montana Act of October 22, 1998, as amended November 29, 1999, and October 27, 2000. The purpose of this notice is to solicit letters of interest from parties wishing to bid on and to purchase 265 recreation home sites at Canyon Ferry Reservoir, Montana.

DATES: For a period of 90 days from the publication of this notice in the **Federal Register**, interested parties may request notification of future sale dates, and may request a copy of the bid package from the Montana Area Office, Bureau of Reclamation.

ADDRESSES: Address all requests concerning this notice to Montana Area Office, Bureau of Reclamation, Attention: Susan Stiles, Realty Specialist, P.O. Box 30137, Billings, MT 59107–0137.

FOR FURTHER INFORMATION CONTACT: Susan Stiles at (406) 247–7316.

SUPPLEMENTARY INFORMATION: The subject property is located along the north half of the east and west shores of Canyon Ferry Reservoir, about 20 miles east of Helena, Montana. The property is described as cabin site Lots 1 through 36, Lots 38 through 266, and drainfield and septic site lots D–1 through D–8, Sections 2, 11, 12, 13, 15, 22, 23, 26, Township 10 North, Range 1 West, P.M., Canyon Ferry Reservoir, Lewis and Clark County, Montana, comprising approximately 163.73 acres, more or less. The Bureau of Reclamation currently leases these lots out for seasonal cabin site use to private parties.

On October 21, 1998, Title X of Public Law 105–277, The Canyon Ferry Reservoir, Montana Act, required that the Secretary of Interior sell, for the appraised fair market value, 265 cabin sites located at Canyon Ferry Reservoir to private parties. It is anticipated that the appraisal of the cabin sites will be completed by the end of 2001, and that the Bureau of Reclamation will offer the cabin sites for sale in Spring 2002. Interested parties will be informed of the exact sale dates once they have been established.

As required by the Canyon Ferry Reservoir, Montana Act, the cabin sites will initially be offered as an entire block of land to the highest bidder, which requires a prospective buyer to purchase all 265 cabin sites at not less than their appraised fair market value. In addition to the sale price, the purchaser will also be required to reimburse the Bureau of Reclamation for

all its administrative costs in connection with the sale process. Included in the bid package, interested parties will receive instructions in how to submit their sealed bids to the Bureau of Reclamation, the amount of the minimum bid required (appraised value), an estimate of the administrative costs to be paid, along with other pertinent sales information.

Pursuant to the Canyon Ferry Reservoir, Montana Act, the Canyon Ferry Recreation Association (CFRA) shall have the right to match the highest bid and purchase the properties at a price equal to the amount of the highest bid. If CFRA does not match the highest bid, then the Canyon Ferry Reservoir, Montana Act requires that the cabin sites be sold to the high bidder. The purchaser is then required by the Canyon Ferry Reservoir, Montana Act to give each cabin site lessee an option either to purchase their cabin site at its appraised fair market value, or to continue leasing their cabin site from the purchaser up through August 2014. As a condition to the bulk sale, it will be the sole responsibility of the successful bidder to negotiate the sale or lease of the individual tracts to the current lessees.

In the event there is not a qualified high bidder, then Reclamation will offer to sell the cabin sites to the current lessees at their fair market value, at a later date as determined by the Bureau of Reclamation. The Bureau of Reclamation may at any time during the course of the sale, accept or reject any and all offers, or remove any land or interest in land from the sale at its sole discretion.

Resource clearances consistent with the National Environment Policy Act requirements have been completed. An Environmental Assessment pertaining to the proposed sale is available upon request from the Montana Area Office. The patent and quitclaim deed issued for the land sold will be subject to easement or rights-of-way existing or of record in favor of the public or third parties, as well as the condition set forth in the Canyon Ferry Reservoir, Montana Act, and mineral and other reservations by the United States.

Easements granted—The purchaser(s) will be granted easements for: (A) Vehicular access to each lot, (B) access to and use of 1 dock per lot, and (C) access to and use of all boathouses, ramps, retaining walls, and other improvements for which access is provided in the leases as of the date of enactment of the Canyon Ferry Reservoir, Montana Act.

Improvements—Each cabin site is encumbered with a cabin or home, and may include other structures such as sheds, garages, boathouses, fences, retaining walls, wells, and septic systems. These improvements are privately owned by the current lessees and therefore not included in the fair market value of the property and they are not included in this sale. The United States and the Bureau of Reclamation, hereby absolves itself of any responsibility or liability of any nature whatsoever in connection with said improvements which are owned by the current lessees.

Dated: October 3, 2001.

Susan Kelly,

Area Manager, Montana Area Office, Bureau of Reclamation.

[FR Doc. 01–26308 Filed 10–17–01; 8:45 am]

BILLING CODE 4310–MN–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Lawrence C. Agee, M.D.; Revocation of Registration

On January 25, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Lawrence C. Agee, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, BA0922903, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal or modification of such registration pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Agee is not licensed in California, the jurisdiction in which he practices. The order also notified Dr. Agee that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

The OTSC was sent to Dr. Agee at his DEA registered premises in Auburn, California. Subsequently, on February 16, 2001, the letter was returned by the U.S. Postal Service, marked ''attempted, not known'' and ''not at this address.''

The DEA Sacramento District Office then contacted the California Medical Board and obtained its address of record for Dr. Agee in Rocklin, California. The OTSC was then sent by certified mail to Dr. Agee at this address. On April 18, 2001, this second letter was also returned to DEA, marked ''not deliverable as addressed,'' and ''unable to forward,'' and ''moved left no address.''

DEA has received no further information regarding the whereabouts of Dr. Agee, nor any information from anyone purporting to represent him in this matter. Therefore, the Administrator, finding that (1) 30 days having passed since the attempted delivery of the Order to Show Cause at Dr. Agee's last known address, and (2) no request for a hearing having been received, concludes that Dr. Agee is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43 (d) and (e), and 1301.46 (2001).

The Administrator finds as follows: Dr. Agee currently possesses DEA Certificate of Registration BA0922903, issued to him in California. By Decision and Order effective October 11, 2000, the Medical Board of California adopted the Proposed Decision of the Division of Medical Quality, Medical Board of California, Department of Consumer Affairs, that Dr. Agee's Physician and Surgeon Certificate be suspended for an indefinite period. Therefore, the Administrator concludes that Dr. Agee is not currently licensed or authorized to handle controlled substances in California.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50,570 (2000); Romeo J. Perez, M.D., 62 FR 16,193 (1997); Demetris A. Green, M.D., 61 FR 60,728 (1996); Dominick A. Ricci, M.D., 58 FR 51,104 (1993).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that Dr. Agee is not authorized to practice medicine in California, and therefore, the Administrator infers that Dr. Agee is also not authorized to handle controlled substances in California, the State in which he holds his DEA Certificate of Registration.

Accordingly, the Administrator of the Drug Enforcement Administration pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration BA0922903 previously issued to Lawrence C. Agee, M.D., be, and it hereby is, revoked. The Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26189 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Kiran Bhatt, M.D., Revocation of Registration

On May 21, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Kiran Bhatt, M.D., notifying her of an opportunity to show cause as why the DEA should not revoke her DEA Certificate of Registration, BB2541628, pursuant to 21 U.S.C. 824(a)(3), and to deny any pending applications for renewal of her registration, pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Bhatt was not authorized by the State of California to handle controlled substances. The order also notified Dr. Bhatt that should not request for hearing be filed within 30 days, her right to a hearing would be deemed waived.

The OTSC was sent to Dr. Bhatt at her DEA registered premises to Palo Alto, California. A postal delivery receipt was signed May (day illegible), 2001, on behalf of Dr. Bhatt, indicating the OTSC was received. To date, no response has been received from Dr. Bhatt nor anyone purporting to represent her.

Therefore, the Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Bhatt is deemed to have waived her right to a hearing. Following a complete review of the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46 (2001).

The Administrator finds as follows. Dr. Bhatt currently possesses DEA Certificate of Registration BB254168, issued to her in California. By Decision and Order dated December 15, 1998, Medical Board of California, Division of Medical Quality, Department of Consumer Affairs, State of California adopted the Proposed Decision of the Administrative Law Judge revoking Dr. Bhatt's physician and Surgeon's Certificate. The Proposed Decision found, *inter alia,* that Dr. Bhatt's ability to practice medicine safely is impaired because she is mentally ill, and further that Dr. Bhatt refuses to seek or to receive psychiatric care. The Proposed Decision further found Dr. Bhatt's condition such that without treatment, she poses a substantial risk to the safety and welfare of her patients. The investigative file contains no evidence that Dr. Bhatt's medical license has been reinstated or otherwise renewed.

Therefore, the Administrator concludes that Dr. Bhatt is not currently licensed or authorized to handle controlled substances in California.

The DEA does not have the authority pursuant to the Controlled Substances Act to issue or maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50,570 (2000); Romeo J. Perez, M.D., 62 FR 16,193 (1997); Demetris A. Green, M.D., 61 FR 60,728 (1996); Dominick A. Ricci, M.D., 58 FR 51,104 (1993).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that Dr. Bhatt is not authorized to practice medicine in California, and therefore, the Administrator infers that Dr. Bhatt is also not authorized to handle controlled substances in California, the State in which she holds her DEA Certificate of Registration.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration BB2541628, previously issued to Kiran Bhatt, M.D., be, and it hereby is, revoked. The Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26187 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Iliana M. Cabeza, D.D.S.; Revocation of Registration

On June 26, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Iliana M. Cabeza, D.D.S., (Respondent) notifying her of an opportunity to show cause as to why the DEA should not revoke her DEA Certificate of Registration AC2230338, pursuant to 21 U.S.C. 824(a)(2), and (4), and deny any pending applications for renewal of this registration, pursuant to 21 U.S.C. § 823(f), for the reasons that Respondent entered a plea of guilty to Conspiracy to Possess with Intent to Distribute Cocaine, a Schedule II substance; and that the Florida Department of Health ordered the immediate suspension of the Respondent's state license to practice dentistry. By letter dated August 1, 2000, Respondent, through counsel, requested a hearing in this matter.

On August 14, 2000, Administrative Law Judge Gail A. Randall issued an order for Prehearing Statements. On August 31, 2000, the Government filed a motion seeking summary disposition, arguing that Respondent is no longer authorized to handle controlled substances in the State of Florida, where Respondent's DEA Certificate of Registration states she conducts her business. The Government attached to its motion a copy of an Order of Emergency Suspension of License, issued by the Florida Department of Health; a copy of Respondent's DEA Certificate of Registration with an expiration date of August 31, 2002; and a sworn statement from the Chief of the Registration Unit of DEA, certifying the Certificate's authenticity.

By an Order dated September 1, 2000, Judge Randall stayed the proceedings pending the resolution of the Government's motion, and she allowed the Respondent until September 12, 2000, to respond to the Government's motion. The Respondent did not file a response by this deadline. Rather, on October 13, 2000, the Respondent filed an Unopposed Motion for Enlargement of Time, asserting that the parties were attempting to resolve the matter. Although the motion was untimely filed, Judge Randall accepted it, and by order dated October 17, 2000, she allowed Respondent until November 20, 2000, to respond to the Government's Motion for Summary Disposition. As of this date, the investigative file contains no response from Response nor anyone purporting to represent her.

The Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Administrator adopts in full the Opinion and Recommended Decision of the Administrative Law Judge.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50570 (2000); Romeo J. Perez, M.D., 62 FR 16193 (1997); Demetris A. Green, M.D., 61 FR 60728 (1996); Dominick A. Ricci, M.D., 58 FR 51104 (1993).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that the Respondent is not authorized to practice dentistry in Florida, and therefore, the Administrator infers that Respondent is also not authorized to handle controlled substances in Florida, where she practices, according to the address listed on her DEA Certificate of Registration. The Administrator finds that Judge Randall allowed Respondent ample time to refute the Government's evidence, and that Respondent has submitted no evidence or assertions to the contrary. Thus, there is no genuine issue of material fact concerning Respondent's lack of authorization to practice dentistry in Florida or to handle controlled substances in that state.

The Administrator concurs with Judge Randall's finding that it is well settled that when there is no question of material fact involved, there is no need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. See Michael G. Dolin, M.D., 65 FR 5661 (2000); Jesus R. Juarez, M.D., 62 FR 14945 (1997); see also Philip E. Kirk, M.D., 48 FR 32887 (1983), aff'd sub nom. *Kirk* v *Mullen,* 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders the DEA Certificate of Registration AC2230338, issued to Iliana M. Cabeza, D.D.S., be, and it hereby is, revoked; and that any pending applications for the renewal or modification of said Certificate be denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26184 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Muttaiya Darmarajah, M.D.; Revocation of Registration

On May 29, 2001, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Muttaiya Darmarajah, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, AD3082702, pursuant to 21 U.S.C. 824(a)(3), and to deny any pending applications for renewal of such registration, pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Darmarajah was not authorized by the State of Florida to handle controlled substances. The order also notified Dr. Darmarajah that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

The OTSC was sent to Dr. Darmarajah at his DEA registered premises in Panama City, Florida. A postal delivery receipt was signed June 11, 2001, on behalf of Dr. Darmarajah, indicating the OTSC was received. To date, no response has been received from Dr. Darmarajah nor anyone purporting to represent him.

Therefore, the Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Darmarajah is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Administrator finds as follows. Dr. Darmarajah currently possesses DEA Certificate of Registration AD3082702, issued to him in Florida. By Final Order of the Board of Medicine, State of Florida, dated September 5, 2000, Dr. Darmarajah's license to practice medicine in the State of Florida was revoked. The revocation was based upon a State of Florida Department of Health Administrative Complaint alleging that Dr. Darmarajah pleaded guilty on or about May 14, 1998 in the United States District Court for the Northern District of Florida to knowingly and willfully charging the Civilian Health and Medical Program of the Uniformed Services and Medicare for false and fraudulent claims for reimbursement of health care services, in violation of 18 U.S.C. 287, and also of filing a false and fraudulent tax return, in violation of 26 U.S.C. 7201. As a result, Dr. Darmarajah was sentenced to 15 months in Federal prison and $929,599.43 in restitution. The investigative file contains no evidence that Dr. Darmarajah's medical license has been reinstated or otherwise renewed.

Therefore, the Administrator concludes that Dr. Darmarajah is not currently licensed or authorized to handle controlled substances in Florida.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50570 (2000); Romeo J. Perez, M.D. 62 FR 16193 (1997); Demetris A. Green, M.D., 61 FR 60728 (1996); Dominick A. Ricci, M.D., 58 FR 51104 (1993).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that Dr. Darmarajah is not authorized to practice medicine in Florida, and therefore, the Administrator infers that Dr. Darmarajah is also not authorized to handle controlled substances in Florida, the State in which he holds his DEA Certificate of Registration.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration AD3082702, previously issued to Muttaiya Darmarajah, M.D., be, and it hereby is, revoked. The Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

Certificate of Service

This is to certify that the undersigned, on October 10, 2001, placed a copy of the Final Order referenced in the enclosed letter in the interoffice mail addressed to Robert Walker, Esq., Office of Chief Counsel, Drug Enforcement Administration, Washington, D.C. 20537; and caused a copy to be mailed, postage prepaid, registered return receipt to Muttaiya Darmarajah, M.D., 2638 East 40th Street, Panama City, Florida 32405.

Karen C. Grant.

[FR Doc. 01–26188 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Michael W. Dietz, D.D.S; Denial of Application

On July 24, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Michael Wayne Dietz, D.D.S., (Respondent) notifying him of an opportunity to show cause as to why the DEA should not deny his application dated June 21, 1999, for registration as a practitioner, pursuant to 21 U.S.C. 823(f), on the grounds that such registration would be inconsistent with the public interest. The order also notified Respondent that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

By letter dated August 21, 2000, the Respondent, acting *pro se,* requested a hearing in this matter. On September 7, 2000, Administrative Law Judge Gail A. Randall issued an Order for Prehearing Statements, and also mailed a letter to Respondent informing him of his right to representation in these proceedings, attaching a copy of 21 CFR 1316.50 (2000) to her letter.

On September 11, 2000, Judge Randall timely received the Government's Prehearing Statement. By letter dated September 21, 2000, the Respondent requested an extension of three months from his October 19, 2000, filing date to retain counsel and to address documents mentioned in the Government's Prehearing Statement. Judge Randall stayed these proceedings in an Order, issued October 2, 2000, and allowed the Government an opportunity to respond to the Respondent's request.

On October 3, 2000, Judge Randall received the Government's Objection to Request for Extension. On October 6, 2000, Judge Randall issued an Order that extended Respondent's filing date and directed the Respondent to file a prehearing statement on or before November 9, 2000. The Order included a warning that no further extensions in this matter would be granted absent extraordinary circumstances. There is no evidence in the investigative file that Respondent responded in any fashion to Judge Randall's October 6, 2000, Order.

The Administrator of the Drug Enforcement Administration, having completely reviewed the investigative file in this matter, hereby issues his final order without a hearing, pursuant to 21 CFR 1301.43(d) and 1301.46 (2001).

When a party fails to file a prehearing statement, that failure is deemed a waiver of that party's right to a hearing. See Bill Loyd Drug, 64 FR 1823 (1999). Upon a finding of a waiver by the Administrative Law Judge, the record is transmitted to the Deputy Administrator's office for entry of a final order based upon the investigative file. *See* id *See* also 21 CFR 1301.43(e) (2001).

In the instant matter, the Respondent received the Order for Prehearing Statements, as evidenced by his request for an extension of time. Moreover, the Respondent had ample time to respond, especially considering that an extension of more than one month was granted by Judge Randall. To date, Respondent has offered no submissions or explanations for his failure to continue his action. The Administrator concurs with Judge Randall's conclusion that the Respondent has waived his right to a hearing, and that this matter is now properly before the Administrator for the entry of his final order without a hearing, pursuant to the authority cited above.

The Administrator finds as follows. By Order dated May 15, 1999, and published at 64 FR 15805, the then-Deputy Administrator revoked Dr. Dietz's DEA Certificate of Registration, based on his lack of state authorization to practice dentistry. The investigative file reveals that Respondent's license to practice dentistry was revoked by Order of the Tennessee Board of Dentistry (Board) dated May 27, 1998, based upon unprofessional conduct, personal misuse of controlled substances, and dispensing, prescribing, or otherwise distributing controlled substances not in the course of professional practice. Respondent was also assessed civil penalties in the amount of $4,000, and was required to contract with and maintain the advocacy of the Concerned Dentists Committee, and to seek treatment and rehabilitation for his drug addiction. By Order dated May 13, 1999, the Board reinstated Respondent's license to practice dentistry. Conditions of this reinstatement were that Respondent maintain the contract with the Concerned Dentists Committee, and be on probation for five years. Respondent applied for a new DEA Certificate of Registration by application dated June 21, 1999.

The Board was subsequently notified on January 14, 2000, by the Concerned Dentists Committee that Respondent had tested positive for cocaine, and had refused treatment. A hearing before the Board was scheduled to determine what action should be taken with regard to Respondent's state dentistry license. Respondent subsequently entered treatment, which postponed the hearing and resulted in his license to practice dentistry being suspended indefinitely.

Thereafter, in a Notice of Charges and Memorandum of Assessment of Civil Penalty (Notice) dated March 20, 2000, the Board proposed a penalty of $1,000 for Respondent's violation of his probation, and set the matter for hearing on May 11, 2000. The Notice also informed Respondent that the issues to be considered would include ''whether the proposed civil penalty shall be affirmed or whether a different type and amount of civil penalty is justified and assessable and/or whether the Respondent's license shall be revoked, suspended or otherwise disciplined.''

Pursuant to 21 U.S.C. 823(f), the Administrator may deny an application for a DEA Certificate of Registration if he determines that granting the registration would be inconsistent with the public interest. Section 823(f) requires the following factors be considered in determining the public interest:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Administrator may rely on any one or combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. *See* Henry J. Schwartz, Jr., M.D., 54 FR 16422 (DEA 1989).

The Administrator has reviewed the five factors, and finds that factors (2), (3), (4), and (5) are most relevant to the instant matter.

Specifically, the Administrator finds with regard to factor two that Respondent was convicted of two felony violations of unlawfully distributing a controlled substance, and further that his state dentistry license was revoked

based *inter alia* on his personal misuse of controlled substances; and therefore concludes that Respondent clearly mishandled controlled substances in the past, and failed to comply with laws relating to controlled substances. *See* Robert A. Leslie, 64 FR 25908 (1999). Respondent apparently continues to mishandle controlled substances, as evidenced by the January 14, 2000, report of the Concerned Dentists Committee to the Board regarding Respondent's testing positive for cocaine use, in violation of his probation.

With regard to factor three, the investigative file reveals Respondent was convicted on or about January 6, 1999, in the Criminal/Circuit Court of Putnam County, Tennessee, of two felony violations of unlawfully distributing the Schedule II controlled substance cocaine. Respondent was sentenced to five years imprisonment, with all but ninety days suspended.

With regard to factor four, the Administrator finds that the investigative file reveals Respondent tested positive for the use of cocaine, as set forth in the January 14, 2000, report from the Concerned Dentists Committee to the Board, in violation of his probation. The Administrator therefore finds that Respondent continues to violate State and federal laws relating to controlled substances.

With regard to factor five, the Administrator finds that the investigative file reveals substantial evidence that Respondent is a self-abuser, in that he ingests controlled substances for no legitimate medical reason. This is evidenced not only by the January 14, 2000, report set forth in factor four above, but also by evidence that Respondent's license to practice dentistry was revoked by the Board by Order dated May 27, 1998, for *inter alia* personal misuse of controlled substances. This pattern of self-abuse does not bode well for the health and safety of Respondent's patients, nor for Respondent's future compliance with State and Federal laws and regulations relating to controlled substances.

Therefore, for the above-stated reasons, the Administrator concludes that it would be inconsistent with the public interest to grant Respondent's application.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA Certificate of Registration submitted by Michael Wayne Dietz, D.D.S., be, and it hereby is, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26178 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–39–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

William Echandy-Ochoa, M.D.; Revocation of Registration

The Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC), dated June 26, 2000, by certified mail to William Echandy-Ochoa, M.D., (Respondent) notifying him of an opportunity to show cause as to why the DEA should not evoke his DEA Certificate of Registration BE4263206, pursuant to 21 U.S.C. 824(a)(2) and (3), and deny any pending applications for renewal or modification of this registration, pursuant to 21 U.S.C. 823(f). The OTSC stated that Respondent's license to practice medicine in the jurisdiction in which Respondent practices, Puerto Rico, was revoked, and that Respondent had been convicted, in Puerto Rico, of a felony related to the distribution of controlled substances. By letter dated July 19, 2000, Respondent, through counsel, requested a hearing in this matter.

On August 9, 2000, Administrative Law Judge Gail A. Randall issued an Order for Prehearing Statements. On August 10, 2000, the Government filed a Request for Stay of Proceedings and Motion for Summary Disposition. On August 14, 2000, Judge Randall issued an Order allowing Respondent until August 29, 2000, to respond to the Government's motion, and stayed the proceeding pending the resolution of the Government's motion. Following some procedural confusion, the Respondent on October 10, 2000, filed a Motion to Withdraw Allegations to the Honorable Administration, admitting that his license to practice medicine in Puerto Rico was revoked, and requesting that summary disposition be entered in favor of the Government. Judge Randall rendered her Opinion and Recommended Ruling on October 16, 2000, recommending that Respondent's DEA registration be revoked, and any pending renewal applications be denied. On November 21, 2000, Judge Randall transmitted the record of these proceedings to the Office of the Deputy Administrator.

The Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Administrator adopts in full the Opinion and Recommended Decision of the Administrative Law Judge.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f) and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Saihb S. Halil, M.D., 64 FR 33319 (1999) (noting the rule in a matter involving a registration for Puerto Rico); Diodo Leduc, d/b/a Farmacia Leduc, 51 FR 12751 (1986) and cases cited therein; see also Graham Travers Schuler, M.D., 65 50570 (2000); Romeo J. Perez, M.D., 62 FR 16193 (1997); Demetris A. Green, M.D., 61 FR 60728 (1996); Dominick A. Ricci, M.D., 58 FR 51104 (1993).

In the instant case, the Administrator finds the Respondent affirmatively concedes that, currently, he is not authorized to handle controlled substances in Puerto Rico, and there is no evidence in the record that Respondent maintained a medical practice anywhere else. Furthermore, Respondent affirmatively requests that the Government's Motion for Summary Disposition be granted. Thus, there is no genuine issue of material fact; in fact, there is no dispute at all.

The Administrator concurs with Judge Randall's finding that it is well settled that when there is no question of material fact involved, there is no need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. See Michael G. Dolin, M.D., 65 FR 5661 (2000); Jesus R. Juarez, M.D., 62 FR 14945 (1997); see also Philip E. Kirk, M.D., 48 FR 32887 (1983), aff'd sub nom. *Kirk* v. *Mullen*, 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BE4263206, issued to William Echandy-Ochoa, M.D., be, and it hereby is, revoked; and that any pending applications for the renewal or modification of said Certificate be denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26183 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Jack's Sales, Inc.; Denial of Application

On September 5, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) to Jack's Sales, Inc. (Respondent), proposing to deny its application for a DEA Certificate of Registration as a distributor of list I chemicals pursuant to 21 U.S.C. 823(h) on the grounds that on June 12, 2000, the California Department of Justice, Bureau of Narcotic Enforcement (BNE), denied Respondent's application for a Precursor Business Permit. On October 12, 2000, Respondent filed a request for a hearing on the issue raised in the OTSC.

On October 18, 2000, the Government filed a motion seeking summary disposition, arguing that Respondent is not authorized to distribute or otherwise to handle listed chemicals in California, the jurisdiction in which it proposes to conduct business.

On October 23, 2000, Administrative Law Judge Mary Ellen Bittner issued a Memorandum to Counsel granting Respondent until November 7, 2000, to file a response to the Government's motion. Respondent timely filed a response, asserting, in substance, that the BNE denied its application for a Precursor Business Permit on the basis of information provided to BNE by DEA; that Respondent had appealed the denial; that counsel for Respondent had spoken with a member of the BNE staff who said there would be a meeting within the next ten days to discuss respondent's appeal; and that this proceeding should be stayed pending the outcome of Respondent's BNE appeal.

The Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Administrator adopts in full the Opinion and Recommended Decision of the Administrative Law Judge.

Loss of state authority to engage in the distribution of list I chemicals is grounds to revoke a distributor's registration pursuant to 21 U.S.C. 824(a)(3). While the Controlled Substances Act does not specify that state licensure is a condition precedent to registration as a distributor of list I chemicals, it is well-settled that the Administrator may apply the bases for revoking a registration pursuant to 21 U.S.C. 824(a) to the denial of applications pursuant to 21 U.S.C. 823. See Anthony D. Funches, 64 FR 14268 (1999). Accordingly, DEA consistently has held that a person may not hold a DEA registration if that person is without appropriate authority pursuant to the laws of the state where he or she conducts business. See Anne Lazar Thorn, 62 FR 12847 (1997); Bobby Watts, M.D., 53 FR 11919 (1988); Robert F. Witek, D.D.S., 52 FR 47770 (1987); Wingfield Drugs, Inc., 52 FR 27070 (1987).

In the instant case, Respondent does not deny that it is not currently authorized to handle list I chemicals in the State of California, the jurisdiction where it conducts business. The Government attached to its motion a copy of a letter dated June 12, 2000, from the BNE to Respondent, denying Respondent's Precursor Business Permit, together with a copy of the applicable provision of the California Health and Safety Code governing permits and the application procedure.

The DEA does not have the statutory authority pursuant ot the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she conducts business. See 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50570 (2000); Romeo J. Perez, M.D., 62 FR 16193 (1997); Demetris A. Green, M.D., 61 FR 60728 (1996); Dominick A. Ricci, M.D., 58 FR 51104 (1993).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that the Respondent is not authorized to handle list I chemicals in California, where it conducts business. The Administrator finds that Judge Bittner has allowed Respondent ample time to refute the Government's evidence, and that Respondent has submitted no evidence or assertions to the contrary. Thus, there is no genuine issue of material fact concerning Respondent's lack of authorization to handle list I chemicals in the state where it conducts business.

The Administrator concurs with Judge Bittner's finding that it is well settled that when there is no question of material fact involved, there is no need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. See Michael G. Dolin, M.D., 65 FR 5661 (2000); Jesus R. Juarez, M.D., 62 FR 14945 (1997); see also Philip E. Kirk, M.D., 48 FR 32887 (1983), aff'd sub nom. *Kirk* v. *Mullen,* 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for registration as a distributor of list I chemicals submitted by Jack's Sales, Inc., be, and it hereby is, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchison,

Administrator.

[FR Doc. 01–26177 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Carla Johnson, M.D.; Denial of Application

On March 21, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Carla M. Johnson, M.D., (Respondent) notifying her of an opportunity to show cause as to why the DEA should not deny her application for DEA registration, pursuant to 21 U.S.C. 823(f), for reason that Respondent's registration would be inconsistent with the public interest. On May 8, 2000, Respondent filed a request for a hearing in this matter.

On August 10, 2000, the Government filed a Motion for Summary Disposition, asserting that Respondent is not currently authorized to handle controlled substances in the state in which she seeks a DEA Certificate of Registration, and attached a copy of an opinion from the Louisiana State Medical Board dated July 12, 2000, suspending Respondent's license to practice medicine in that State. On August 14, 2000, Administrative Law Judge Mary Ellen Bittner issued a memorandum to Counsel granting Respondent until August 29, 2000, to file a response to the Government's motion. As of this date, Respondent has failed to respond to the Government's motion.

The Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Administrator adopts in full the Opinion and Recommended Decision of the Administrative Law Judge.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50570 (2000); Romeo J. Perez, M.D., 62 FR 16193 (1997); Demetris A. Green, M.D., 61 FR 60728 (1996); Dominick A. Ricci, M.D., 58 FR 51104 (1993).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that the Respondent is not authorized to practice medicine in Louisiana, and therefore, the Administrator infers that Respondent is also not authorized to handle controlled substances in Louisiana, the State in which she seeks to obtain a DEA registration. The Administrator finds that Judge Bittner allowed Respondent ample time to refute the Government's evidence, and that Respondent has submitted no evidence or assertions to the contrary. Thus, there is no genuine issue of material fact concerning Respondent's lack of authorization to practice medicine in Louisiana or to handle controlled substances in that State.

The Administrator concurs with Judge Bittner's finding that it is well settled that when there is no question of material fact involved, there is no need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaning less tasks. See Michael G. Dolin, M.D., 65 FR 5661 (2001); Jesus R. Juarez, M.D., 62 FR 14945 (1997); see also Philip E. Kirk, M.D., 48 FR 32887 (1983), aff'd sub nom. *Kirk* v. *Mullen,* 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the application for a DEA Certificate of Registration submitted by Carla M. Johnson, M.D., be, and it hereby is, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26176 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

George Samuel Kouns, D.O.; Revocation of Registration

On April 28, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an amended Order to Show Cause (OTSC) by certified mail to George Samuel Kouns, D.O., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, AK8923496, pursuant to 21 U.S.C. 823(f) and 21 U.S.C. 824(a) (2), (3), and (4), on the grounds that Dr. Kouns is no longer authorized to handle controlled substances in Indiana, the State in which Dr. Kouns is currently registered with DEA. The amended OTSC also stated that Dr. Kouns' request to modify his registration address from Indiana to Alabama should be denied pursuant to 21 U.S.C. 823(f) and 21 U.S.C. 824(a)(4), because Dr. Kouns is not authorized to handle controlled substances in Alabama. The amended OTSC also alleged that Dr. Kouns' DEA registration should be revoked and his request for modification denied because on March 23, 1998, he was convicted of a felony relating to controlled substances in the Union County Circuit Court of the State of Indiana. The amended OTSC also notified Dr. Kouns that should not request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

On May 2, 2000, the amended OTSC was sent to Dr. Kouns at the address at which he sought to have his DEA registration modified, and also to his last known address in Alabama. Subsequently, DEA received a postal receipt dated May 26, 2000, and signed on behalf of Dr. Kouns, indicating the amended OTSC was received.

DEA has received no request for a hearing nor other response from Dr. Kouns nor anyone purporting to represent him in this matter. Therefore, the Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Kouns is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43 9d) and (e), and 1301.46.

The Administrator finds as follows. Dr. Kouns currently possesses DEA Certificate of Registration AK8923496, issued to him in Indiana. On or about March 23, 1998, pursuant to a plea agreement Dr. Kouns pleaded guilty to 15 felony counts of Issuing Unlawful Prescriptions, including controlled substance prescriptions. Also pursuant to the plea agreement, Dr. Kouns agreed to (1) pay a $5,000 fine and (2) to not practice medicine in Indiana, to surrender any licensure to practice medicine in Indiana, and not to reapply for medical licensure in Indiana. By Order dated May 12, 1998, the Union County Circuit Court sentenced Dr. Kouns to 15 consecutive years in prison, which term was suspended, and placed Dr. Kouns on probation for 15 years.

Based on the felony convictions, the Indiana Medical Licensing Board revoked Dr. Kouns license to practice medicine in Indiana by Order dated August 31, 1998. On or about September 18, 1998, the Controlled Substance Advisory Committee and the Indiana Board of Pharmacy issued a Final Order denying Dr. Kouns' application for a controlled substances registration. There is no evidence in the investigative file indicating that Dr. Kouns has regained authority to handle controlled substances in the State of Indiana.

The Administrator further finds that on or about January 14, 1999, the Alabama Medical Licensure Commission issued an Order revoking Dr. Kouns' license to practice medicine in the State of Alabama based upon (1) Dr. Kouns' controlled substances-related felonies in the State of Indiana, and (2) the subsequent disciplinary action taken against Dr. Kouns by the Indiana State authorities. There is no evidence in the file indicating that Dr. Kouns has regained authority to handle controlled substances in the State of Alabama.

In addition, the Administrator finds substantial evidence in the investigative file that Dr. Kouns' license to practice medicine in Ohio expired September 30, 1998, due to non-payment of renewal fees, and as of this date, there is no evidence in the investigative file to conclude that his Ohio medical license has been reinstated.

Therefore, the Administrator concludes that Dr. Kouns is not currently licensed or authorized to handle controlled substances in either Alabama, Indiana, or Ohio.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain

a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50,570 (2000); Romeo J. Perez, M.D., 62 FR 16,193 (1997); Demetris A. Green, M.D, 61 FR 60,728 (1996); Dominick A. Ricci, M.D., 58 FR 51,104 (1993).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that Dr. Kouns is not authorized to practice medicine or to handle controlled substances in Indiana, the jurisdiction where Dr. Kouns' DEA Certificate of Registration is issued, nor to practice medicine in Alabama, the jurisdiction where Dr. Kouns seeks to have his DEA Certificate of Registration modified, nor in Ohio, where his State medical license has expired. Therefore, the Administrator concludes that Dr. Kouns is also not authorized to handle controlled substances in Alabama, Indiana, or Ohio.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration AK8923496 previously issued to George Samuel Kouns, D.O., be, and it hereby is, revoked. The Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26190 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Jerry Clifton Lingle, M.D.; Revocation of Registration

On October 10, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Jerry Clifton Lingle, M.D., notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, BL1508285, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of such registration pursuant to 21 U.S.C. 823(f), on the grounds that Dr. Lingle was not authorized by the State of Florida to handle controlled substances. The order also notified Dr. Lingle that should no request for hearing be filed within 30 days, his right to a hearing would be deemed waived.

The OTSC was sent to Dr. Lingle at his DEA registered premises in Fort Lauderdale, Florida. A postal delivery receipt was signed October 28, 2000, on behalf of Dr. Lingle, indicating the OTSC was received. To date, no response has been received from Dr. Lingle nor anyone purporting to represent him.

Therefore, the Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Lingle is deemed to have waived his right to a hearing. Following a complete review of the investigative file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Administrator finds as follows. Dr. Lingle currently possesses DEA Certificate of Registration BL1508285, issued to him in Florida. By Order of Emergency Suspension of License, dated June 9, 1999, the State of Florida, Department of Health, suspended Dr. Lingle's medical license, finding that ''Dr. Lingle's continued practice as a physician constitutes an immediate and serious danger to the health, safety and welfare of the public[.]'' The investigative file contains no evidence that the Emergency Suspension of Dr. Lingle's medical license has been lifted.

Therefore, the Administrator concludes that Dr. Lingle is not currently licensed or authorized to handle controlled substances in Florida.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50570 (2000); Romeo J. Perez, M.D., 62 FR 16193 (1997); Demetris A. Green, M.D., 61 FR 60728 (1996); Dominick A. Ricci, M.D. 58 FR 51104 (1993).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that Dr. Lingle is not authorized to practice medicine in Florida, and therefore, the Administrator infers that Dr. Lingle is also not authorized to handle controlled substances in Florida, the State in which he holds his DEA Certificate of Registration.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration BL1508285, previously issued to Jerry Clifton Lingle, M.D., be, and it hereby is, revoked. The Administrator hereby further orders that any pending applications for renewal or modification of said registration be, and hereby are, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26186 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Trudy J. Nelson, MD; Revocation of Registration

On June 12, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to Trudy J. Nelson, MD, notifying her of an opportunity to show cause as to why the DEA should not revoke her DEA Certificate of Registration, BN0504894, pursuant to 21 U.S.C. 824(a)(1), 824(a)(2), 824(a)(3) and 924(a)(4) and deny any pending applications for renewal, pursuant to 21 U.S.C. 823(f). The OTSC also notified Dr. Nelson that should no request for hearing be filed within 30 days, her right a hearing would be deemed waived.

The OTSC was sent to Dr. Nelson's registered location in Sidney, Ohio, and also to another location at Marysville, Ohio. The Sidney, Ohio mailing was returned, unclaimed. The Marysville, Ohio mailing was received June 20, 2000, by individual signing on behalf of Dr. Nelson, as indicated by the signed postal return receipt. To date, no response has been received from Dr. Nelson nor anyone purporting to represent her.

Therefore, the Administrator, finding that (1) 30 days having passed since the receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Nelson is deemed to have waived her right to a hearing. Following a complete review of the investigative file in this matter, the Administrator now enters his final order

without a hearing pursuant to 21 CFR 1301.43(d) and (e), and 1301.46.

The Administrator finds as follows. Pursuant to an investigation conducted by DEA in conjunction with the Sidney, Ohio, Police Department, the Ohio Bureau of Criminal Investigation, the Piqua, Ohio, Police Department, the State of Ohio Pharmacy Board, and the State of Ohio Taxation Department, Dr. Nelson was found to have engaged in a substantial amount of allegedly criminal activity during the period between October 1994 and June 1999. Relevant to the instant matter are her illicit activities relating to controlled substances.

As a result of the investigation, on or about December 28, 1999, in the Court of Common Pleas in Shelby County, Ohio, Dr. Nelson pleaded guilty to one felony count of Attempted Corrupting Another With Drugs; three felony counts of Trafficking in Drugs; and one felony count of Theft of Drugs. Dr. Nelson was sentenced to serve six years incarceration. On January 12, 2000, the State Medical Board of Ohio issued a Notice of Immediate Suspension and Opportunity for Hearing, informing Dr. Nelson *inter alia* that her license to practice medicine and surgery in Ohio was immediately suspended.

Pursuant to 21 U.S.C. 824(a), ''A registration pursuant to section 823 of this title to * * * dispense a controlled substance * * * may be suspended or revoked by the Attorney General upon a finding that the registrant—(1) has materially falsified any application filed pursuant to or required by this subchapter * * *; (2) has been convicted of a felony under this subchapter of subchapter II of this chapter or any other law of the United States, or of any State, relating to any substance in this subchapter as a controlled substance * * *''

In addition, pursuant to 21 U.S.C. 823(f) and 824(a)(4), the Administrator may revoke a DEA Certificate of Registration and deny any pending applications for renewal of such registration if he determines that the continued registration would be inconsistent with the public interest. Section 823(f) requires the following factors be considered in determining the public interest:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing, or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

These factors are to be considered in the disjunctive; the Administrator may rely on any one or combination of factors and may give each factor the weight he deems appropriate in determining whether a registration should be revoked or an application for registration be denied. See Henry J. Schwartz, Jr., MD, 54 FR 16422 (DEA 1989).

Pursuant to 21 U.S.C. 824(a)(1), the Administrator may revoke a DEA Certificate of Registration upon a finding that the registrant has materially falsified an application for registration. The investigative file reveals that, in January 1994, the Complaint Committee of the West Virginia Board of Medicine issued a complaint that alleged that Dr. Nelson renewed her State license to practice medicine and surgery by fraudulent misrepresentation and making a false statement in connection with a licensure application. In lieu of further proceedings, effective April 15, 1994, the West Virginia Board of Medicine accepted the surrender of Dr. Nelson's license to practice medicine and surgery in that State. Additionally, as a result of a falsification of a 1991 registration application for medical licensure in the State of Ohio, on June 6, 1994, Dr. Nelson entered into a Consent Agreement with the State Medical Board of Ohio (Ohio Board) wherein her Ohio State medical license was suspended for an indefinite period of time. Dr. Nelson subsequently entered into a second Consent Agreement with the Ohio Board on August 10, 1994, in response to the Ohio Board's learning of the April 1994 surrender of Dr. Nelson's West Virginia medical license. Pursuant to this second Consent Agreement, Dr. Nelson's Ohio State medical license was again suspended for an indefinite period, and probationary terms were imposed when the license was reinstated.

On October 31, 1994, and again on September 10, 1997, Dr. Nelson executed applications for DEA Certifications of Registration. In response to liability question 2(b) on each application, that states: ''Has the applicant ever been convicted of a crime in connection with controlled substances under State or Federal law, or ever surrendered or had a Federal controlled substance registration revoked, suspended, restricted or denied, or ever had a State professional license or controlled substance registration revoked, suspended, denied, restricted or placed on probation?'' Dr. Nelson checked the box marked ''no.''

The Administrator finds that Dr. Nelson knew that her responses on her 1994 and 1997 DEA applications were false. Dr. Nelson had been forced to surrender her West Virginia medical license in April 1994; her Ohio medical license was suspended pursuant to Consent Agreement in June and then again in August 1994; and she executed the first of the DEA registration renewal applications at issue less than two months later. Answers to the liability questions are always material because DEA relies on the answers to these questions to determine whether it is necessary to conduct an investigation prior to granting an application. See Bobby Watts, MD, 58 FR 46995, (1993); Ezzat E. Majd Pour, MD, 55 FR 47547 (1990). Therefore, grounds exist to revoke Dr. Nelson's DEA Certificate of Registration pursuant to 21 U.S.C. 824(a)(1).

Pursuant to 21 U.S.C. 824(a)(2), the Administrator may revoke a DEA Certificate of Registration upon a finding that a registrant has been convicted of a felony under the law of any State. The investigative file clearly shows that Dr. Nelson pleaded guilty on or about December 28, 1999, in the Court of Common Pleas in Shelby County, Ohio, to one felony count of Attempted Corrupting Another With Drugs; three felony counts of Trafficking in Drugs; and one felony count of Theft of Drugs. Dr. Nelson was sentenced to serve six years incarceration. Therefore, grounds exist to revoke Dr. Nelson's registration pursuant to 21 U.S.C. 824(a)(2).

Pursuant to 21 U.S.C. 823(f) and 824(a)(f), the Administrator may revoke a DEA Certificate of Registration and deny any pending applications for renewal if he determines that the continued registration would be inconsistent with the public interest. Regarding the public interest analysis pursuant to 21 U.S.C. 823(f), the Administrator has reviewed the five factors, and finds that factors (2), (3), (4), and (5) are most relevant to the instant matter.

Specifically, the Administrator finds with regard to factors two and four that Dr. Nelson pleaded guilty to five felony violations on or about December 28, 1999, in the Court of Common Pleas in Shelby County, Ohio, including one felony count of Attempted Corrupting Another With Drugs; three felony counts of Trafficking in Drugs; and one felony count of Theft of Drugs; and was sentenced to serve six years incarceration. The Administrator therefore concludes that Dr. Nelson

clearly has mishandled controlled substances in the past, and failed to comply with laws relating to controlled substances. See Robert A. Leslie, 64 FR 25908 (1999).

With regard to factor three, as previously set forth, Dr. Nelson pleaded guilty on or about December 28, 1999, in the Court of Common Pleas in Shelby County, Ohio, to one felony count of Attempted Corrupting Another With Drugs; three felony counts of Trafficking in Drugs; and one felony count of Theft of Drugs; and was sentenced to serve six years incarceration.

With regard to factor five, the Administrator finds especially egregious in this matter that Dr. Nelson's array of convictions include one that is especially heinous in light of her purported role as medical healer: her guilty plea to the crime of Attempted Corrupting Another With Drugs. The Administrator finds that the investigative file contains evidence that Dr. Nelson abused her DEA Registration by knowingly feeding and encouraging the addiction of at least one of her patients, and that she subsequently used that patient's minor son as an excuse and a conduit to continue to feed that patient's addiction. Such conduct on the part of a medical professional is as vile as it is disgraceful, and the Administrator denounces such conduct in the strongest possible terms.

The Administrator therefore concludes that it would be inconsistent with the pubic interest to continue Dr. Nelson's registration, and therefore grounds exist to revoke her DEA registration pursuant to 21 U.S.C. 824(a)(4).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration, BN0504894, previously issued to Trudy J. Nelson, M.D., be, and it hereby is, revoked, and any pending applications for renewal or modification of said registration be, and they hereby are, denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26179 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

William Peterson, M.D.; Revocation of Registration

On October 31, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to show Cause (OTSC) by certified mail to William Peterson, M.D., (Respondent) notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration AP1632810, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of this registration, pursuant to 21 U.S.C. 824(a)(4) and 823(f), for the reasons that Respondent's license to practice medicine in the jurisdiction in which Respondent practices, North Carolina, was suspended by the North Carolina Medical Board (Board). The Order to Show Cause further alleged that the Board made a finding that, on numerous occasions, the Respondent prescribed controlled substances to individuals for no legitimate medical reason.

By letter filed November 16, 2000, Respondent, *pro se,* requested a hearing in this matter.

On November 22, 2000, Administrative Law Judge Gail A. Randall issued an order for Prehearing Statements. Judge Randall also mailed a letter to Respondent, informing him of his right to representation at his own expense, and enclosed therein a copy of the regulation explaining that right, 21 CFR 1316.50 (2000). On December 13, 2000, the Government filed a motion seeking summary disposition, arguing that Respondent's license to practice medicine, and therefore, to handle controlled substances in the jurisdiction of his DEA registration, was suspended. Since the Government has not received any information that the suspension has been lifted, the Government asserts that the Respondent's registration cannot be maintained.

The Government attached to its motion a sworn Certificate of Registration Status, signed by the Chief of the Registration Unit of the DEA and certifying the Certificate's authenticity; a copy of Respondent's DEA Certificate of Registration, AP1632810, currently assigned to the Respondent in North Carolina, with an expiration date of March 31, 2002; and a Notice of Charges and a copy of an Order of Summary Suspension of License, both of which are signed by the President of the Board and dated August 2, 1999.

By an Order dated December 13, 2000, Judge Randall stayed the proceedings pending the resolution of the Government's motion, and she allowed the Respondent until January 3, 2000, to respond to the Government's motion. No response has been received as of this date.

The Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Administrator adopts in full the Opinion and Recommended Decision of the Administrative Law Judge.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. §§ 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50,570 (2000); Romeo J. Perez, M.D., 62 FR 16193 (1997); Demetris A. Green, M.D., 61 FR 60728 (1996); Dominick A. Ricci, M.D., 58 FR 51104 (1993).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that the Respondent is not authorized to practice medicine in North Carolina, and therefore, the Administrator infers that Respondent is also not authorized to handle controlled substances in North Carolina, where he conducts his business, according to the address listed on his DEA Certificate of Registration. The Administrator finds that Judge Randall allowed Respondent ample time to refute the Government's evidence, and that Respondent has submitted no evidence or assertions to the contrary. Thus, there is no genuine issue of material fact concerning Respondent's lack of authorization to practice medicine in North Carolina or to handle controlled substances in that State.

The Administrator concurs with Judge Randall's finding that it is well settled that when there is no question of material fact involved, there is no need for plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. See Michael G. Dolin, M.D., 65 FR 5661 (2000); Jesus R. Juarez, M.D., 62 FR 14945 (1997); *see also Philip E. Kirk, M.D.,* 48 FR 32887 (1983), aff'd sub nom. Kirk v. Mullen, 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him

by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AP1632810, issued to William Peterson, M.D., be, and it hereby is, revoked; and that any pending applications for the renewal or modification of said Certificate be denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26181 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Lionel Resnick, M.D.; Revocation of Registration

The Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC), dated February 6, 2001, by certified mail to Lionel Resnick, M.D., (Respondent) notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration AR9599309, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal or modification of this registration, pursuant to 21 U.S.C. 823(f). The OTSC alleged that Respondent's license to practice medicine in the jurisdiction in which Respondent practices, the State of Florida, was suspended effective October 19, 1999, by the Florida Department of Health based upon Respondent's convictions of eighteen felony counts of mail fraud, in violation of 18 U.S.C. 1341, by the United States District Court, Southern District of Florida. By letter filed March 21, 2001, Respondent requested a hearing in this matter.

On April 2, 2001, the Government filed a Motion for *inter alia* Summary Disposition, on the grounds that Respondent is not currently authorized to handle controlled substances in the jurisdiction in which he is currently registered with DEA. On April 3, 2001, Administrative Law Judge Mary Ellen Bittner issued a Memorandum to Counsel and Order allowing Respondent until April 24, 2001, to respond to the Government's motions, and holding a previously-issued Order for Prehearing Statements in abeyance pending a ruling on the Government's motions.

The Government attached to its Motion a copy of an Administrative Complaint issued by the Department of Health, State of Florida, and signed by the Secretary and Chief Medical Attorney for the Board of Medicine, and also a document from the Florida Department of Health, Health Licensee Information website, dated July 21, 2000, indicating Respondent's license status as suspended. In light of these attachments, the Government asserts that Respondent does not have a valid license to practice medicine or to handle controlled substances in Florida, the jurisdiction of his practice as indicated on his DEA Certificate of Registration. As of this date, the investigative file contains no response from Respondent nor anyone purporting to represent him.

Judge Bittner rendered her Opinion and Recommended Ruling on May 16, 2001, recommending that Respondent's DEA registration be revoked, and any pending applications for renewal or modification be denied. On June 18, 2001, Judge Bittner transmitted the record of these proceedings to the Office of the Deputy Administrator.

The Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Administrator adopts in full the Opinion and Recommended Decision of the Administrative Law Judge.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f) and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50570 (2000); Romeo J. Perez, M.D., 62 FR 16193 (1997); Demetris A. Green, M.D., 61 FR 60728 (1996); Dominick A. Ricci, M.D., 58 FR 51104 (1993).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that the Respondent is not authorized to practice medicine in Florida, and therefore, the Administrator concluded that Respondent is also not authorized to handle controlled substances in Florida, where he conducts business, according to the address listed on his DEA Certificate of Registration. The Administrator finds that Judge Bittner allowed Respondent ample time to refute the Government's evidence, and that Respondent has submitted no evidence or assertions to the contrary. Thus, there is no genuine issue of material fact concerning Respondent's lack of authorization to practice medicine in Florida or to handle controlled substances in that State.

The Administrator concurs with Judge Bittner's finding that it is well settled that when there is no question of material fact involved, there is no need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. See Michael G. Dolin, M.D., 65 FR 5661 (2000); Jesus R. Juarez, M.D., 62 FR 14945 (1997); see also Philip E. Kirk, M.D., 48 FR 32887 (1983), aff'd sub nom. *Kirk* v. *Mullen,* 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration AR 9599309, issued to Lionel Resnick, M.D., be, and it hereby is, revoked; and that any pending applications for the renewal or modification of said Certificate be denied. This order is effective November 19, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26182 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

In the Matter of James Jay Rodriguez, M.D.; Revocation of Registration

On or about October 31, 2000, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC) by certified mail to James Jay Rodriguez, M.D., 156 South Second Street, Selmer, Tennessee 38375, notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration, BR4717370, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of said registration, pursuant to 21 U.S.C. 824(a)(4) and 823(f), for the reason that, on December 20, 1999, the Tennessee Department of Health, Board of Medical Examiners (Board) issued an Order of Summary Suspension of License with respect to his state license to practice medicine. The order also notified Dr. Rodriguez that, should no request for hearing be filed within 30 days, the right to a hearing would be waived.

The OTSC was received at Dr. Rodriguez's address November 24, 2000, as indicated by the signed postal return receipt. To date, no response has been

received from Dr. Rodriguez nor anyone purporting to represent him.

Therefore, the Administrator of the DEA, finding that (1) thirty days having passed since receipt of the Order to Show Cause, and (2) no request for a hearing having been received, concludes that Dr. Rodriguez is deemed to have waived his right to a hearing. Following a complete review of the investigate file in this matter, the Administrator now enters his final order without a hearing pursuant to 21 CFR 1301.43(d) and (e) and 1301.46 (2001).

The Administrator finds as follows. In a hearing on December 17, 1999, the Tennessee Department of Health, Board of Medical Examiners (Board), found *inter alia* that Dr. Rodriguez entered the Tennessee Medical Foundation on September 23, 1993, for the treatment of drug addiction; that Dr. Rodriguez left treatment March 4, 1994, against medical advice; that on June 1, 1994, the State Volunteer Insurance Company refused to renew Dr. Rodriguez's insurance, stating that he was a high risk because of his ongoing problems with alcohol; that in May 1998 Dr. Rodriguez wrote a letter to DEA requesting that this agency revoke this Schedule II privileges, stating that it was ''difficult'' for him to distinguish which patients were actually in pain and which were not in pain and in actual need of medications; that on July 16, 1999, Dr. Rodriguez was arrested on the charge of DUI, and the subsequent toxicology report indicated a blood alcohol level of .10% and trace amounts of phentermine, diazepam, nordiazepam, dihydrocodeinone, and trazodon; that on December 9, 1999, Tennessee State investigators interviewed Dr. Rodriguez at his office, and discovered him to be excessively physically nervous and mentally confused. The investigators further observed Dr. Rodriguez's office was in disarray, with large quantities of drugs observe, but not records available regarding the dispensing of drugs. The investigators found a similar state of disarray at Dr. Rodriguez's home. The Board concluded that the state investigators produced evidence of dangerous drugs with addictive effects, along with an open drug safe and a lack of records documenting the dispensing of such drug safe and a lack of records documenting the dispensing of such drugs. The Board specifically concluded that Dr. Rodriguez used dangerous drugs with addictive effects for his own addictions, as well as those of his patients.

As a result of these findings, the Board summarily suspended Dr. Rodriguez's license to practice medicine in Tennessee. The investigative file contains no evidence that Dr. Rodriguez's license has been reinstated. Therefore, the Administrator concludes that Dr. Rodriguez is not currently authorized to practice medicine in Tennessee, the State in which he maintains his DEA Certificate of Registration.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50570 (2000); Romeo J. Perez, M.D., 62 FR 16193 (1997); Demetris A. Green, M.D., 61 FR 60728 (1996); Dominick A. Ricci, M.D., 58 FR 51104 (1993).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that Dr. Rodriguez is not authorized to practice medicine in Tennessee, and therefore, the Administrator infers that Dr. Rodriguez is also not authorized to handle controlled substances in Tennessee, the State in which he holds his DEA Certificate of Registration.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that the DEA Certificate of Registration BR4717370, previously issued to James Jay Rodriguez, M.D., be, and it hereby is, revoked. The Administrator hereby further orders that any pending applications for renewal or modification of said registration be and hereby are, denied. This order is effective November 16, 2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26185 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

John Arthur Thomassen, D.D.S.; Revocation of Registration

The Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause (OTSC), dated February 6, 2001, by certified mail to John Arthur Thomassen, D.D.S., (Respondent) notifying him of an opportunity to show cause as to why the DEA should not revoke his DEA Certificate of Registration BT0666000, pursuant to 21 U.S.C. 824(a)(3), and deny any pending applications for renewal of this registration, pursuant to 21 U.S.C. 823(f), for the reason that Respondent's license to practice medicine in the jurisdiction in which Respondent practices, California, was revoked.

By letter filed March 9, 2001, Respondent, through counsel, requested a hearing in this matter.

On March 12, 2001, administrative Law Judge Gail A. Randall issued an Order for Prehearing Statements. On March 15, 2001, the Government filed a motion seeking summary disposition, arguing that Respondent's license to practice medicine, and therefore, to handle controlled substances in the jurisdiction of his registration, was revoked.

The Government attached to its motion a copy of the Proposed Decision, rendered by Administrative Law Judge Hoover, *In the Matter of the Supplemental Accusation and Petition to Revoke Probation Against John Arthur Thomassen, D.D.S.,* case number 01–97–1208, dated March 22, 2000. Judge Hoover proposed revocation of the Respondent's probation and state license. The Government also attached the Decision of the Dental Board of California, Department of Consumer Affairs, State of California (Board), *In the Matter of the Supplemental Accusation and Petition to Revoke Probation Against John Arthur Thomassen, D.D.S.,* case number 01–97–1208, dated April 3, 2000. The Board adapted the Administrative Law Judge's decision as its own, to take effect on May 3, 2000.

In light of these attachments, the Government argues that Respondent does not have a valid license to practice dentistry or to handle controlled substances in the jurisdiction indicated on his DEA Certificate of Registration.

By an Order dated March 16, 2000, Judge Randall *inter alia* stayed the proceedings pending the resolution of the Government's motion, and she allowed the Respondent until April 6, 2001, to respond to the Government's motion. No response has been received from Respondent as of this date.

The Administrator has considered the record in its entirety, and pursuant to 21 CFR 1316.67, hereby issues his final order based upon findings of fact and conclusions of law as hereinafter set forth. The Administrator adopts in full the Opinion and Recommended Decision of the Administrative Law Judge.

The DEA does not have the statutory authority pursuant to the Controlled Substances Act to issue or to maintain a registration if the applicant or registrant is without state authority to handle controlled substances in the state in which he or she practices. See 21 U.S.C. 802(21), 823(f), and 824(a)(3). This prerequisite has been consistently upheld in prior DEA cases. See Graham Travers Schuler, M.D., 65 FR 50570 (2000); Romeo J. Perez, M.D., 62 FR 16,193 (1997); Demetris A. Green, M.D., 61 FR 60728 (1996); Dominick A. Ricci, M.D., 58 FR 51104 (1993).

In the instant case, the Administrator finds the Government has presented evidence demonstrating that the Respondent is not authorized to practice dentistry in California, and therefore, the Administrator infers that Respondent is also not authorized to handle controlled substances in California, where he conducts his business, according to the address listed on his DEA Certificate of Registration. The Administrator finds that Judge Randall allowed Respondent ample time to refute the Government's evidence, and that Respondent has submitted no evidence or assertions to the contrary. Thus, there is no genuine issue of material fact concerning Respondent's lack of authorization to practice dentistry in California or to handle controlled substances in that State.

The Administrator concurs with Judge Randall's finding that it is well settled that when there is no question of material fact involved, there is no need for a plenary, administrative hearing. Congress did not intend for administrative agencies to perform meaningless tasks. See Michael G. Dolin, M.D., 65 FR 5661 (2000); Jesus R. Juarez, M.D., 62 FR 14945 (1997); see also Philip E. Kirk, M.D., 48 FR 32887 (1983), aff'd sub nom. *Kirk* v. *Mullen,* 749 F.2d 297 (6th Cir. 1984).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration BT0666000, issued to John Arthur Thomassen, D.D.S., be, and it hereby is, revoked; and that any pending applications for the renewal or modifications of said Certificate be denied. This order is effective November 19, k2001.

Dated: October 10, 2001.

Asa Hutchinson,

Administrator.

[FR Doc. 01–26180 Filed 10–17–01; 8:45 am]

BILLING CODE 4410–09–M

MERIT SYSTEMS PROTECTION BOARD

Sunshine Act Notice

Notice: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552(b)), notice is hereby given that the Merit Systems Protection Board will hold a partially closed meeting on Thursday, October 18, 2001, at 2 p.m., in the Board's conference room at 1615 M Street, NW., 6th Floor, Washington, DC 20419. In calling the meeting, the Board determined that Board business required its consideration of the agenda items on less than seven days' notice to that public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the first agenda item in a meeting open to public interest did not require consideration of the first agenda item in a meeting open to public observation; and that the second agenda item could be considered in a closed meeting by authority of subsection (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(10)).

Matters Considered:

(1) Briefing of Board members on Senior Managers' retreat;

(2) Case processing issues.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Shannon McCarthy or Matthew Shannon, Office of the Clerk of the Board, (202) 653–7200.

Dated: October 15, 2001.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 01–26471 Filed 10–16–01; 3:14 pm]

BILLING CODE 7400–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice [01–127]]

Agency Information Collection Activities; Proposed Collections

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of agency report forms under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)). This information collection provides records of accountability, responsibility, transfer, location, and disposition of radioactive materials.

DATES: All comments should be submitted on or before December 17, 2001.

ADDRESSES: All comments should be addressed to Ms. Sue McDonald, Mail Code GP2, Lyndon B. Johnson Space Center, Houston, TX 77058.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: Radioactive Material Transfer Receipt.

OMB Number: 2700–0007.

Type of review: Extension.

Need and Uses: NASA Johnson Space Center is required by Federal law to keep records of the receipt, transfer, and disposal of radioactive items and information on accountability, responsibility, transfer, disposition, and location.

Affected Public: Business or other for-profit, Federal Government, State, local or tribal government.

Number of Respondents: 25.

Responses Per Respondent: 2.

Annual Responses: 50.

Hours Per Request: approx. ½ hr.

Annual Burden Hours: 29.

Frequency of Report: On occasion.

David B. Nelson,

Deputy Chief Information Officer, Office of the Administrator.

[FR Doc. 01–26258 Filed 10–17–01; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Proposed Collection, Comment Request, Reconsideration of the Library Services & Technology Act (LSTA) Annual Report Process

AGENCY: Institute of Museum and Library Services.

ACTION: Notice.

SUMMARY: The Institute of Museum and Library Services as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3508(2)(A)] This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection

instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently the Institute of Museum and Library Services is soliciting comments concerning the proposed reconsideration of the LSTA Annual Report process.

A copy of the proposed information collection request can be obtained by contacting the individual listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before December 17, 2001.

IMLS is particularly interested in comments that help 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 proposed collection of information including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submissions of responses.

ADDRESSES: Send comments to: Barbara G. Smith, Technology Officer, Institute of Museum and Library Services, 1100 Pennsylvania Ave., NW., Room 802, Washington, DC 20506. Ms. Smith can be reached on Telephone: 202–606–5254; Fax: 202–606–1077 or at bmsith@imls.gov

SUPPLEMENTARY INFORMATION:

I. Background

The Institute of Museum and Library Services is an independent Federal grant-making agency authorized by the Museum and Library Services Act, Pub. L. 104–208. The IMLS provides a variety of grant programs to assist the nation's museums and libraries in improving their operations and enhancing their services to the public. Museums and libraries of all sizes and types may receive support from IMLS programs.

Agency: Institute of Museum and Library Services.

Title: Reconsideration of the Library Services & Technology Act (LSTA) Annual Report Process.

OMB Number n/a.

Frequency: One time.

Affected Public: State Library Administrative Agencies for the States and U.S. Territories.

Number of Respondents: 125.

Estimated Time Per Respondent: one hour.

Total Burden Hours: 125 hours.

Total Annualized capital/startup costs: zero.

Total Annual costs: $3,650.00.

CONTACT: Mamie Bittner, Director of Public and Legislative Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, telephone (202) 606–4648.

Dated: September 19, 2001.

Mamie Bittner,

Director of Public and Legislative Affairs.

[FR Doc. 01–26312 Filed 10–17–01; 8:45 am]

BILLING CODE 7036–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–245, 50–336, and 50–423]

Dominion Nuclear Connecticut, Inc., Millstone Nuclear Power Station, Units 1, 2, and 3; Notice of Consideration of Approval of Application Regarding Proposed Corporate Restructuring and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the indirect transfer of Facility Operating Licenses Nos. DPR–21, DPR–65, and NPF–49 for the Millstone Nuclear Power Station, Units 1, 2, and 3 (Millstone) to the extent held by Dominion Nuclear Connecticut, Inc. (Dominion Nuclear). The indirect transfer would result from the establishment of an intermediary parent company that will indirectly own Dominion Nuclear.

Dominion Nuclear is a wholly owned, indirect subsidiary of Dominion Energy, Inc., which is a wholly owned, direct subsidiary of Dominion Resources, Inc., the ultimate parent of Dominion Nuclear. According to Dominion Nuclear's application dated August 17, 2001, Dominion Energy Holdings, Inc., will become an intermediary, indirect parent company of Dominion Nuclear. Specifically, Dominion Energy Holdings, Inc., will become a direct wholly owned subsidiary of Dominion Resources, Inc., and the new direct parent of Dominion Energy Inc., which at the same time will be converted to Dominion Energy, LLC. No physical changes to the Millstone facility or operational changes are being proposed in the application. The two other licensees for Millstone Unit 3, Central Vermont Public Service Corporation and Massachusetts Municipal Wholesale Electric Company, which hold minority ownership interests in Unit 3, are not involved in the restructuring action affecting Dominion Nuclear.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the underlying transaction that will effectuate the indirect transfer will not affect the qualifications of the holder of the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By November 7, 2001, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, ''Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications,'' of 10 CFR part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon Lillian M. Cuoco, Senior Nuclear Counsel, Dominion Nuclear Connecticut, Inc., Rope Ferry Road, Waterford, CT 06385 (tel: 860–444–5316; fax: 860–444–4278; e-mail: *lillian_cuoco@dom.com*); the General Counsel, U.S. Nuclear Regulatory

Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: *OGCLT@NRC.gov*); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by November 19, 2001, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated August 17, 2001, available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/ADAMS/index.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland this 12th day of October 2001.

For the Nuclear Regulatory Commission.

John Harrison,

Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–26279 Filed 10–17–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–458]

Entergy Operations, Inc., River Bend Station, Unit 1; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–47 issued to Entergy Operations, Inc. (the licensee) for operation of River Bend Station, Unit 1 (RBS), located in West Feliciana Parish, Louisiana.

The proposed amendment would revise the RBS Technical Specifications (TSs) limit for spent fuel storage to allow storage of up to 3,104 fuel assemblies.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change revises the Technical Specification administrative limit for spent fuel storage to allow storage of up to 3,104 bundles to accommodate a full core offload. The current licensing basis analysis demonstrates that spent fuel pool temperatures will remain below the spent fuel pool design limitations assuming a full core offload is required early in an operating cycle. There are no changes being made to the storage pool structure, the pool water level, the storage racks, the cooling system, or to fuel storage arrays as currently described in the Updated Safety Analysis Report (USAR). The decay heat loads for the proposed storage capacity have been previously evaluated and are not increased by the proposed change. Therefore, there is no affect on spent fuel reactivity control, shielding, or cooling capability. The fuel handling accident analysis as presented in the USAR is also not affected by the proposed change.

Therefore, the proposed change does not result in a significant increase in the probability or the consequences of previously evaluated accidents.

2. The proposed changes would not create the possibility of a new or different kind of accident from any previous analyzed.

The proposed change only affects the allowed quantity of spent fuel stored in the existing fuel racks located in the fuel building spent fuel pool. The fuel arrangement in this storage pool has previously been analyzed for criticality control, the effects of a fuel handling accident, and for the decay heat loads caused by both normal and abnormal conditions. The proposed change does not involve a physical alteration of the plant or a change in the methods of spent fuel pool storage or cooling. Therefore, the proposed change does not introduce the possibility of a new accident precursor or result in creating the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed changes do not involve a significant reduction in a margin of safety.

The proposed change is considered to be an administrative change to the fuel storage capacity limitations. The fuel arrangement in this storage pool has previously been analyzed for criticality control, the effects of a fuel handling accident, and for the decay heat loads caused by both normal and abnormal conditions. These analyses are not impacted by the proposed change. The proposed TS limits on spent fuel pool storage capacity will continue to maintain pool temperatures to less than those allowed by the Standard Review Plan (SRP), NUREG–0800. Therefore, the change remains within the current licensing basis margins and does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would

result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 19, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714, which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or electronically on the Internet at the NRC Web site *http://www.nrc.gov/NRC/CFR/index.html.* Persons who have problems in accessing the document should contact the Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Wise, Carter, Child, and Caraway, P.O. Box 651, Jackson, MS 39205, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

The Commission hereby provides notice that this is a proceeding on an application for license amendments falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid

hearing procedures with respect to ''any matter which the Commission determines to be in controversy among the parties.''

The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR part 2, subpart K, ''Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors'' (published at 50 FR 41662 dated October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. The presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR part 2, subpart G apply.

For further details with respect to this action, see the application for amendment dated April 19, 2001, which is available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room Reference staff by telephone at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 12th day of October, 2001.

For the Nuclear Regulatory Commission.

Robert E. Moody,

Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–26281 Filed 10–17–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–336 AND 50–423]

Dominion Nuclear Connecticut, Inc., et al., Millstone Nuclear Power Station, Unit Nos. 2 and 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Title 10 of the Code of Federal Regulations (10 CFR part 50) for Facility Operating License Nos. DPR–65 and NPF–49, issued to Dominion Nuclear Connecticut, Inc. (the licensee), for operation of the Millstone Nuclear Power Station, Unit Nos. 2 (MP2) and 3 (MP3), located in Waterford, Connecticut. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would incorporate a change in the MP2 and MP3 Technical Specifications (TSs) to clarify the qualifications standards of the reactor operator and senior reactor operator.

The proposed action is in accordance with the licensee's application dated August 9, 2001.

The Need for the Proposed Action

The proposed action modifies the MP2 and MP3 TSs to avoid confusion between the qualification standards of the facility staff, who are qualified to American National Standards Institute (ANSI) N18.1–1971/Regulatory Guide (RG) 1.8 Revision 0, and the operators who will be qualified to the education and experience guidelines outlined by National Academy for Nuclear Training ACAD 00–003 ''Guidelines for Initial Training and Qualification of Licensed Operators.''

Environmental Impacts of the Proposed Action

The NRC has completed its evaluation of the proposed action and concludes that the amendment and its implementation would provide an adequate clarification of the qualification standards.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

The action does not involve the use of any different resources than those previously considered in the Final Environmental Statement for MP2 and MP3, dated June 1973 and December 1984 respectively.

Agencies and Persons Consulted

In accordance with its stated policy, on September 12, 2001, the staff consulted with the Connecticut State official, Michael Firsick of the Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated August 9, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), 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 Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 12th day of October 2001.

For the Nuclear Regulatory Commission.

Victor Nerses,

Sr. Project Manager, Section 2, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–26278 Filed 10–17–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NUREG–1748, Draft Report]

Environmental Review Guidance for Licensing Actions Associated With NMSS Programs; Notice of Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability and request for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is announcing, for public comment, the availability of a draft document ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs'' (NUREG–1748). This document provides guidance for the planning and implementation of National Environmental Policy Act requirements for all non-reactor facilities, e.g., those which fabricate nuclear fuel, dispose high-level radioactive waste, fabricate sources, etc. The guidance is intended for NRC staff, licensees/applicants, and the public. The NRC is seeking public comment in order to receive feedback from the widest range of interested parties and to ensure that all information relevant to developing the document is available to the NRC staff. This document is being issued for interim use and comment. The NRC will review public comments received on the draft document. Suggested changes will be incorporated, where appropriate, in response to those comments.

DATES: Comments received by September 30, 2002, will be considered. Comments received after that date will be considered to the extent practical.

ADDRESSES: Members of the public are invited and encouraged to submit comments to the Chief, Rules Review and Directives Branch, Mail Stop T6-D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments may also be sent electronically to *nmssnepa@nrc.gov.*

NUREG–1748 is available for inspection and copying for a fee at the Commission's Public Document Room, U.S. NRC's Headquarters Building, 11555 Rockville Pike (first floor), Rockville, Maryland, and electronically from the ADAMS Public Library component on the NRC Web Site, *http://www.nrc.gov* (the Electronic Reading Room).

A free single copy of NUREG–1748 will be made available to interested parties until the supply is exhausted. Such copies may be requested by writing to the U.S. Nuclear Regulatory Commission, Distribution Services, Washington, DC 20555–0001 or submitting an e-mail to *distribution@nrc.gov.* NUREG–1748 is available on the World Wide Web at *http://www.nrc.gov/NRC/NUREGS/SR1748/index.html.*

FOR FURTHER INFORMATION CONTACT: Either of the following: Matt Blevins, U.S. Nuclear Regulatory Commission, Mail Stop T7–J8, Washington, DC 20555, Phone Number: (301) 415–7684, Email: *mxb6@nrc.gov*; or Melanie Wong, U.S. Nuclear Regulatory Commission, Mail Stop T7–J8, Washington, DC 20555, Phone Number: (301) 415–6262, Email: *mcw@nrc.gov.* Please email comments to *nmssnepa@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The National Environmental Policy Act (NEPA) of 1969 requires Federal agencies, as part of their decision-making process, to consider the environmental impacts of actions under their jurisdiction. Both the Council on Environmental Quality (CEQ) and the U.S. Nuclear Regulatory Commission (NRC) have promulgated regulations to implement NEPA requirements. CEQ regulations are contained in the Code of Federal Regulations (CFR) at 40 CFR parts 1500 to 1508, and NRC requirements are provided in 10 CFR part 51.

To ensure consistent treatment of NEPA requirements throughout the NRC Office of Nuclear Material Safety and Safeguards (NMSS), the Environmental and Performance Assessment Branch (EPAB) has produced a guidance document (NUREG–1748) which provides general procedures for determining the level of NEPA review and documentation required for the environmental review of licensing actions undertaken by the Office of Nuclear Material Safety and Safeguards (NMSS). Such licensing actions encompass fuel cycle, spent nuclear fuel storage, radioactive waste disposal, uranium recovery, decommissioning, and other nuclear materials sites. Divisions within NMSS and their regional counterparts may have supplemental guidance that is specific to facilities they regulate. Although the main focus of this guidance is the NRC staff's environmental review process, the guidance also contains related information which applicants and licensees may find useful. Chapter 1 provides a summary and overview of the guidance. This chapter briefly discusses whether an applicant or licensee's request is a categorical exclusion or whether the staff needs to prepare an environmental assessment (EA) or environmental impact statement (EIS), early planning for an EA or EIS and describes methods of using previous environmental analyses related to the proposed action. Chapter 2 discusses categorical exclusions and the basis of their use. Chapter 3 discusses the EA process, including preparation and content of the EA, agencies to be consulted, and preparation of the Finding of No Significant Impact. Chapter 4 discusses the process of preparing an EIS, from developing a project plan, through scoping, consultations and public meetings, to preparing the Record of Decision. Chapter 5 discusses the content of the EIS, and Chapter 6 discusses environmental information that should be considered by applicants and licensees in preparing environmental reports.

Commentors are encouraged to submit their written comments to the addresses listed above. To ensure efficient and complete comment resolution, commentors are requested to reference the page number and the line number of

the document to which the comment applies.

Dated at Rockville, Maryland, this 11th day of October, 2001.

For the Nuclear Regulatory Commission.

Thomas H. Essig,

Chief, Environmental and Performance Assessment Branch, Division of Waste Management, NMSS.

[FR Doc. 01–26277 Filed 10–17–01; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Radionuclide Transport in the Environment: Draft Research Program Plan

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability and request for comments.

Background: The U.S. Nuclear Regulatory Commission's (NRC) Office of Nuclear Regulatory Research is preparing a research program plan on radionuclide transport in the environment and is seeking public comments on the plan. The radionuclide transport research program is intended to provide data and computational tools to assess the effect on public health and safety and the environment from nuclear materials that may enter the environment from NRC–licensed activities. The technical issues examined include source-term characterization; the effectiveness of engineered and natural containment systems surrounding the radioactive material; multi-phase flow of water, including episodic infiltration, into and through the environment; the transport of radioactive material through the geosphere; the transport of radioactive material through the biosphere; and estimating exposures of members of the public to radiation from these materials. Results from the radionuclide transport research program are intended to be generically applicable to NRC licensing activities including the decommissioning of facilities, disposal of uranium mill tailings, low-level radioactive waste disposal, and high-level radioactive waste disposal. This plan will present the basis for the radionuclide transport research program, describe the key elements of the program, describe how research priorities are set, and present a list of proposed research projects.

Solicitation of Comments: The NRC seeks comments on the plan and is especially interested in comments on the research topics proposed in Chapter 5. Suggestions for new research not specified in Chapter 5 are welcome.

Comment Period: The NRC will consider all written comments received before November 30, 2001. Comments received after November 30, 2001, will be considered if time permits. Comments should be addressed to the contact listed below.

Availability: An electronic version of the plan is available in Adobe Portable Document Format at *http://www.nrc.gov/RES/nrc.html* and can be read with Adobe Acrobat Reader software, available at no cost from *http://www.adobe.com.* Hard and electronic copies are available from the contact listed below.

CONTACT: Dr. John D. Randall, Mail Stop T9F31, US Nuclear Regulatory Commission, 11545 Rockville Pike, Rockville, MD 20852, telephone (301) 415–6192, e-mail *jdr@nrc.gov.*

Dated at Rockville, Maryland, this 9th day of October 2001.

For the Nuclear Regulatory Commission.

Cheryl A. Trottier,

Chief, Radiation Protection, Environmental Risk and Waste Management Branch, Division of Systems Analysis and Regulatory Effectiveness, Office of Nuclear Regulatory Research.

[FR Doc. 01–26280 Filed 10–17–01; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25209; 812–12594]

American International Group, et al.; Notice of Application

October 12, 2001.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

Summary of Application: Applicants request an order to permit certain series of registered open-end management investment companies to acquire all of the assets and liabilities of certain corresponding series of another registered open-end management investment company. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

Applicants: American International Group, Inc. (''AIG''), North American Funds (''NA Trust''), SunAmerica Equity Funds (''Equity Trust''), SunAmerica Income Funds (''Income Trust''), SunAmerica Money Market Funds, Inc. (''Money Market Corp.''), SunAmerica Style Select Series, Inc. (''Style Select Series''), SunAmerica Strategic Investment Series, Inc. (''Strategic Investment Series''), The Variable Annuity Life Insurance Company (''VALIC''), American General Corporation (''American General''), and Sun America Asset Management Corp. (SAAMCo).

Filing Dates: The application was filed on August 9, 2001. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 6, 2001, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Commission, 450 Fifth Street, NW., Washington, DC 20549–0609; Applicants, c/o Margery K. Neale, Esq., Shearman & Sterling, 599 Lexington Avenue, New York, New York 10022–6069.

FOR FURTHER INFORMATION CONTACT: Lidian Pereira, Senior Counsel, at (202) 942–0524 or Mary Kay Frech, Branch Chief, at (202) 952–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (telephone (202) 942–8090).

Applicants' Representations

1. NA Trust, a business trust organized under the laws of the Commonwealth of Massachusetts, is registered under the Act as an open-end management investment company. NA Trust offers twenty-four series (''NA Funds''), seventeen of which are involved in the proposed transactions for which exemptive relief is sought,

and are collectively referred to as the ''Acquired Funds.'' [1]

2. Equity Trust and Income Trust, each a business trust organized under the laws of the Commonwealth of Massachusetts, are registered under the Act as open-end management investment companies. Equity Trust will have seven series at the time of the proposed transactions, three of which are involved in the proposed transactions. Income Trust will have six series at the time of the proposed transactions, four of which are involved in the proposed transactions. Money Market Corp., Style Select Series and Strategic Investment Series, each a corporation organized under the laws of the State of Maryland, are registered under the Act as open-end management investment companies. Money Market Corp. will have two series at the time of the proposed transactions, one of which is involved in the proposed transactions. Style Select Series will have thirteen series at the time of the proposed transactions, two of which are involved in the proposed transactions. Strategic Investment Series will have seven series at the time of the proposed transactions, five of which are involved in the proposed transactions. The series of Equity Trust, Income Trust, Money Market Corp., Style Select Series, and Strategic Investment Series are collectively referred to as the ''SunAmerica Funds.'' The fifteen SunAmerica Funds involved in the proposed transactions are collectively referred to as the ''Acquiring Funds'' (the Acquiring Funds and the Acquired Funds together, the ''Funds'').[2] Nine of the Acquiring Funds are newly organized series which were created to facilitate the proposed transactions (''Shells'').[3]

3. American General is a general business corporation and successor to American General Insurance Company, an insurance company incorporated under the laws of the State of Texas. American General Asset Management Corp. (''AGAM''), an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''), serves as the investment adviser to the NA Trust, and is wholly owned subsidiary of American General. American General's employee pension plan, the American General Retirement Plan (''Affiliated Plan'') owns 5% (and in some cases 25%) or more of the outstanding voting securities of certain Acquired Funds. The Affiliated Plan holds the securities in a fiduciary capacity and does not have a direct economic interest in the shares. VALIC, an investment adviser registered under the Advisers Act, is a stock life insurance company that is an indirect wholly owned subsidiary of American General. VALIC owns 5% (and in some cases 25%) or more of the outstanding voting securities of twelve of the Acquired Funds. On August 29, 2001, AIG acquired American General and, as a result, American General, VALIC and AGAM became direct or indirect wholly owned subsidiaries of AIG.

4. SAAMCo, a corporation organized under the laws of the State of Delaware, is an indirect wholly owned subsidiary of AIG. SAAMCo is an investment adviser registered under the Advisers Act and serves as the investment adviser to the SunAmerica Funds. SAAMCo will own all of the outstanding voting securities of the Shells.

5. On August 2, 2001 and August 23, 2001, the board of trustees of the NA Trust (the ''NA Board'') and the board of directors/trustees of the SunAmerica Funds (together with the NA Board, the ''Boards''), respectively, including in each case a majority of the directors/trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (the ''Independent Trustees''), approved agreements and plans of reorganization (each, a ''Plan'' and collectively, the ''Plans'') for the Funds. Under the Plans, each Acquiring Fund will acquire all of the assets and liabilities of the corresponding Acquired Fund in exchange for shares of designated classes of the Acquiring Fund (each, a ''Reorganization'' and collectively, the ''Reorganizations''). The shares of the respective class of the Acquiring Fund exchanged will have an aggregate net asset value equal to the aggregate net asset value of the corresponding class of the Acquired Fund's shares determined as of the close of regular trading on the New York Stock Exchange on the closing date of each Reorganization (each a ''Closing Date''), currently anticipated to occur on or about November 9, 2001. The net asset value of the Acquiring Funds and the value of the assets of the Acquired Funds will be determined according to the Acquired and Acquiring Funds' current prospectuses and statements of additional information. Upon consummation of the Reorganizations, each Acquired Fund will be liquidated by the distribution of the corresponding Acquiring Fund's shares pro rata to the shareholders of record of the Acquired Fund.

6. Applicants state that the investment objectives and policies of each Acquired Fund are generally similar to those of its corresponding Acquiring Fund. Applicants state that the rights and obligations of each class of shares of the Acquired Funds are similar to those of the corresponding class of shares of the Acquiring Funds. For purposes of calculating the contingent deferred sales charges on shares of an Acquired Fund that currently have a deferred sales charge, the amount of time a shareholder held shares of the Acquired Fund will be added to the amount of time the shareholder holds shares of the applicable Acquiring Fund. No sales charges will be imposed in connection with the Reorganizations. AIG or an affiliated person of AIG (but not the Funds) will bear the costs associated with the Reorganizations.

7. Each Board, including a majority of the Independent Trustees, determined that the participation of each Fund in the respective Reorganization was in the best interests of the Fund and its shareholders, and that the interests of the shareholders of the Fund would not be diluted as a result of the Reorganization. In approving the Reorganizations, the Boards considered various factors, including: (a) The terms and conditions of the Reorganization; (b) the effect of the Reorganizations on

[1] International Equity Portfolio of SunAmerica Style Select Series will be reorganizing into the newly created Shell, International Equity Fund of Equity Trust, and is also referred to as an ''Acquired Fund.''

[2] The Acquired Funds and the corresponding Acquiring Funds are: (i) The Balanced Fund and Equity Trust; Balanced Assets Fund; (ii) Mid Cap Growth Fund and Equity Trust; Growth Opportunities Fund; (iii) Global Equity Fund and Equity Trust; International Equity Fund; (iv) International Equity Fund and Equity Trust; International Equity Fund; (v) International Small Cap Fund and Equity Trust; International Equity Fund; (vi) Core Bond Fund and Income Trust; Core Bond fund; (vii) High Yield Bond Fund and Income Trust High Yield Bond Fund; (viii) Municipal Bond Fund and Income Trust: Tax Exempt Insured Fund; (ix) Strategic Income Fund and Income Trust: Strategic Bond Fund; (x) Municipal Money Market Fund and Money Market Corp.; Municipal Money market Fund; (xi) Small Cap Growth Fund and Style Select Series; Small Cap Growth Portfolio; (xii) Mid Cap Value Fund and Style Select Series; Multi-Cap Value Portfolio; (xiii) Science and Technology Fund and Strategic Investment Series; Science & Technology Fund; (xiv) Stock Index Fund and Strategic Investment Series; Stock Index Fund; (xv) Aggressive Growth LifeStyle Fund and Strategic Investment Series: Aggressive Growth LifeStage Fund; (XVI) Conservative Growth LifeStyle Fund and Strategic Investment Series; Conservative Growth LifeStage Fund; (xvii) Moderate Growth Lifestyle Fund and Strategic Investment Series: Moderate Growth LifeStage Fund; and (xviii) Style Select: International Equity Portfolio and Equity Trust: International Equity Fund.

[3] The Shells are Equity Trust: International Equity Fund; income Trust: Core Bond Fund; Style Select Series: Small Cap Growth Portfolio; Strategic Investment Series: Stock Index Fund, Science & Technology Fund, Aggressive Growth LifeStage Fund, Moderate Growth LifeStage Fund, and Conservative Growth LifeStage Fund; and Money Market Corp.: Municipal Money Market Fund.

the Acquired Funds' shareholders and the value of their interests; (c) the fact that the Reorganizations would likely provide economies of scale over time that could reduce some Fund expenses; (d) the fact that AIG or an affiliated person thereof will bear the expenses relating to the Reorganizations; (e) the anticipated tax-free nature of the Reorganizations; and (f) the investment experience, expertise and resources of SAAMCo.

8. The Reorganizations are subject to a number of conditions precedent, including: (a) The shareholders of each Acquired Fund will have approved the Reorganization; (b) the Funds will have received opinions of counsel concerning the tax-free nature of each Reorganization; and (c) applicants will have received exemptive relief from the Commission to permit the Reorganizations. Each Plan may be terminated prior to the Closing Date by the mutual agreement of the Boards on behalf of the Acquiring Funds and the Acquired Funds. Applicants agree not to make any material changes to the Plans that affect the application without prior Commission approval.

9. A registration statement on Form N–14 with respect to each Reorganization, containing a prospectus/proxy statement, was filed with the Commission on August 17, 2001, and became effective on October 3, 2001. Solicitation materials related to the Reorganizations were mailed to shareholders of the Acquired Funds on or about October 5, 2001. A special meeting of shareholders of each Acquired Fund is scheduled to be held on November 7, 2001.

Applicants' Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person, acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include: (a) Any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly or indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by or under common control with the other person, and (d) if the other person is an investment company, any investment adviser of that company. Applicants state that the Funds may be deemed affiliated persons and, thus, the Reorganizations may be prohibited by section 17(a).

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) certain mergers, consolidations, and sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied. Applicants believe that rule 17a–8 may not be available in connection with the Reorganizations because certain of the Funds may be deemed to be affiliated for reasons other than those set forth in the rule. Applicants state that because the Affiliated Plan and VALIC each own 5% or more (and in some cases more than 25%) of the outstanding voting securities of certain Acquired Funds, those Funds may be deemed to be affiliated persons of an affiliated person (AIG) of the Acquiring Fund to which they propose to sell their assets. Applicants state that because SAAMCo will own all of the outstanding voting securities of the Shells, those Acquiring Funds may be deemed to be affiliated persons of an affiliated person (AIG) of the Acquired Funds from which the Acquiring Funds propose to purchase assets in connection with the Reorganizations.

3. Section 17(b) of the Act provides, in relevant part, that the Commission may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

4. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) of the Act to the extent necessary to complete the Reorganizations. Applicants submit that the Reorganizations satisfy the standards of section 17(b) of the Act. Applicants state that the terms of the proposed Reorganizations are fair and reasonable and do not involve overreaching. Applicants also state that the Boards, including a majority of the Independent Trustees, have determined that the participation of the Funds in the Reorganizations is in the best interests of each Fund and that such participation will not dilute the interests of the existing shareholders of each Fund. In addition, applicants state that the Reorganizations will be on the basis of the Funds' relative net asset values.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–26273 Filed 10–17–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–44922; File No. SR–PCX–2001–24]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 by the Pacific Exchange, Inc. Relating to Synchronization of Member Organization Business Clocks

October 11, 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 June 18, 2001, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') 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 the Exchange. On October 9, 2001, the Exchange amended its proposal.[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

The PCX is proposing to adopt a new rule requiring all PCX member organizations to synchronize their business clocks. The text of the proposed rule change is as follows:

Time Synchronization

Rule 6.20(a) Each Member Organization must synchronize, within a time frame established by the Exchange, the business clocks that it uses for the purpose of recording the date and time of any event that must be recorded pursuant to the Rules of the Exchange. Member Organizations may

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Hassan Abedi, Attorney, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission, dated October 5, 2001 (''Amendment No. 1''). Amendment No. 1 expanded the proposed rule language to further define the three-second tolerance.

use any time provider source. Each Member Organizations must, however, ensure that the business clocks it uses on the Exchange are accurate to within a three-second[s] *tolerance of the National Institute of Standards and Technology Atomic Clock in Boulder Colorado (''NIST Clock'') or the United States Naval Observatory Master Clock in Washington D.C. (''USNO Master Clock''). This tolerance includes all of the following:*

(1) The difference between the NIST/USNO standard and a time provider's clock;

(2) transmission delay from the source; and

(3) the amount of drift of the Member Organization's business clock. For purposes of this Rule, ''business clocks'' mean Member Organization proprietary system clocks. Member Organizations must set forth in their written supervisory procedures, required by PCX Rule 4.25, the manner in which synchronization of business clocks will be conducted, documented and maintain.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to ensure that all member organization business clocks, used for purposes of recording order or trade data to the Exchange, are synchronized to a single time designated by the PCX, and that member organizations adopt such procedures as may be necessary to maintain such synchronization during each trading day. The adoption of the proposed rule would also assist the PCX in fulfilling one of the undertakings contained in the order issued by the SEC relating to the PCX's regulatory responsibilities.[4] Pursuant to the SEC Order, the PCX agreed to undertake to design and implement an audit trail sufficient to enable the Exchange to reconstruct markets promptly, conduct efficient surveillance and enforce its rules. As part of this undertaking, the PCX must work to provide for market-wide synchronization of clocks utilized in connection with the audit trail.

The PCX believes that the reliability and usefulness of any audit trail depends on the ability of the Exchange to require that the business clocks of member organizations be appropriately synchronized. The determination of whether members have complied with various rules and standards to which they are subject, including, among others, best execution obligations, compliance with the obligation to honor firms quotes, and prohibitions on frontrunning customer orders, depends critically on establishing with reasonable confidence the time at which order information is received. Time synchronization, therefore, becomes a necessary and integral part of the PCX audit trail system.

Proposed Rule 6.20 provides that each member organization must synchronize, within a time frame to be established by the Exchange, the business clocks that it uses for the purpose of recording the date and time of any event that must be recorded pursuant to the Rules of the Exchange. Although member organizations may use any time provider source, each member organization must ensure that the business clocks it uses on the Exchange are accurate to within three seconds of the National Institute of Standards and Technology Atomic Clock in Boulder Colorado or the United States Naval Observatory Master Clock in Washington, DC.

It is important to note that the obligation to maintain the synchronization of business clocks will be ongoing. Therefore, pursuant to PCX Rule 4.25, member organizations must set forth in their written supervisory procedures the manner in which synchronization of business clocks will be conducted, documented and maintained. The PCX will carefully review member organizations' compliance with these requirements given the importance of accurate time recordation to the audit trail system.

The PCX proposes to implement the requirements of this rule in two phases. In the first phase, the proposed schedule contemplates that the requirements of the rule would apply to all orders that are received electronically, or captured in electronic form promptly after receipt, as of January 2, 2002. In the second phase, the proposed implementation schedule would apply the requirements of the proposed rule to all other types of orders as of September 11, 2002.[5]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5),[7] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received 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 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 its finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal, as amended, is consistent with the Act.

[4] *See* In the Matter of Certain Activities of Options Exchanges, Securities Exchange Act Release No. 37538 (September 11, 2000); Administrative Proceeding File No. 3–10282 (''SEC Order'').

[5] This date is consistent with the schedule set forth in the SEC Order for completion of PCX obligations with respect to this undertaking.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. 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 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 PCX. All submissions should refer to File No. SR–PCX–2001–24 and should be submitted by November 8, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–26199 Filed 10–17–01; 8:45 am]

BILLING CODE 8010–01–M

[8] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3818]

30-Day Notice of Proposed Information Collection: Evaluation of DOS-Sponsored Educational and Cultural Exchange Programs (Formerly USIA-Sponsored Educational and Cultural Exchange Activities; USIA Participant Survey Questionnaire #3116–0199) OMB Control #1405–0118

ACTION: Notice.

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, OMB Control #1405–0118.

Originating Office: Bureau of Educational and Cultural Affairs, Office of Policy and Evaluation (ECA/P).

Title of Information Collection: Evaluation of DOS-sponsored Educational and Cultural Exchange Programs.

Frequency: Information is collected on a per evaluation project basis.

Form Number: N/A [Multiple survey questionnaires may be used for evaluation projects, on a one-time, per-project basis.]

Respondents: U.S. and foreign applicants, current grantee exchange visitor participants (J–1 visa) and alumni of the Bureau of Educational and Cultural Affairs' exchange programs, program administrators, domestic and foreign partner organizations, domestic and foreign hosts of exchange visitor participants, and other similar types of respondents associated with the Bureau's exchange programs.

Estimated Number of Respondents: 1,938.

Average Hours Per Response: 30 minutes.

Total Estimated Burden: 1,938 (3,877 total annual responses × 30 minutes).

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 the U.S. Department of State, Bureau of Educational and Cultural Affairs, Office of Policy and Evaluation, 301 4th Street, SW (SA–44), Room 357, Washington, DC 20547, or by telephone at (202) 619–5307. 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, who may be reached on 202–395–3897.

Dated: August 15, 2001.

David Whitten,

Executive Director, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 01–26311 Filed 10–17–01; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 3816]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: FREEDOM Support Act Undergraduate Program

SUMMARY: The Office of Academic Exchange Programs of the Bureau of Educational and Cultural Affairs announces an open competition for the FREEDOM Support Act Undergraduate Program. Public and private non-profit organizations meeting the provisions described in IRS regulations 26 CFR 1.501(c)(2)–1 through 1.501(c)(21)–2 may submit proposals to administer the placement, monitoring, evaluation, follow-on, and alumni activities for the FY 2002 FREEDOM Support Act Undergraduate Program. Proposals should include provisions for the recruitment and selection of FY 2003 participants. Organizations with less than four years of experience in conducting international exchange programs are not eligible for this competition.

Program Information

The FREEDOM Support Act Undergraduate Program (herein referred to as the FSAU Program) provides scholarships for one-year, non-degree study at U.S. institutes of higher education to outstanding students of the New Independent States (NIS). Scholarships are available in the fields of agriculture, American studies, business, computer science, economics, education, environmental management, international relations, journalism and mass communication, political science, and sociology. Scholarships are granted to students who have completed at least one year of study at an accredited university in their home countries. Students must be citizens of Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, or Uzbekistan. FSAU participants will be enrolled in one-year, non-degree programs at both four-year colleges and universities, and community colleges. Students will enhance their academic education with participation in community service and an internship. Interested organizations should read the entire **Federal Register** announcement for all information prior to preparing a proposal. Programs must comply with J–1 Visa regulations. Please refer to the Solicitation Package for further information. Awards will begin on or about May 30, 2002.

Budget Guidelines

Applicants must submit a comprehensive budget for the entire program. The level of funding for FY 2002 is uncertain, but is anticipated to be approximately $8,500,000. Based on this figure, applicant organizations should submit a budget which will fund no fewer than 335 participants. ECA anticipates awarding one or more grants under this competition. Applicant organizations are encouraged, through cost sharing and other methods, to provide for as many scholarships as possible based on approximated funding. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions. ECA grant guidelines state that organizations with less than four years experience in conducting international exchange programs are limited to $60,000 in Bureau funding. It is anticipated that the grant or grants awarded under this competition will well exceed $60,000. Therefore, organizations with less than four years experience per above, are not eligible under this competition.

Announcement Title and Number: All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/E/EUR–02–03.

FOR FURTHER INFORMATION CONTACT: The Office of Academic Exchange Programs, ECA/A/E/EUR, Room 246, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Phone: 202–205–0525; Fax: 202–260–7985, *sgovatsk@pd.state.gov* to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Manager Sondra Govatski on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/RFGPs.* Please read all information before downloading.

Deadline for Proposals: All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on Friday, December 21, 2001. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and eight (8) copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/A/E/EUR–02–03, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5″ diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. The Bureau will transmit these files electronically to Public Affairs Sections at US Embassies for review, with the goal of reducing the time it takes to get embassies' comments for the Bureau's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Affairs Sections overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Program Development and Management

Proposals should exhibit originality, substance, precision, innovation, and relevance to Bureau mission. Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the organization will meet the program's objectives. A detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

2. Multiplier Effect/Impact

Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages. Proposals should also include creative ways to involve students in their U.S. communities.

3. Support of Diversity

Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity, and should include a strategy

for achieving diverse applicant pools for both students and host institutions.

4. Institution's Record/Ability

Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

5. Alumni Tracking and Follow-On

Proposals should provide a plan for effective tracking of participants after the completion of the program. Proposals should include a plan for continued follow-on activity which insures that ECA supported programs are not isolated events.

6. Project Evaluation

Proposals should include a plan to evaluate the program's success, both during and after the program. ECA recommends that the proposal include a draft survey questionnaire or other technique, plus a description of methodologies that can be used to link outcomes to original project objectives. Award-receiving organizations will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

7. Cost-Effectiveness and Cost Sharing

The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible.

All other items should be necessary and appropriate. Proposals should maximize cost sharing through other private sector support as well as institutional direct funding contributions.

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through FREEDOM Support Act legislation.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: October 11, 2001.

Patricia S. Harrison,

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

[FR Doc. 01–26121 Filed 10–17–01; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 3817]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: Fulbright American Studies Institutes for Foreign University Faculty

NOTICE: Request for Grant Proposals (RFGPs).

SUMMARY: The Study of the U.S. Branch, Office of Academic Exchange Programs, Bureau of Educational and Cultural Affairs, announces an open competition for five (5) assistance awards. Public and private non-profit organizations meeting the provisions described in IRS regulations 26 CFR 1.501(c)(2)–1 through 1.501(c)(21)–2 may apply to develop and implement one of the following five post-graduate level American Studies programs designed for multinational groups of 18 to 30 experienced foreign university faculty and educators:

A. Religion in the United States
B. U.S. Foreign Policy: Foundations and Formulation
C. Contemporary American Literature
D. Immigration and Ethnicity: The American Experience
E. American Studies for Foreign Secondary School Educators

These programs are intended to provide participants with a deeper understanding of American life and institutions, past and present, in order to strengthen curricula and to improve the quality of teaching about the United States at universities abroad. Programs should therefore be designed to elucidate the topic or theme of the Institute as well as American civilization as a whole.

Programs are six weeks in length and will be conducted during the Summer of 2002.

The Bureau is seeking detailed proposals from colleges, universities, consortia of colleges and universities, and other not-for-profit academic organizations that have an established reputation in one or more of the following fields: Political science, international relations, law, history, sociology, literature, American studies, and/or other disciplines or sub-disciplines related to the program theme.

It is the Bureau's intention to fund one institute in each of the above five thematic areas, subject to the number and quality of proposals received and the availability of funding.

Applicant institutions must demonstrate expertise in conducting post-graduate programs for foreign educators, and *must have a minimum of four years experience in conducting international exchange programs.* Bureau guidelines stipulate that grants to organizations with less than four years experience in conducting international exchanges are limited to $60,000. As it is expected that the budget for these programs will exceed $60,000, organizations that can not demonstrate at least four years experience will not be eligible to apply under this competition.

The project director or one of the key program staff responsible for the academic program must have an advanced degree in one of the fields listed above. Staff escorts traveling under the cooperative agreement must have demonstrated qualifications for this service. Programs must conform with Bureau requirements and guidelines outlined in the Solicitation Package. Bureau programs are subject to the availability of funds.

Program Information

Overview and Objectives

Fulbright American Studies Institutes are intended to offer foreign scholars and teachers whose professional work focuses on the United States the opportunity to deepen their understanding of American institutions

and culture. Their ultimate goal is to strengthen curricula and to improve the quality of teaching about the U.S. in universities abroad.

Programs should be six weeks in length and must include an academic residency segment of at least four weeks duration at a U.S. college or university campus (or other appropriate location). A study tour segment of not more than two weeks should also be planned and should directly complement the academic residency segment; the study tour should include visits to one or two additional regions of the United States.

All institutes should be designed as intensive, academically rigorous seminars intended for an experienced group of fellow scholars from outside the United States. The institutes should be organized through an integrated series of lectures, readings, seminar discussions, regional travel, site visits, and they should also include some opportunity for limited but well-directed independent research.

Applicants are encouraged to design thematically coherent programs in ways that draw upon the particular strengths, faculty and resources of their institutions as well as upon the nationally recognized expertise of scholars and other experts throughout the United States. Within the limits of their thematic focus and organizing framework, Institute programs should also be designed to:

1. Provide participants with a survey of contemporary scholarship within the institute's governing academic discipline, delineating the current scholarly debate within the field. In this regard, the seminar should indicate how prevailing academic practice in the discipline represents both a continuation of and a departure from past scholarly trends and practices. A variety of scholarly viewpoints should be included;

2. Bring an interdisciplinary or multi-disciplinary focus to bear on the program content if appropriate;

3. Give participants a multi-dimensional view of U.S. society and institutions that includes a broad and balanced range of perspectives. Where possible, programs should therefore include the views not only of scholars, cultural critics and public intellectuals, but also those of other professionals outside the university such as government officials, journalists and others who can substantively contribute to the topics at issue; and,

4. Insure access to library and material resources that will enable grantees to continue their research, study and curriculum development upon returning to their home institutions.

Program Descriptions

A. Religion in the United States

This Institute is intended to provide foreign university faculty with an opportunity to increase their understanding of American civilization through an examination of the American religious experience. Employing a multi-disciplinary approach, the program should explore both the historical and contemporary relationship between church and state in the United States; examine the ways in which religious thought and practice has influenced and been influenced by the development of American democracy; examine the intersections of religion and politics in the UnitedStates in such areas as elections, public policy, and foreign policy; and explore the sociology and demography of religion in the United States today, including a survey of the varieties of contemporary religious belief.

B. U.S. Foreign Policy: Foundations and Formulation

This program should examine the domestic institutional foundations—political, social, economic and cultural—of U.S. foreign policy with particular attention to the Post-Cold War era. Principal themes, critical policy debates, and contemporary issues in U.S. foreign policy should be examined in light of the history of U.S. international relations since World War II and within the larger framework of U.S. diplomatic history as a whole. An overarching goal of the program is to illuminate the relationships between U.S. policies and the political, social and economic forces in the United States that constitute the domestic institutional context in which such policies are debated, formulated and executed. The program should be structured to give attention to U.S. policy both globally and in particular geographic areas.

C. Contemporary American Literature

This program should focus on recent American literature and criticism. Its purpose is twofold: first, to explore contemporary American writers and writing in a variety of genres; second, to suggest how the themes explored in those works reflect larger currents within contemporary American society and culture. The program should explore the diversity of the American literary landscape, examining how major contemporary writers, schools and movements reflect the traditions of the American literary canon and, at the same time, represent a departure from that tradition, establishing new directions for American literature.

D. Immigration and Ethnicity: The American Experience

This program should examine the role that immigration and ethnicity have played in defining the nature of the American experience. The program should examine the history of immigration to the United States and explore the impact that various periods of immigration have had on the development of America's political, social, and cultural values and institutions. Throughout the program, the focus on immigrant groups and America's ethnic diversity should serve to illustrate the dynamism of the American experience, viewed both as a whole and as the sum of its diverse ethnic, religious and cultural parts.

E. American Studies for Foreign Secondary School Educators

This Fulbright American Studies Institute should provide a multinational group of up to 30 experienced foreign secondary school educators with a deeper understanding of U.S. society and culture, past and present. The institute should be organized around a central theme or themes in U.S. civilization and should have a strong contemporary component. Through a combination of traditional, multi-disciplinary and interdisciplinary approaches, program content should be imaginatively integrated in order to elucidate the history and evolution of U.S. institutions and values, broadly defined. The program should also serve to illuminate the contemporary political, social, and economic debates in American society. The program's ultimate goal is to promote the development and improvement of courses and teaching about the U.S. at secondary schools and teacher training institutions abroad.

Program Dates

Ideally, the programs should be 44 days in length (including participant arrival and departure days) and should begin in mid to late June, 2002. However, the Bureau is willing to consider other program dates, based on the needs of the host institution.

Participants

As specified in the guidelines in the solicitation package, programs should be designed for groups of either 18 or 30 highly-motivated and experienced foreign university faculty and teacher trainers who are interested in

participating in an intensive seminar on aspects of U.S. civilization as a means to develop or improve courses and teaching about the United States at their home institutions.

Most participants can be expected to come from educational institutions where the study of the U.S. is relatively well developed. Thus, while they may not have in-depth knowledge of the particular institute program theme, most will have had some experience in teaching about the United States. Many will have had sustained professional contact with American scholars and American scholarship, and some may have had substantial prior experience studying in the United States. Participants will be drawn from all regions of the world and will be fluent in the English language.

Participants will be nominated by Fulbright Commissions and by U.S. Embassies abroad. Nominations will be reviewed by the Study of the U.S. Branch. Final selection of grantees will be made by the Fulbright Foreign Scholarship Board.

Program Guidelines

While the conception and structure of the institute program is the responsibility of the organizers, it is critically important that proposals provide a full, detailed and comprehensive narrative describing the objectives of the institute; the title, scope and content of each session; and, how each session relates to the overall institute theme. The syllabus must therefore indicate the subject matter for each lecture or panel discussion, confirm or provisionally identify proposed lecturers and discussants, and clearly show how assigned readings will support each session. A calendar of all activities for the program must also be included. Overall, proposals will be reviewed on the basis of their fullness, coherence, clarity, and attention to detail.

Programs must comply with J–1 visa regulations. Please refer to the Solicitation Package for further details on program design and implementation, as well as additional information on all other requirements.

Budget Guidelines

Based on groups of 18 participants, the total Bureau-funded budget (program and administrative) for programs one, two, three and four above should be approximately $182,000, and Bureau-funded administrative costs as defined in the budget details section of the solicitation package should not exceed $54,000. Based on a group of 30 participants, the total Bureau-funded budget (program and administrative) for program five above should be approximately $255,000, and Bureau-funded administrative costs as defined in the budget details section of the solicitation package should not exceed $57,000.

Justifications for any costs above these amounts must be clearly indicated in the proposal submission. Proposals should try to maximize cost-sharing in all facets of the program and to stimulate U.S. private sector, including foundation and corporate, support. Applicants must submit a comprehensive budget for the entire program. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program, and availability of U.S. government funding.

Please refer to the ''POGI'' in the Solicitation Package for complete institute budget guidelines and formatting instructions.

Announcement Name and Number: All communications with the Bureau concerning this announcement should refer to the following titles and reference numbers:

Religion in the United States (ECA/A/E/USS–02–01A–Bate)
U.S. Foreign Policy: Foundations and Formulation (ECA/A/E/USS–02–01B–Bate)
Contemporary American Literature ECA/A/E/USS–02–01C–Taylor)
Immigration and Ethnicity: The American Experience (ECA/A/E/USS–02–01D–Taylor)
American Studies for Foreign Secondary School Educator (ECA/A/E/USS–02–01E–Emerson)

FOR FURTHER INFORMATION CONTACT: To request a Solicitation Package containing more detailed program information, award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation, applicants should contact:

U.S. Department of State, Bureau of Educational and Cultural Affairs, Office of Academic Exchange Programs, Study of the U.S. Branch, State Annex 44, ECA/A/E/USS—Room 252/301 4th Street, SW., Washington, DC 20547, Attention: Richard Taylor.

Telephone number: (202) 619–4557.
Fax number: (202) 619–6790.
Internet address: rtaylor@pd.state.gov.

Please specify Senior Program Officer Richard Taylor on all inquiries and correspondence. Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the office listed above or submitting their proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition in any way with applicants until after the proposal review process has been completed.

To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/.* Please read all information before downloading.

Deadline for Proposals: All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington DC time on Friday, January 11, 2002. Faxed documents will NOT be accepted, nor will documents postmarked January 11, 2002 but received at a later date. It is the responsibility of each applicant to ensure that proposal submissions arrive by the deadline.

Submissions: Applicants must follow all instructions in the Solicitation Package. The original and 13 copies of the complete application should be sent to:

U.S. Department of State, Bureau of Educational and Cultural Affairs, Reference: (insert appropriate reference number from above, e.g. ECA/A/E/USS–02–01x–xxxxxx) Program Management Staff, ECA/EX/PM, Room 534, State Annex 44, 301 4th Street, SW., Washington, DC 20547.

Applicants should also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5'' diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do

not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of this goal in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office. Eligible proposals will then be forwarded to panels of senior Bureau officers for advisory review. Proposals may also be reviewed by the Office of the Legal Advisor or by other Bureau elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. More weight will be given to items one and two, and all remaining criteria will be evaluated equally.

1. Overall Quality

Proposals should exhibit originality and substance, consonant with the highest standards of American teaching and scholarship. Program design should reflect the main currents as well as the debates within the subject discipline of each institute. Program elements should be coherently and thoughtfully integrated. Lectures, panels, field visits and readings, taken as a whole, should offer a balanced presentation of issues, reflecting both the continuity of the American experience as well as the diversity and dynamism inherent in it.

2. Program Planning and Administration

Proposals should demonstrate careful planning. The organization and structure of the institute should be clearly delineated and be fully responsive to all program objectives. A program syllabus (noting specific sessions and topical readings supporting each academic unit) should be included, as should a calendar of activities. The travel component should not simply be a tour, but should be an integral and substantive part of the program, reinforcing and complementing the academic segment. Proposals should provide evidence of continuous administrative and managerial capacity as well as the means by which program activities and logistical matters will be implemented.

3. Institutional Capacity

Proposed personnel, including faculty and administrative staff as well as outside presenters, should be fully qualified to achieve the project's goals. Library and meeting facilities, housing, meals, transportation and other logistical arrangements should fully meet the needs of the participants.

4. Support for Diversity

Substantive support of the bureau's policy on diversity should be demonstrated. This can be accomplished through documentation, such as a written statement, summarizing past and/or on-going activities and efforts that further the principle of diversity within the organization and its activities. Program activities that address this issue should be highlighted.

5. Experience

Proposals should demonstrate an institutional record of successful exchange program activity, indicating the experience that the organization and its professional staff have had in working with foreign educators.

6. Evaluation and Follow-Up

A plan for evaluating activities during the Institute and at its conclusion should be included. Proposals should discuss provisions made for follow-up with returned grantees as a means of establishing longer-term individual and institutional linkages.

7. Cost Effectiveness

Proposals should maximize cost-sharing through direct institutional contributions, in-kind support, and other private sector support.

Overhead and administrative components, including salaries and honoraria, should be kept as low as possible.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * *.and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.''

Notice

The terms and conditions published in this RFP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of this RFP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, and allocated and committed through internal Bureau procedures.

Dated: October 11, 2001.

Patricia S. Harrison,

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

[FR Doc. 01–26122 Filed 10–17–01; 8:45 am]

BILLING CODE 4710–11–P

DEPARTMENT OF STATE

[Public Notice 3815]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: U.S.-Based Training Program (USBT)

SUMMARY: The Educational Information and Resources Branch of the Office of Global Educational Programs of the Bureau of Educational and Cultural Affairs announces an open competition for the U.S. Based Training Program for Overseas Educational Advisers and logistical support for the annual meeting of the Department's Regional Educational Advising Coordinators (REACs). Public and private non-profit organizations meeting the provisions described in IRS regulations 26 CFR 1.501(c)(2)–1 through 1.501(c)(21)–2 may submit proposals to develop two

training programs for Department of State-affiliated overseas advisers to take place in spring and fall 2002. The basic function of an overseas educational adviser is to provide accurate, objective information to foreign audiences on U.S. study opportunities at accredited academic institutions, and to guide students and professionals in selecting a program appropriate to their needs. USBT participants will be drawn from educational advisers working at Department of State-affiliated overseas educational advising centers. Each training program is intended for approximately fourteen participants. The program must be approximately three weeks in duration and must include workshops on advising issues of concern, visits to a variety of U.S. academic institutions outside of the Washington, DC metropolitan area and attendance at a national or regional NAFSA: Association of International Educators Conference or similar professional development opportunity. The Bureau anticipates awarding up to $310,000 to one organization to administer this program.

Program Information

Overview

The USBT program's objectives are twofold: To strengthen and develop the skills of overseas educational advisers; and to build a corps of knowledgeable advisers who are skilled trainers and can advance the field of educational advising in their home countries with new and current expertise, techniques and knowledge of applicable technology.

Each component of the training program should be designed to provide detailed, hands-on learning in areas such as facilitating access to U.S. higher education, communicating cross-culturally, and managing an advising center. Special attention should be given to the use of technology, both as a necessary advising skill, and as a potential tool to develop new and creative advising approaches. Similarly, a significant emphasis should be placed on outreach, partnership and cost-sharing strategies and skills development. The logistical support sought for the annual Regional Educational Advising Coordinators (REAC) meeting includes making lodging and other arrangements for up to eight REACs and Educational Information and Resources Branch (ECA/A/S/A) program staff for one week of consultations in Washington, DC immediately before or after the 2002 NAFSA Conference. REACs provide training and needs assessment and serve as the chief resource to the centers in their region on advising and other educational issues. In addition, REACs serve as liaisons between advising centers and U.S. colleges, universities, professional associations and other organizations involved in international educational exchange.

Guidelines

1. Participants

For the purposes of this RFGP, eligible advisers are defined as those who are currently working at a State Department-affiliated Center and who have demonstrated the skills associated with the four major components of overseas educational advising: (1) Basic knowledge of the U.S. and home country educational systems; (2) basic knowledge of the application process for individuals to enroll in U.S. higher educational institutions; (3) demonstrated educational advising and cross-cultural communication skills; and (4) demonstrated office management skills as they relate to an overseas advising center. In addition, each participant must demonstrate leadership and a commitment to the profession. Approximately fourteen participants are expected for each training program. Participants will be selected by the ECA/A/S/A based on nominations from overseas posts.

2. Program Design

The Bureau invites organizations to submit creative and flexible program plans which can be tailored, in close consultation with ECA/A/S/A, to the selected advisers' individual needs. However, the proposal should still include an overall project framework which identifies objectives, an implementation plan and measurable, expected outcomes.

Possible topics to incorporate in the program include: Degree equivalency and accreditation; international student admissions; financial aid; standardized testing; ESL programs; immigration and visa issues; fields of study; cultural adjustment; U.S. societal diversity; specialized Internet usage; distance learning; proposal writing; fundraising; public relations and marketing; determining appropriate fees for advising services for students and others, given each host country's environment; trends in advising center cost sharing and training and management of volunteer staff.

3. Timing/Program Phases

The program should include attendance at, and active participation in, an appropriate national or regional conference where workshops and seminars address issues of current interest to international educators and overseas advisers and where the opportunity to brainstorm and to share information plays an important part. Advisers should have opportunities to present and/or participate in panels and pre-conference/conference workshops. In addition, the program should include internship experiences and visits to a four-year public university, a private college or university, a community college, an Historically Black College or University (HBCU) or other minority-serving institution, and a graduate or research institution. Ideally, advisers should visit campuses while classes are in session to optimize their experience through interaction with students.

4. Logistics

The grantee organization will be responsible for arrangements associated with this program. These include organizing a coherent progression of activities, providing international and domestic travel arrangements for all advisers, making lodging and local transportation arrangements, orienting and debriefing advisers, preparing any necessary support material, and recruiting host campuses. The organization should work with host campuses and experts in the field of higher education and overseas advising to achieve maximum program effectiveness, by providing participants with hands-on applications and training and direct involvement in the administration of practices and policies in institutions of higher education.

5. Evaluation/Follow-Up

The proposal must include a detailed evaluation and follow-up plan. Special emphasis should be given to designing a program which incorporates outcome measurement strategies that assess its ultimate effectiveness.

6. Visa/Insurance/Tax Requirements

The program must comply with applicable visa regulations.

Participant health and accident insurance will be provided to the overseas advisers by the Bureau; the recipient organization will be responsible for enrolling participants in the Bureau's insurance program and providing any necessary assistance should medical care be needed. Administration of the program must be in compliance with reporting and withholding regulations for federal, state, and local taxes as applicable. Recipient organizations should demonstrate tax regulation adherence in the proposal narrative and budget.

7. Printed Materials

Drafts of all printed materials developed for this program should be submitted to ECA/A/S/A for review and approval. All official documents should highlight the U.S. government's role as program sponsor and funding source. The Bureau requires that it receive the copyright use and be allowed to distribute this material as it sees fit.

Budget Guidelines

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. The Bureau anticipates awarding one grant in the amount of $310,000 to support program and administrative costs required to implement this program. Therefore, organizations with less than four years of experience in conducting international exchange programs are ineligible to apply for this grant. The Bureau encourages applicants to provide maximum levels of cost-sharing and funding from private sources in support of its programs.

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

Allowable costs for the program include the following:

(1) Salaries and fringe benefits; travel and per diem;

(2) Other direct costs, inclusive of rent, utilities, etc.;

(3) Indirect expenses (except against participant program expenses), auditing costs;

(4) Participant program costs; *i.e.,* international/domestic travel, per diem, conference attendance. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Programs must comply with visa regulations. Please refer to Solicitation Package for further information.

Announcement Title and Number: All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/S/A–02–05.

FOR FURTHER INFORMATION CONTACT: The Educational Information and Resources Branch, ECA/A/S/A, room 349, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, phone: 202–260–6936, fax: 202–401–1433 to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Dorothy Mora on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/RFGPs.* Please read all information before downloading.

Deadline for Proposals: All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on Friday, November 16, 2001. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and eight copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/A/S/A–02–05, Program Management, ECA/EX/PM, Room 534 301 4th Street, SW., Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.''

Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards for cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. Quality of the Program Idea

Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

2. Program Planning

Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

3. Ability To Achieve Program Objectives

Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. Multiplier Effect/Impact

Proposed programs should strengthen long-term mutual understanding, including maximum sharing of

information and establishment of long-term institutional and individual linkages.

5. Support of Diversity

Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. Institutional Capacity

Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

7. Institution's Record/Ability

Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. Follow-On Activities

Proposals should provide a plan for continued follow-on activity (without Bureau support) ensuring that Bureau supported programs are not isolated events.

9. Project Evaluation

Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended. Successful applicants will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

10. Cost-Effectiveness

The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate.

11. Cost-Sharing

Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: October 5, 2001.

Patricia S. Harrison,

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

[FR Doc. 01–26120 Filed 10–17–01; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–81]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of a certain petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments or petitions received must identify the petition docket number involved and must be received on or before November 7, 2001.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza, 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive information that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC on October 12, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2001–10787.

Petitioner: Gulfstream Aerospace Corporation.

Section of 14 CFR Affected: 14 CFR 25.807.

Description of Relief Sought: To allow the petitioner to install two Gulfstream 26-inch horizontal by 19-inch vertical oval overwing emergency exists in lieu of a Type III overwing exit on the right side of the new Gulfstream GV–SP aircraft.

[FR Doc. 01–26205 Filed 10–15–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of a petition seeking relief from a specified requirement of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 7, 2001.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on October 11, 2001.

Donald P. Bryne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2001–9672.

Petitioner: Hangar 10, Inc.

Section of 14 CFR Affected: 14 CFR 119.3.

Description of Relief Sought: To permit Hangar 10 to operate certain Convair-Liner 340 airplanes in all-cargo service under 14 CFR part 135 with a maximum payload greater than 7,500 pounds, rather than under part 121.

[FR Doc. 01–26228 Filed 10–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2001–80]

Petitions for Exemption; Summary of Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on October 12, 2001.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Dispositions of Petitions

Docket No.: FAA–2001–10283 (previously Docket No. 24041).

Petitioner: Butler Aircraft Co.

Section of 14 CFR Affected: 14 CFR 91.529(a)(1).

Description of Relief Sought/Disposition: To permit Butler to operate its McDonnell Douglas DC–6 and DC–7 airplanes without a flight engineer during flightcrew training, ferry operations, and test flights that are conducted to prepare for firefighting operations carried out under 14 CFR part 137.

Grant, 10/02/2001, Exemption No. 2989K

Docket No.: FAA–2001–9782 (previously Docket No. 23358).

Petitioner: Clarke Environmental Mosquito Management, Inc.

Section of 14 CFR Affected: 14 CFR 91.313(d).

Description of Relief Sought/Disposition: To permit CEMM to carry passengers in its Bell 47G–4A and 47G–3B–1 helicopters and its Piper PA23 Aztec 250 airplane, certificated in the restricted category, while performing aerial-site survey flights.

Grant, 10/02/2001, Exemption No. 6701B

Docket No.: FAA–2001–9811 (previously Docket No. 27372).

Petitioner: Camera Work, Inc. dba Fly BVI, Ltd.

Section of 14 CFR Affected: 14 CFR 61.89(a)(5).

Description of Relief Sought/Disposition: To permit Fly BVI student pilots to fly between Tortola, British Virgin Islands, and the airports of the U.S. Virgin Islands and Puerto Rico while fulfilling the cross-country requirements for a private pilot certificate.

Grant, 10/02/2001, Exemption No. 5796D

Docket No.: FAA–2001–10356.

Petitioner: United States Army Special Operations Command, 160th Special Operations Aviation Regiment.

Section of 14 CFR Affected: 14 CFR 91.177(a)(2) and 91.179(b)(1).

Description of Relief Sought/Disposition: To permit properly equipped USASOC aircraft to conduct low-level operations without complying with en route minimum altitudes for flight under instrument flight rules (IFR) or direction of flight requirements for IFR en route segment in uncontrolled airspace.

Grant, 09/29/2001, Exemption No. 7631

[FR Doc. 01–26229 Filed 10–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 198: Next-Generation Air/Ground Communications System (NEXCOM)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 198 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 198: Next-Generation Air/Ground Communications System (NEXCOM).

DATES: The meeting will be held on October 24–25, 2001, starting at 9 a.m.

ADDRESSES: The meeting will be held at RTCA, 1828 L Street, Suite 805, Washington, DC, 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW, Suite 805, Washington, DC, 20036; telephone (202) 833–9339; fax (202) 833–9434; web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 198 meeting. The agenda will include:

October 24:

- Opening Plenary Session (Welcome and Introductory Remarks, Review Summary of Previous Meeting)
- Plenary Review of Program Management Committee Actions (Documents and Terms of Reference)
- Working Group 3, Voice Data Link (VDL)–3 Principles of Operation

October 25:

- Working Group 3, VDL–3 Principles of Operation
- Closing Plenary Session (Date and Place of Next Meeting)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on October 9, 2001.

FAA Special Assistant,

RTCA Advisory Committee.

[FR Doc. 01–26227 Filed 10–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly notice of PFC approvals and disapprovals. In August 2001, there were seven applications approved. Additionally, 10 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: County of Emmet, Pellston, Michigan.

Application Number: 01–09–C–00–PLN.

Application Type: Impose and Use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $709,567.

Earliest Charge Effective Date: June 1, 2002.

Estimated Charge Expiration Date: July 1, 2011.

Class of Air Carriers not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Pellston Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Rehabilitate runway lighting.
Design for terminal expansion.
PFC application.
Wildlife study.
Terminal building expansion.
Perimeter road environmental assessment.
Aircraft apron expansion.
Parking lot renovation.

Brief Description of Projects Approved for Use:

Land acquisition.
Acquire sweeper.
Acquire snow blower.
Rehabilitate aircraft parking ramp.
Rehabilitate airport entrance road.
Replace snow removal equipment—plow truck

Brief Description of Project Approved for Collection: Aircraft deicing equipment.

Decision Date: August 7, 2001.

For Further Information Contact: Arlene B. Draper, Detroit Airports District Office, (734) 487–7282.

Public Agency: City of St. George, Utah.

Application Number: 01–02–U–00–SGU.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue to be Used in This Decision: $330,000.

Charge Effective Date: May 1, 1998.

Charge Expiration Date: September 1, 2002.

Class of Air Carriers not Required to Collect PFC's: No change from previous decision.

Brief Description of Projects Approved for Use:

Runway rehabilitation.
Terminal parking expansion.

Decision Date: August 9, 2001.

For Further Information Contact: Chris Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: City of North Bend, Oregon.

Application Number: 01–05–C–00–OTH.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $342,500.

Earliest Charge Effective Date: May 1, 2003.

Estimated Charge Expiration Date: August 1, 2006.

Class of Air Carriers Not Required to Collect PFC's: Nonscheduled air taxi/commercial operator utilizing aircraft having a seating capacity of less than 20 passengers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at North Bend Municipal Airport.

Brief Description of Projects Approved for Collection and Use:

Rehabilitation of runway 13/31.

Acquisition of aircraft rescue and firefighting truck.
Master plan.
Rehabilitation of runway 4/22.

Brief Description of Project Approved For Use: Runway 13/31 safety area improvements project.

Decision Date: August 14, 2001.

For Further Information Contact: Suzanne Lee-Pang, Seattle Airports District Office, (425) 227–2654.

Public Agency: Charlottesville-Albermarle Airport Authority, Charlottesville, Virginia.

Application Number: 01–14–C–00–CHO.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $220,000.

Earliest Charge Effective Date: June 1, 2004.

Estimated Charge Expiration Date: January 1, 2005.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Charlotteville-Albermarle Airport.

Brief Description of Projects Approved for Collection and Use:

Extend runway 3 safety area, phase III.
PFC project administration fees and annual administrative costs.
Air carrier terminal refurbishment (design), phase II.
Acquire snow removal equipment carrier vehicle.

Decision Date: August 15, 2001.

For Further Information Contact: Arthur Winder, Washington Airports District Office, (703) 661–1363.

Public Agency: County of Dane, Madison, Wisconsin.

Application Number: 01–05–CC–00–MSN.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $46,656,115.

Earliest Charge Effective Date: December 1, 2006.

Estimated Charge Expiration Date: March 1, 2014.

Classes of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Dane County Regional Airport.

Brief Description of Projects Approved for Collection and Use:

Reconstruct taxiway E at east ramp.
Terminal expansion.
Terminal apron expansion and utility relocations.
Airfield storm water study and storm water improvements.

Decision Date: August 20, 2001.

For Further Information Contact: Sandra E. DePottey, Minneapolis Airports District Office, (612) 713–4363.

Public Agency: City and Bureau of Juneau, Alaska.

Application Number: 01–05–C–00–JNU.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $650,000.

Earliest Charge Effective Date: January 1, 2002.

Estimated Charge Expiration Date: August 1, 2002.

Classes of Air Carriers not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Acquire snow removal equipment—sand truck.
Acquire snow removal equipment—snow blower replacement.

Decision Date: August 27, 2001.

For Further Information Contact: Debbie Roth, Alaska Region Airports Division, (907) 271–5443.

Public Agency: City of San Antonio, Texas.

Application Number: 01–01–C–00–SAT.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $102,524,363.

Earliest Charge Effective Date: November 1, 2001.

Estimated Charge Expiration Date: November 1, 2009.

Classes of Air Carriers not Required to Collect PFC's: Air taxi/commercial operators operating under Part 135 and filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at San Antonio International Airport.

Brief Description of Projects Approved for Collection:

Residential noise attenuation.
Construct aircraft rescue and firefighting training facility.
Construct three high-speed taxiways.
Extend runway 21 and associated development.
Construct concourse B.
Construct concourse B access road.

Brief Description of Projects Approved for Collection and Use:

Construct runway 30L holding apron.
Modify wash rack apron.
Replace remain-overnight apron.
Rehabilitate terminals 1 and 2.
Reconstruct perimeter road.

Brief Description of Withdrawn Project: Environmental assessment and clean up.

Determination: This project was withdrawn from the application in the public agency's letter dated June 17, 2001. Therefore, the FAA did not rule on this project in this decision.

Decision Date: August 29, 2001.

For Further Information Contact: G. Thomas Wade, Southwest Region Airports Division, (817) 222–5613.

AMENDMENTS TO PFC APPROVALS

Amendment No., City, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
93–01–C–02–HVN New Haven, CT.	07/02/01	$1,108,060	$983,636	04/01/98	04/01/98
*99–03–C–01–RDM Redmond, OR.	08/17/01	1,021,900	1,548,420	04/01/04	06/01/03
99–02–C–01–GRB	08/22/01	2,768,496	3,028,496	12/01/01	03/01/02

AMENDMENTS TO PFC APPROVALS—Continued

Amendment No., City, State	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
Green Bay, WI.					
01–03–C–01–JNU	08/24/01	310,551	371,748	12/01/01	01/01/02
Juneau, AK.					
*01–05–C–01–ABE	08/24/01	2,807,572	2,807,572	06/01/03	12/01/02
Allentown, PA.					
98–02–C–03–JAN	08/27/01	3,172,931	3,672,931	10/01/02	01/01/03
Jackson, MS.					
98–03–C–01–SJT	08/27/01	946,651	921,993	07/01/06	05/01/06
San Angelo, TX.					
*94–01–C–04–MLI	08/29/01	5,717,553	5,772,762	11/01/08	07/01/06
Moline, IL.					
*98–02–C–02–MLI	08/29/01	5,197,984	5,192,924	07/01/09	07/01/09
Moline, IL.					
*99–03–C–01–MLI	08/29/01	6,658,796	9,507,531	07/01/23	07/01/16
Moline, IL.					

Note: The amendments denoted by an asterisk (*) include a change to the PFC level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Redmond, OR and Allentown, PA this change is effective on November 1, 2001. For Moline, IL this change is effective on January 1, 2002.

Issued in Washington, DC, on October 11, 2001.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 01–26313 Filed 10–17–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping 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 February 28, 2001 [66 FR 12829–12831].

DATES: Comments must be submitted on or before November 19, 2001.

FOR FURTHER INFORMATION CONTACT: Walter Culbreath at the National Highway Traffic Safety Administration, Office of Administration (NAD–40), 202–366–1566. 400 Seventh Street, SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Generic Clearance for Customer Surveys.

OMB Number: 2127–0579.

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

Abstract: Executive Order 12862, mandates that agencies survey their customers to identify the kind and quality of services they want and their level of satisfaction with existing services. Other requirements include the Governmental Performance and Results Act (GPRA) of 1993 which promotes a new focus on results, service quality, and customer satisfaction. NHTSA will use surveys of the public and other external stakeholders to gather data as one input to decision-making on how to better meet the goal of improving safety on the nation's highways. The data gathered on public expectations, NHTSA's products and services, along with specific information on motor vehicle crash related issues, will be used by the agency to better structure its processes and products, forecast safety trends and achieve the agency's goals.

Affected Public: Individuals or households are primary survey respondents. Businesses or other-for profit, not-for-profit institutions, Federal agencies, and State, local or tribal governments or other possible survey respondents.

Estimated Total Annual Burden: 13,468.

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 5, 2001.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 01–26232 Filed 10–17–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping 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 22, 2001 [66 FR 6756–6757].

DATES: Comments must be submitted on or before November 19, 2001.

FOR FURTHER INFORMATION CONTACT: J.J. Liu at the National Highway Traffic Safety Administration, Office of Safety Performance Standards (NTS–31), 202–366–4923. 400 Seventh Street, SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: 49 CFR 571.218, Motorcycle Helmets (Labeling).

OMB Number: 2127–0518.

Type of Request: Extension of a currently approved collection.

Abstract: NHTSA requires labeling information to ensure that helmet owners have important safety information. The information currently provided on the helmet from the labels includes the manufacture's name or identification, model, size, month and year or manufacture, shell and liner construction of the helmet. The owners will also receive important information on caring for the helmet from the labels. Finally, the DOT symbol signifies the manufactures's certification that the helmet meets all the requirements in the standard. Labeling is necessary for NHTSA to identify the helmet, particularly, if the helmet failed the compliance test.

Affected Public: Business of other for profit organizations.

Estimated Total Annual Burden: 5,333.

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 5, 2001.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 01–26230 Filed 10–17–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping 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 8, 2001 [66 FR 23315].

DATES: Comments must be submitted on or before November 19, 2001.

FOR FURTHER INFORMATION CONTACT: Joseph Scott at the National Highway Traffic Safety Administration (NHTSA), Office of Crash Avoidance Standards, 202–366–8525. 400 Seventh Street, SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: Brake Hose Manufacturers Identification.

OMB Number: 2127–0052.

Type of Request: Extension of a currently approved collection.

Abstract: Under the authority of the National Highway Traffic and Motor Vehicle Safety Act of 1966, as amended, Title 15 United States Code 1932, Section 103, authorizes the issuance of Federal Motor Vehicle Safety Standards (FMVSS). The Act mandates that in issuing any FMVSS, the agency is to consider whether the standard is reasonable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed. Using this authority, Standard 106, Brake Hoses, was issued. This standard specifies labeling and performance requirements for all motor vehicle brake hose assemblers, brake hose and brake hose end fittings manufacturers for automotive vehicles. These entities must register their identification marks with NHTSA to comply with this standard.

Affected Public: Business of other for profit organizations.

Estimated Total Annual Burden: 30.

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 5, 2001.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 01–26231 Filed 10–17–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping 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 21814].

DATES: Comments must be submitted on or before November 19, 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 542, Procedures for Selecting Lines to be Covered by the Theft Prevention Standard.

OMB Number: 2127–0539.

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

Abstract: The Anti-Car Act of 1992 amended the Motor Vehicle Theft Law Enforcement Act of 1984 (Pub. L. 98–547) and requires this collection of information. One component of the theft prevention legislation required the Secretary of Transportation (delegated to the National Highway Traffic Safety Administration) to promulgate a theft prevention standard for the designation of high-theft vehicle lines. Provisions delineating the information collection requirements include section 33104, which requires NHTSA to promulgate a rule for the identification of major component parts for vehicles having or expected to have a theft rate above the median rate for all new passenger motor vehicles (cars, MPV's, and light-duty trucks) sold in the United States, as well as with major component parts that are interchangeable with those having high-theft-rates.

Affected Public: Business or other for-profit.

Estimated Total Annual Burden: 640.

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 5, 2001.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 01–26233 Filed 10–17–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub–No. 170)]

Union Pacific Railroad Company—Abandonment—in Polk County, IA

On September 28, 2001, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board) an application for permission to abandon a line of railroad known as the Bell Avenue Industrial Lead extending from milepost 221.1 near SE 18th Street to milepost 217.38 near SW 30th Street, a distance of 3.72 miles, in Des Moines, Polk County, IA. The line includes the Des Moines Station and traverses United States Postal Service zip codes 50309, 50314, 50315, 50316, 50317, and 50321. No agency exists at the Des Moines Station.

The line does not contain federally granted rights-of-way. Any documentation in UP's possession will be made available promptly to those requesting it. The applicant's entire case for abandonment (case-in-chief) was filed with the application.

This line of railroad has appeared on UP's system diagram map in category 1 since February 14, 2001.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

Any interested person may file with the Board written comments concerning the proposed abandonment, or protests (including the protestant's entire opposition case), by November 13, 2001. All interested persons should be aware that following any abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (49 CFR 1152.28) and any request for a trail use condition under 16 U.S.C. 1247(d) (49 CFR 1152.29) must be filed by November 13, 2001. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27). Applicant's reply to any opposition statements and its response to trail use requests must be filed by November 27, 2001. *See* 49 CFR 1152.26(a).

Persons opposing the abandonment who wish to participate actively and fully in the process should file a protest. Persons who oppose the abandonment but who do not wish to participate fully in the process by submitting verified statements of witnesses containing detailed evidence should file comments. Persons seeking information concerning the filing of protests should refer to 49 CFR 1152.25. Persons interested only in seeking public use or trail use conditions should also file comments.

In addition, a commenting party or protestant may provide: (i) An offer of financial assistance (OFA) for continued rail service under 49 U.S.C. 10904 (due 120 days after the application is filed or 10 days after the application is granted by the Board, whichever occurs sooner); (ii) recommended provisions for protection of the interests of employees; (iii) a request for a public use condition under 49 U.S.C. 10905; and (iv) a statement pertaining to prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29.

All filings in response to this notice must refer to STB Docket No. AB–33 (Sub-No. 170) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001; and (2) Mack H. Shumate, Jr., Senior General Attorney, 101 North Wacker Drive, #1920, Chicago, IL 60606. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, every document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

The line sought to be abandoned will be available for subsidy or sale for continued rail use, if the Board decides to permit the abandonment, in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR 1152.27). Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25). No subsidy arrangement approved under 49 U.S.C. 10904 shall remain in effect for more than 1 year unless otherwise mutually agreed by the parties (49 U.S.C. 10904(f)(4)(B)). Applicant will promptly

provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation. The carrier's representative to whom inquiries may be made concerning sale or subsidy terms is set forth above.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1552. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 33 days of the filing of the application. The deadline for submission of comments on the EA will generally be within 30 days of its service. The comments received will be addressed in the Board's decision. A supplemental EA or EIS may be issued where appropriate.

Board decisions and notices are available on our website at *www.stb.dot.gov.*

Decided: October 12, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–26282 Filed 10–17–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 11, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW, Washington, DC 20220.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

Internal Revenue Service

OMB Number: 1545–1318.

Regulation Project Number: REG–209545–92 NPRM (formerly INTL–18–92).

Type of Review: Extension.

Title: Earnings and Profits of Foreign Corporations.

Description: Application of the proposed regulations may result in accounting method changes which ordinarily require the filing of Form 3115. However, the proposed regulations waive this filing requirement if certain conditions are met, with the net result that no burdens are imposed.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

OMB Number: 1545–1464.

Regulation Project Number: IA–44–94 Final.

Type of Review: Extension.

Title: Deductibility, Substantiation, and Disclosure of Certain Charitable Contributions.

Description: The regulation provides guidance regarding the allowance of certain charitable contribution deductions, the substantiation requirements for charitable contributions of $250 or more, and the disclosure requirements for quid pro quo contributions of $75 or more. These regulations will affect donee organizations and individuals and entities that make payments to donee organizations.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents/Recordkeepers: 1,750,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour, 8 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting/Recordkeeping Burden: 1,975,000.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Mary A. Able,

Departmental Reports, Management Officer.

[FR Doc. 01–26260 Filed 10–17–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 11, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW, Washington, DC 20220.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

Financial Crimes Enforcement Network

OMB Number: 1506–0013.

Form Number: TD F 90–22.55.

Type of Review: Extension.

Title: Registration of Money Services Businesses.

Description: 31 U.S.C. 5330 (and implementing regulations under 31 CFR 103.41(a),(b), and (d)) require money services businesses (''MSBs'') to register with the Department of the Treasury and maintain a current list of agents. The registration and agent list requirements will enable Treasury to locate MSBs, educate them about their reporting and recordkeeping requirements of the Bank Secrecy Act, and ensure that MSBs comply with those requirements.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 8,500.

Estimated Burden Hours Per Respondent/Recordkeeping: 45 minutes.

Frequency of Response: Biennially.

Estimated Total Reporting/Recordkeeping Burden: 1,106,374 hours.

Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New

Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 01–26261 Filed 10–17–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 11, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before November 19, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0710.

Form Number: IRS Forms 5500, 5500–C/R and Schedules (1998 Version).

Type of Review: Extension.

Title: Annual Return/Report of Employee Benefit Plan, Return/Report of Employee Benefit Plan and Associated Schedules.

Description: Forms 5500 and 5500–C/R are annual information returns filed by Employee Benefit Plans. The IRS uses this information to determine if the plan appears to be operating properly as required under the law or whether the plan should be audited.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 25,000.

Estimated Burden Hours Per Respondent/Recordkeeper: Varies.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 775,726 hours.

OMB Number: 1545–1083.

Regulation Project Number: INTL–399–88 Final.

Type of Review: Extension.

Title: Treatment of Dual Consolidated Losses.

Description: Section 1503(d) denies use of the losses of one domestic corporation by another affiliated domestic corporation where the loss corporation is also subject to the income tax of another country. The regulation allows an affiliate to make use of the loss if the loss has not been used in the foreign group, to take the loss into income upon future use of the loss in the foreign country. The regulation also requires separate accounting for a dual consolidated loss where the dual resident corporation files a consolidated return.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Respondent: 3 hours, 14 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 1,620 hours.

OMB Number: 1545–1339.

Regulation Project Number: IA–33–92 Final.

Type of Review: Extension.

Title: Information Reporting for Reimbursements of Interest on Qualified Mortgages.

Description: To encourage compliance with the tax laws relating to the mortgage interest deduction, the regulations require the reporting on Form 1098 of reimbursements of interest overcharged in a prior year. Only businesses that receive mortgage interest in the course of that business are affected by this reporting requirement.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 1.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 1 hour.

OMB Number: 1545–1384.

Form Number: IRS Form 3911.

Type of Review: Extension.

Title: Taxpayer Statement Regarding Refund.

Description: If taxpayer inquires about their nonreceipt of refund (or lost or stolen refund) and the refund has been issued, the information and taxpayer signature are needed to begin tracing action.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 520,000.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 43,160 hours.

OMB Number: 1545–1463.

Form Number: IRS Form 4996.

Type of Review: Extension.

Title: Electronic/Magnetic Media Filing Transmittal for Wage and Withholding Tax Returns.

Description: Form 4996 allows reporting agents to identify tax returns submitted on magnetic tapes or electronic transmissions. The reporting agent's signature is the signature of the ''composite return'' as required by Internal Revenue Regulations 31.6011(a)–8. Reporting agents are persons or organizations that submit tax returns or Federal tax deposits on magnetic tape or via telecommunications.

Respondents: Individuals or households.

Estimated Number of Respondents: 400.

Estimated Burden Hours Per Respondent: 6 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 170 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 01–26262 Filed 10–17–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 932]

Appointment of Individuals To Serve as Members of the Performance Review Board (PRB); Senior Executive Service

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members of the Performance Review Board for the Bureau of Alcohol, Tobacco and Firearms (ATF) for the rating period beginning October 1, 2000, and ending September 30, 2001. This notice effects changes in the membership of the ATF PRB previously appointed November 14, 2000 (65 FR 68170).

The names and titles of the ATF PRB members are as follows:

John J. Manfreda, Chief Counsel, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury;

John Dooher, Director, Washington Office, Federal Law Enforcement

Training Center, Department of the Treasury;
William F. Riley, Director, Office of Planning, United States Customs Service, Department of the Treasury.

FOR FURTHER INFORMATION CONTACT: Dennis Snyder, Personnel Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone (202) 927–8610.

Bradley A. Buckles,
Director.

[FR Doc. 01–26270 Filed 10–17–01; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Agency Information Collection Activities; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (the ''agencies'') may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment of proposed revisions to the Consolidated Reports of Condition and Income (Call Report), which are currently approved collections of information. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC should modify the proposed revisions prior to giving its final approval. The agencies will then submit the revisions to OMB for review and approval.

DATES: Comments must be submitted on or before December 17, 2001.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: Written comments should be submitted to the Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Public Information Room, Mailstop 1–5, Attention: 1557–0081, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov.* Comments will be available for inspection and photocopying at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. Appointments for inspection of comments may be made by calling (202) 874–5043.

Board: Written comments should be addressed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, submitted by electronic mail to *regs.comments@federalreserve.gov,* or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room M–P–500 between 9 a.m. and 5 p.m., except as provided in section 261.12 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12(a).

FDIC: Written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [Fax number: (202) 898–3838; Internet address: *comments@fdic.gov*]. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC, between 9 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Draft copies of the proposed revisions to the Call Report forms may be requested from any of the agency clearance officers whose names appear below.

OCC: Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Mary M. West, Chief, Financial Reports Section, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins, (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Proposal to revise the following currently approved collections of information:

Report Title: Consolidated Reports of Condition and Income.

Form Numbers: FFIEC 031 (for banks with domestic and foreign offices) and FFIEC 041 (for banks with domestic offices only).

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

For OCC:

OMB Number: 1557–0081.

Estimated Number of Respondents: 2,200 national banks.

Estimated Time per Response: 42.02 burden hours.

Estimated Total Annual Burden: 369,786 burden hours.

For Board:

OMB Number: 7100–0036.

Estimated Number of Respondents: 978 state member banks.

Estimated Time per Response: 48.00 burden hours.

Estimated Total Annual Burden: 187,776 burden hours.

For FDIC:

OMB Number: 3064–0052.

Estimated Number of Respondents: 5,640 insured state nonmember banks.

Estimated Time per Response: 32.63 burden hours.

Estimated Total Annual Burden: 736,053 burden hours.

The estimated time per response is an average which varies by agency because of differences in the composition of the banks under each agency's supervision (e.g., size distribution of banks, types of activities in which they are engaged, and number of banks with foreign

offices). The time per response for a bank is estimated to range from 15 to 550 hours, depending on individual circumstances.

General Description of Report

This information collection is mandatory: 12 U.S.C. 161 (for national banks), 12 U.S.C. 324 (for state member banks), and 12 U.S.C. 1817 (for insured state nonmember commercial and savings banks). Except for selected items, this information collection is not given confidential treatment. Small businesses (i.e., small banks) are affected.

Abstract

Banks file Call Reports with the agencies each quarter for the agencies' use in monitoring the condition, performance, and risk profile of reporting banks and the industry as a whole. In addition, Call Reports provide the most current statistical data available for evaluating bank corporate applications such as mergers, for identifying areas of focus for both on-site and off-site examinations, and for monetary and other public policy purposes. Call Reports are also used to calculate all banks' deposit insurance and Financing Corporation assessments and national banks' semiannual assessment fees.

Current Actions

I. Overview

The agencies are requesting comment on several proposed revisions to the Call Report that will significantly enhance the usefulness of the report to the agencies, particularly from a supervisory perspective, and on certain revisions that should help simplify the completion of the report. Although the agencies implemented a substantial number of revisions to the Call Report in 2001, the agencies' ongoing review of their data needs for safety and soundness and other public purposes and other developments have indicated that further refinements to the information collected in the Call Report should be made in 2002. The proposed revisions include:

- Separating the existing balance sheet (Schedule RC) items for federal funds sold and securities resale agreements and for federal funds purchased and securities repurchase agreements into two asset and two liability items and adding a new item to Schedule RC–M, Memoranda, for the amount of overnight Federal Home Loan Bank advances included in federal funds purchased;
- Adding new items for:
- The fair value of credit derivatives to Schedule RC–L, Derivatives and Off-Balance Sheet Items;
- Year-to-date merchant credit card sales volume for acquiring banks and for agent banks with risk to Schedule RC–L; and
- Loans and leases held for sale that are past due 30–89 days, past due 90 days or more, and in nonaccrual status to the past due and nonaccrual schedule (Schedule RC–N);
- Breaking down the existing items for past due and nonaccrual closed-end 1–4 family residential mortgages in Schedule RC–N and for the charge-offs and recoveries of such mortgages in Schedule RI–B, part I, into separate items for first lien and junior lien mortgages;
- Revising the manner in which banks report on the estimated amount of their uninsured deposits in the deposit insurance assessments schedule (Schedule RC–O) and, for banks with foreign offices, modifying the scope of the existing items for the number and amount of deposit accounts in domestic offices to include accounts in insured branches in Puerto Rico and U.S. territories and possessions;
- Inserting a subtotal in the Tier 1 capital computation in Schedule RC–R, Regulatory Capital, to facilitate the calculation of certain disallowed assets and adding a new item to the schedule in which banks with financial subsidiaries would report the adjustment they must make to Tier 1 capital for their investment in these subsidiaries;
- Splitting the existing income statement (Schedule RI) item for intangible asset amortization expense into separate items for impairment losses on goodwill and for the amortization expense and impairment losses on other intangible assets on account of a new accounting standard; and
- Simplifying the disclosure of write-downs arising from transfers of loans to the held-for-sale account in the changes in allowance for loan and lease losses schedule (Schedule RI–B, part II).

Type of Review: Revision of a currently approved collection.

The proposed revisions to the Call Report have been approved for publication by the FFIEC. The agencies would implement these proposed Call Report changes as of the March 31, 2002, report date. Nonetheless, as is customary for Call Report changes, banks are advised that, for the March 31, 2002, report date only, reasonable estimates may be provided for any new or revised item for which the requested information is not readily available. The specific wording of the captions for the new and revised Call Report items and the numbering of these items in the report forms should be regarded as preliminary.

II. Discussion of Proposed Revisions

A. Federal Funds Transactions and Resale/Repurchase Agreements

On the Call Report balance sheet (Schedule RC), the agencies are proposing to separate the reporting of federal funds sold from securities purchased under agreements to resell (current item 3) and Federal funds purchased from securities sold under agreements to repurchase (current item 14). The revised balance sheet would have separate asset and liability items for federal funds transactions (items 3.a and 14.a) and for other securities resale/repurchase agreements (items 3.b. and 14.b).[1] In addition, the agencies would add a new item to Schedule RC–M—Memoranda, in which banks would report the amount of overnight Federal Home Loan Bank (FHLB) advances (i.e., maturing in one business day) included in federal funds purchased on the balance sheet. All reporting of these transactions on the Call Report balance sheet would continue to be on a gross basis (i.e., without netting), except to the extent permitted under FASB Interpretation No. 41.

From 1988 until March 31, 1997, banks reported their Federal funds transactions separately from their resale/repurchase agreements on the Call Report balance sheet. These items were combined in 1997 in conjunction with the agencies' adoption of generally accepted accounting principles (GAAP) as the reporting basis for recognition and measurement purposes in the Call Report. The combining took place because Federal funds sold/purchased and securities resale/repurchase agreements are shown as single asset/liability categories on the illustrative consolidated financial statements in the Audit and Accounting Guide—Banks and Savings Institutions, published by the American Institute of Certified Public Accountants (AICPA), and on the Securities and Exchange Commission's bank holding company balance sheet format in Article 9 of Regulation S–X (17 CFR 210.9–03). However, the agencies have reconsidered the current method of presentation for these assets and liabilities in the Call Report balance sheet and, for the reasons discussed

[1] Federal funds transactions include securities resale/repurchase agreements involving the receipt of immediately available funds that mature in one business day or roll over under a continuing contract.

below, have concluded that they should return to the pre-1997 method.

As banks have increased their reliance on nondeposit funding sources, the importance of liquidity and collateral management—and the potential for serious liquidity stress—has increased. Federal funds purchased and securities repurchase agreements frequently make up a large portion of banks' nondeposit funding sources and these short-term instruments often play a critical role in a bank's asset-liability management strategies and its response to liquidity pressures. Many federal funds transactions are unsecured, whereas all resale/repurchase agreements and overnight FHLB advances are secured; moreover, the terms for resale/repurchase agreements are longer than those for federal funds transactions.

Currently, nearly 90 percent of all commercial banks report that they have ''Federal funds sold and securities purchased under agreements to resell'' and approximately one third of all commercial banks report that they have ''Federal funds purchased and securities sold under agreements to repurchase.'' Current Call Reports also show that one quarter of all commercial banks have both these assets and liabilities. Frequently, resale and repurchase agreements are linked, meaning that a bank has purchased securities under agreements to resell and at the same time has sold the same securities under agreements to repurchase. Thus, separate reporting of federal funds transactions and resale/repurchase agreements, combined with information about overnight FHLB advances, will allow the agencies to more effectively monitor and understand individual bank funding sources, asset-liability management, and liquidity risk. Under the proposed new reporting, the agencies will also improve their ability to identify banks that have significant changes to their asset-liability management strategies or liquidity risk positions between examinations.

In addition, because repurchase agreements and FHLB advances are always secured, receiverships must use the collateral to satisfy these claims prior to meeting the FDIC's claims when banks fail. A large volume of secured claims can materially increase the FDIC's loss rate. Therefore, the addition of these liability items will improve the FDIC's estimates of its potential loss exposure, both for individual troubled institutions [2] and in the aggregate. More accurate loss estimates for individual failing banks could produce better-informed decisions in selecting winning bidders at resolution and more accurate loss estimates on the insurance funds' financial statements. More accurate data at the aggregate level could improve the FDIC's analysis of its overall risk exposure and more informed analysis of potential changes to its deposit insurance pricing or risk abatement strategies.

Currently, overnight FHLB advances are reported only as part of ''Federal funds purchased and securities sold under agreements to repurchase'' on the Call Report balance sheet (item 14). Under the proposed revision described above, these overnight advances will continue to be reported as part of federal funds purchased in balance sheet item 14.a. All other FHLB advances are reported on the balance sheet as part of ''Other borrowed money'' (item 16), with a breakdown on these advances by remaining maturity reported in Schedule RC–M, items 5.a.(1) through 5.a.(3). However, the agencies understand that the amount of overnight FHLB borrowings is a substantial portion of the total FHLB advances made to all banks, but the amount of these advances cannot at present be determined from the Call Report. The proposed new Schedule RC–M item will enable the agencies to determine the total amount of FHLB borrowings at each institution, thereby improving their ability to monitor and understand individual bank funding sources, asset-liability management, and liquidity.

B. Fair Value of Credit Derivatives

The notional amounts of credit derivatives have been reported on the Call Report since 1997. These amounts are reported separately for contracts where the reporting bank is the guarantor (Schedule RC–L, item 7.a) and for contracts where the bank is the beneficiary (Schedule RC–L, item 7.b). However, there are no disclosures on the Call Report for the fair value of these contracts. In contrast, banks disclose both the notional amounts and fair values of four other types of derivatives in Schedule RC–L: interest rate contracts, foreign exchange contracts, equity derivative contracts, and commodity and other contracts. Gross positive and gross negative fair values are reported for each of these four types of derivatives, with separate values provided for contracts held for trading and for contracts held for purposes other than trading.

The notional amount outstanding of credit derivatives at banks has increased more than sixfold since 1997 (from $55 billion to $352 billion). This growth is largely the result of the use of credit derivatives as a risk management tool. In this regard, notional amounts are useful as an overall indicator of volume of derivative markets. However, notional amounts do not reveal the credit or market risk to which banks are exposed from derivative contracts. Therefore, the agencies propose to add four new items to Schedule RC–L, Derivatives and Off-Balance Sheet Items, to capture the gross positive and gross negative fair values of credit derivatives where the bank is the guarantor (items 7.a.(1) and (2)) and where the bank is the beneficiary (items 7.b.(1) and (2)).

The addition of these items should result in minimal additional reporting burden for the small number of banks with credit derivatives because the Financial Accounting Standards Board (FASB) requires the fair value of credit derivatives to be reported or disclosed in financial statements. FASB Statement No. 133, Accounting for Derivative Instruments and Hedging Activities, requires certain credit derivatives to be reported as assets or liabilities on the balance sheet at their fair value. The remaining credit derivatives are financial instruments, the fair value of which must be disclosed in accordance with FASB Statement No. 107, Disclosures About Fair Value of Financial Instruments, in financial statements prepared in accordance with GAAP.

The two new proposed Schedule RC–L items would enable the agencies to better determine the risk of credit derivatives at each institution, thereby improving their ability to monitor and understand individual trading and hedging strategies. In addition, these items will increase transparency in financial reporting and further align the Call Report with GAAP and financial statement disclosures.

C. Merchant Credit Card Sales Volume

The agencies are proposing to add two items to Schedule RC–L, Derivatives and Off-Balance Sheet Items, in which data on year-to-date merchant credit card sales volume would be collected. One item would be applicable to acquiring banks, *i.e.,* banks that contract with merchants for the settlement of credit card transactions. Acquiring banks can contract directly with a merchant or indirectly through an agent bank or another third-party organization to process a merchant's credit card transactions. The other item would be completed by agent banks with risk, *i.e.,* banks that arrange for an acquiring bank to process a merchant's credit card

[2] These items would not yield improvements for individual institution estimates where the FDIC has access to timely data on secured credits directly from the institution.

transactions and, in effect, guarantee that merchant's transactions.

In general, merchant processing activities involve the gathering of sales information from merchants, obtaining authorization for sales transactions, collecting funds from the card-issuing banks, and crediting the merchants' accounts for their sales. The off-balance sheet risk associated with merchant processing can be significant as evidenced by a recent bank failure resulting from poor risk management of merchant processing activity. For an acquiring bank and an agent bank with risk, the primary risks associated with the merchant acquirer business are credit risk and transaction risk, although liquidity and reputation risks are also present. With respect to credit risk, an acquiring bank and an agent bank with risk both rely on the creditworthiness of the merchant to pay chargebacks. Chargebacks can result, for example, from a customer's dispute of a transaction (*e.g.,* the customer never received the merchandise) or from an invalid transaction (*i.e.,* a transaction with an improper authorization). Chargebacks are a recurring element in the merchant processing business, and a merchant must be financially capable to pay for them. However, when the merchant is unable or unwilling to pay, merchant chargebacks become a credit exposure to the acquiring bank. If a merchant's transactions have been guaranteed by an agent bank with risk or another third party, the acquiring bank will look to this guarantor for reimbursement. If a merchant does not honor its chargebacks, the acquiring bank or the agent bank with risk, if one is associated with the merchant, will incur losses.

Because sales volume is a risk indicator, the proposed new items for sales volume represent information that acquiring banks and agent banks with risk should be monitoring internally as part of their risk management process. Institutions that are required to report sales data to the credit card associations of which they are members should measure sales volume in the same manner for Call Report purposes. These new items will enable the agencies to identify and monitor institutions that are involved in the credit card merchant acquirer business, the volume of sales transactions being processed or guaranteed, particularly in relation to an institution's capital, significant changes in sales volume at individual institutions, and new entrants to the business. The agencies' examiners will use this information during their pre-examination planning process as they seek to identify potential high risk areas within a bank and to determine appropriate examination staffing. It is estimated that there are approximately 2,000 banks with off-balance sheet credit exposure from merchant sales transactions.

D. Past Due and Nonaccrual Information on Loans and Leases Held for Sale

Currently the category-by-category breakdown of a bank's loans and leases that are past due or in nonaccrual status in Call Report Schedule RC–N includes loans and leases held for sale together with loans and leases that the bank has the intent and ability to hold for the foreseeable future or until maturity or payoff (loans held for investment). The agencies propose to add new Memorandum item 5, ''Loans and leases held for sale (included in Schedule RC–N, items 1 through 8, above),'' to specifically break out such loans and leases that are past due 30 through 89 days and still accruing, past due 90 days or more and still accruing, or in nonaccrual status. Existing Memorandum item 5 on past due derivative contracts would be renumbered as Memorandum item 6.

Selling loans, in whole or in part, has become an increasingly important portfolio risk management tool for institutions seeking to manage concentrations, change risk profiles, improve returns, and generate liquidity. In 1991, the agencies began collecting information on the carrying value of all loans and leases that are held for sale, currently reported on Schedule RC, Balance Sheet, item 4.a. Since 1996, the aggregate amount of banks' loans and leases held for sale has increased nearly 250 percent (from $44 billion to $153 billion). Separately disclosing the repayment performance of held-for-sale loans will enable the agencies to better understand the quality of loans in banks' held-for-sale portfolios and held-for-investment portfolios. It will also give an indication of banks' held-for-sale strategies over time. In addition, because loans held for sale are carried on the balance sheet at the lower of cost or fair value and loan loss allowances are not established for these loans, the proposed Memorandum items will ensure that the relationship between banks' loan loss allowances for loans held for investment and the volume of such loans that are in past due or nonaccrual status can be readily ascertained.

E. First and Junior Lien 1–4 Family Residential Mortgages: Past Due and Nonaccrual Loans, Charge-offs, and Recoveries

The agencies are proposing to revise Schedule RC–N, Past Due and Nonaccrual Loans, Leases, and Other Assets, to collect the amount of closed-end loans secured by first mortgages on 1–4 family residential properties (in domestic offices) that are past due 30 days or more or in nonaccrual status separately from past due and nonaccrual closed-end loans secured by junior liens on such properties (in domestic offices). A similar change would be made to the reporting of first and junior lien 1–4 family residential mortgages (in domestic offices) in Schedule RI–B, part I, Charge-offs and Recoveries on Loans and Leases. Currently, these two types of residential mortgage loans are combined for purposes of reporting past due and nonaccrual loan data as well as year-to-date charge-offs and recoveries. The revised reporting structure for residential mortgage loans in Schedule RC–N, item 1.c.(2), and Schedule RI–B, part I, item 1.c.(2), will then parallel the reporting for these types of loans (in domestic offices) in Schedule RC–C, part I—Loans and Leases, item 1.c.(2)(a) and (b).

Over the past several years, there has been an enormous growth in home equity lending, which includes closed-end loans secured by junior liens on 1–4 family residential properties as well as open-end loans secured by 1–4 family residential properties (home equity lines of credit), which are generally junior liens. From March 1996 to March 2001, closed-end junior liens at commercial banks grew by over 70 percent to $106 billion while open-end loans increased by nearly 66 percent to $130 billion. Both types of home equity lending grew by around one third over the past two years. Currently, over 80 percent of all commercial banks have closed-end junior liens in their loan portfolios and almost 60 percent have open-end loans under home equity lines of credit. The percentage of closed-end 1–4 family residential mortgages (junior liens and first liens combined) that are 30 days or more past due or in nonaccrual status has increased 18 percent from March 1999 to March 2001. However, because closed-end first and junior lien residential mortgage loans are reported on a combined basis in Schedules RC–N and RI–B, part I, differences in the delinquency and loss rates for these two different types of closed-end residential mortgages cannot be discerned at present. Therefore, this proposed change will permit the agencies to

monitor the performance of home equity lending in the form of closed-end junior lien 1–4 family residential loans in the same manner as they currently do for revolving, open-end 1–4 family residential loans.

F. Reporting Uninsured Deposits

The FDIC relies on Call Report information to estimate the amount of insured and uninsured deposits in banks. The FDIC uses estimates of insured deposits to determine the reserve ratios of the deposit insurance funds. The reserve ratios are measured against the funds' ''designated reserve ratio,'' as defined in the Federal Deposit Insurance Act (FDI Act), in determining assessment rates to be paid by insured institutions. Thus, having accurate information on insured deposits is critical to managing the insurance funds and assessing deposit insurance premiums. In this regard, Section 7(a)(9) of the FDI Act, which was originally added by Section 141 of the FDIC Improvement Act of 1991, directs the FDIC to

> take such action as may be necessary to insure that—(A) each insured depository institution maintains; and (B) the Corporation receives on a regular basis from such institution, information on the total amount of all insured deposits, preferred deposits, and uninsured deposits at the institution. In prescribing reporting and other requirements for the collection of actual and accurate information * * *, the Corporation shall minimize the regulatory reporting burden imposed upon insured depository institutions that are well capitalized * * * while taking into account the benefit of the information to the Corporation, including the use of the information to enable the Corporation to more accurately determine the total amount of insured deposits in each insured depository institution.

In order to improve compliance with this statutory requirement while also considering its guidance on reporting burden, the agencies are proposing to revise Schedule RC–O, Memorandum item 2, ''Estimated amount of uninsured deposits of the bank.'' As revised, Memorandum item 2 would no longer ask whether the reporting bank, in essence, can estimate its uninsured deposits and, if so, to report this estimate. Instead, each bank would be required to report the estimated uninsured portion of its deposits, subject to certain criteria that are discussed below. In this regard, the following paragraphs first explain the reasons for proposing this revision, the intent of which is to take advantage of banks' automated systems to the extent that they are in place.

The FDIC's initial approach for implementing Section 7(a)(9) of the FDI Act was through the addition of Memorandum items 2.a and 2.b to Schedule RC–O in March 1993. In Memorandum item 2.a, each bank is asked whether it has ''a method or procedure for determining a better estimate of uninsured deposits than'' the so-called ''simple estimate'' of uninsured deposits (in domestic offices). The simple estimate of uninsured deposits is derived by multiplying the number of deposit accounts of more than $100,000 (reported in Schedule RC–O, Memorandum item 1.b.(2)) by $100,000 and subtracting the result from the amount of deposit accounts of more than $100,000 (reported in Schedule RC–O, Memorandum item 1.b.(1)). If a bank answers Memorandum item 2.a affirmatively, thereby reporting that it has a method or procedure for better estimating uninsured deposits, the bank is directed to report this estimate in Schedule RC–O, Memorandum item 2.b. The estimate of insured deposits is then the difference between total deposits (in domestic offices) and estimated uninsured deposits.

In the year-end 2000 Call Report, only 157 of the nearly 8,600 banks reported that they have a ''better estimate'' of uninsured deposits. With such a small percentage of institutions reporting a better estimate, this has raised concerns about the accuracy of the aggregate insured deposit estimate for banks that the FDIC has had to derive primarily from simple estimates.

The simple estimate overstates a bank's insured deposits (in domestic offices) when a single depositor holds multiple accounts in the same capacity at the bank and these accounts in the aggregate exceed $100,000. In contrast, the simple estimate understates a bank's insured deposits when multiple parties participate in the ownership of a single account of more than $100,000 or when there is ''pass-through'' coverage on an account of more than $100,000 that is owned by multiple depositors. Consequently, the ''simple estimate'' may either overstate or understate the amount of a bank's insured deposits (in domestic offices).

Furthermore, on the FFIEC 031 report form for banks with foreign offices, the Schedule RC–O Memorandum items for the number and amount of deposit accounts and the better estimate of uninsured deposits cover only domestic offices. However, domestic offices exclude insured branches in Puerto Rico and U.S. territories and possessions, which are considered foreign offices for Call Report purposes. As a result, even the simple estimate of uninsured deposits does not consider the deposits in these insured branches, an omission that biases the simple estimate toward understatement.

Brokered deposits are another area of concern with respect to the accuracy of the simple estimate of uninsured deposits. In this regard, the number of banks with brokered deposits is increasing and the amount of brokered deposits is also increasing. From year-end 1998 through March 31, 2001, the volume of brokered deposits at banks more than tripled to over $217 billion while the number of banks reporting brokered deposits grew from more than 1,200 to over 1,450. Brokered deposits issued in amounts over $100,000 and participated out by the broker in shares of $100,000 or less, which receive the benefit of ''pass-through'' deposit insurance coverage and which banks are currently required to report in Schedule RC-E, Memorandum item 1.c.(2), are not always captured in the ''simple estimate'' of insured deposits. A number of banks with a significant amount of these insured brokered deposits do not report the ''better estimate.'' Thus, insured deposits may be significantly underestimated for these banks. Furthermore, other banks with large amounts of brokered deposits have reported the ''better estimate'' of uninsured deposits in some quarters but not in others. This inconsistent reporting can result in volatile estimates of insured deposits.

The FDIC's regulations on deposit insurance coverage (12 CFR part 330) explain that, in general, in determining the amount of deposit insurance available to a depositor, there is a presumption that deposited funds are actually owned in the manner indicated on an institution's ''deposit account records.'' Furthermore, in order for the FDIC to recognize a claim for insurance coverage based on a fiduciary relationship, including one that provides a basis for additional insurance coverage on a ''pass-through'' basis, either the relationship must be expressly disclosed in the institution's ''deposit account records'' or the titling of the deposit account (together with the underlying records) must indicate the existence of the fiduciary relationship. Such relationships include, but are not limited to, relationships involving a trustee, agent, nominee, guardian, executor, or custodian.

In addition, the FDIC's deposit insurance regulations state that deposits of an employee benefit plan or of any eligible deferred compensation plan are insured on a ''pass-through'' basis, in the amount of up to $100,000 for the non-contingent interest of each plan participant, provided, in general, that

the institution meets each applicable regulatory capital standard at the time the deposit is accepted. In this regard, these regulations require each institution, upon request, to provide a written notice to any depositor of employee benefit plan funds that discloses the institution's capital ratios and its prompt corrective action capital category and whether, in the institution's judgment, employee benefit plan deposits made at the time the information is requested would be eligible for ''pass-through'' insurance coverage. Furthermore, whenever an account comprised of employee benefit plan funds is opened, an institution must provide a similar written notice to the depositor. In addition, whenever employee benefit plan deposits at an institution would no longer be eligible for ''pass-through'' insurance coverage, the institution must notify all existing depositors of employee benefit plan funds in writing that new, rolled-over or renewed deposits of employee benefit plan funds will not be eligible for such coverage. For both fiduciary accounts and employee benefit plan deposits with balances over $100,000 that would be eligible for ''pass-through'' coverage, the simple estimate tends to overstate the amount of uninsured deposits.

A number of banks offer benefit-responsive ''depository institution investment contracts,'' which are reported as deposit liabilities on the Call Report balance sheet but, in accordance with Section 11(a)(8) of the FDI Act (12 U.S.C. 1821(a)(8)), are not eligible for deposit insurance. Banks with such investment contracts outstanding must report the amount of these contracts in Schedule RC–O, item 10. However, for banks that do not report their ''better estimate'' of uninsured deposits, the ''simple estimate'' of their uninsured deposits would improperly treat at least a portion of these investment contracts as insured.

Because of the concerns discussed above, the agencies are proposing to revise Schedule RC–O, Memorandum item 2, ''Estimated amount of uninsured deposits of the bank,'' in order to improve compliance with Section 7(a)(9) of the FDI Act while taking its reporting burden provision into account. Rather than asking whether each bank can determine a ''better estimate'' of uninsured deposits and, if so, to report its ''better estimate,'' Memorandum item 2 would be recaptioned ''Uninsured deposits'' and revised to require each bank to report the estimated uninsured portion of its deposits. The intent of this proposed revision is to take advantage of banks' in-place automated systems. However, the agencies also recognize that most banks will not have, in automated form, the key information needed to fully identify all deposits that are at least in part uninsured. As a consequence, the reporting of ''Uninsured deposits'' in revised Memorandum item 2 would be subject to the following criteria.

First, because a bank with brokered deposits currently reports both the total amount of such deposits and the amount that is fully insured in Schedule RC–E, each bank with brokered deposits would be required to use the information already developed for completing the Schedule RC–E brokered deposit items to determine its best estimate of the uninsured portion of its brokered deposits. Second, if a bank has deposits of $100,000 or more whose existence is based on a fiduciary relationship, a relationship that must be evident from the deposit account titles or records in order for additional insurance coverage to be available on a ''pass-through'' basis, the bank would be required to diligently use available data to make its best estimate of the uninsured portion of these deposits. Similarly, when a bank has deposits of an employee benefit plan or an eligible deferred compensation plan that are insured on a ''pass-through'' basis, the eligibility (and discontinuance of eligibility) for which is subject to written notification requirements, the bank would also be required to diligently use available data to make its best estimate of the uninsured portion of these deposits.

Next, for a bank whose deposits include benefit-responsive ''depository institution investment contracts,'' the amount of which the bank must already disclose in Schedule RC–O, the bank must ensure that it includes the entire amount of these contracts in its estimated amount of uninsured deposits. Finally, for all other deposits, each bank should make a reasonable estimate of the portion that is uninsured using the data available from its information systems. This reasonable estimate should include deposits in excess of the deposit insurance limit that the bank has collateralized by pledging assets, such as deposits of states and political subdivisions in the U.S. (sometimes referred to as municipal deposits). Furthermore, if the bank has automated systems in place that can identify jointly owned accounts and estimate the insurance coverage of these deposits, then the reasonable estimate reported in revised Memorandum item 2 should reflect the higher level of insurance afforded such accounts. Similarly, if the bank's systems can classify accounts by deposit owner and ownership capacity and aggregate a depositor's multiple accounts to determine the extent of insurance coverage, the amount of uninsured deposits the bank reports should incorporate this information.

In addition, on the FFIEC 031 report form for banks with foreign offices, the scope of the Schedule RC–O Memorandum items for the number and amount of deposit accounts (Memorandum items 1.a.(1), 1.a.(2), 1.b.(1), and 1.b.(2)) and revised Memorandum item 2 on estimated uninsured deposits would be expanded to cover both ''domestic offices'' and insured branches in Puerto Rico and U.S. territories and possessions. This would mean that, as revised, the sum of Schedule RC–O, Memorandum items 1.a.(1) and 1.b.(1), must equal Schedule RC, item 13.a, ''Deposits in domestic offices,'' plus the amount of deposits in insured branches reported in Schedule RC–O, items 5.a and 5.b.

This proposed revision to the reporting of uninsured deposits should limit reporting burden by focusing on those types of deposits for which the underlying data is currently compiled for Call Report or other purposes. To the extent that an institution uses automated systems to comply with the FDIC's existing rules on, or notice requirements associated with, ''pass-through'' insurance coverage, that information should be used in the estimate. An institution would also be expected to take advantage of automated information it possesses about common ownership and ownership capacities of deposit accounts to develop a reasonable estimate of the uninsured portion of its deposits.

While it is anticipated that most institutions will rely on automated systems to produce most or all of the data needed to complete revised Schedule RC–O, Memorandum item 2, some institutions may also choose to use non-automated information such as paper files or less formal knowledge of their depositors to provide reasonable estimates of appropriate portions of their uninsured deposits. An institution's use of such non-automated sources of information is considered appropriate unless errors associated with their use contribute significantly to an overall error in the FDIC's estimate of the amount of insured deposits in the banking system. The agencies also recognize that the capabilities of institutions' information systems to provide an estimate of their uninsured deposits will differ at any point in time and may improve over time.

G. Regulatory Capital Calculations

In items 1 through 11 of Schedule RC–R, Regulatory Capital, banks report their computation of Tier 1 capital. Items 8 and 9 are used to disclose any disallowed servicing assets and purchased credit card relationships and any disallowed deferred tax assets, respectively. These disallowed amounts are calculated, in part, by reference to a subtotal of Tier 1 capital components. The instructions for Schedule RC–R explain how this subtotal should be derived by adding and subtracting, as appropriate, amounts reported in items 1 through 7 of Schedule RC–R, but the amount of the subtotal is not directly reported in the schedule itself. To help ensure that banks are using the proper subtotal when determining whether they have any disallowed amounts, existing items 8 and 9 will be renumbered as items 9.a and 9.b and item 8 will become the subtotal of items 1 through 7 (i.e., the sum of items 1 and 6, less items 2, 3, 4, 5, and 7). For banks using commercially available Call Report software to complete their reports, the software should automatically calculate the correct subtotal and include it in new item 8.

Under the Gramm-Leach-Bliley Act of 1999, banks that have financial subsidiaries must deconsolidate these subsidiaries and deduct their aggregate outstanding equity investment in them from capital and assets when calculating their regulatory capital ratios. Banks with financial subsidiaries currently use items 28 through 30 of Schedule RC–R to report the amount of their adjustments to total risk-based capital, risk-weighted assets, and average total assets. These adjustments enter into the calculation of the three capital ratios reported in items 31 through 33: the Tier 1 leverage ratio, the Tier 1 risk-based capital ratio, and the total risk-based capital ratio. However, although two of these ratios use Tier 1 capital in the numerator, banks with financial subsidiaries do not report the adjustment that must be made to Tier 1 capital for these subsidiaries. In particular, if a bank's financial subsidiaries have been consolidated for accounting and reporting purposes (including the Call Report balance sheet), the computation of Tier 1 capital in items 1 through 11 of Schedule RC–R may include amounts attributable to financial subsidiaries. For example, item 7 could include goodwill on the books of financial subsidiaries. Thus, banks with financial subsidiaries would complete proposed new item 28.a to report the amount by which the Tier 1 capital figure reported in item 11 of Schedule RC–R must be adjusted to eliminate those amounts included in Tier 1 capital that are associated with the financial subsidiaries. Existing item 28, ''Adjustment to total risk-based capital'' would be renumbered as item 28.b.

H. Goodwill and Other Intangible Assets

On July 20, 2001, the FASB issued Statement No. 142, Goodwill and Other Intangible Assets, which, in general, is effective for fiscal years beginning after December 15, 2001. Under this standard, goodwill will no longer be amortized, but will be tested for impairment on an annual basis and between annual tests in certain circumstances. Other intangible assets will be tested for impairment in accordance with the standard and some of these intangibles must be amortized. Statement No. 142 also states that ''goodwill impairment losses shall be presented as a separate line item in the income statement before the subtotal income from continuing operations (or similar caption) unless a goodwill impairment loss is associated with a discontinued operation.''

Banks must adopt Statement No. 142 for Call Report purposes upon its effective date based on their fiscal year. At present, banks report the amortization expense of intangible assets, including goodwill amortization, in item 7.c of the Call Report income statement (Schedule RI). In response to the accounting and reporting changes mandated by Statement No. 142, the agencies are proposing to replace existing item 7.c with two items: item 7.c.(1), ''Goodwill impairment losses,'' [3] and item 7.c.(2), ''Amortization expense and impairment losses for other intangible assets.'' Along with appropriate revisions to the Call Report instructions (e.g., goodwill should not be amortized), this change will conform the reporting of amortization expense and impairment losses for intangibles in the Call Report to the provisions of Statement No. 142.

Statement No. 142 will not apply to goodwill and intangible assets acquired in combinations between two or more institutions with a mutual form ownership until the FASB issues interpretive guidance related to the application of the purchase method to such transactions. Until this interpretive guidance is issued and takes effect, goodwill and intangible assets acquired in combinations of mutual institutions will continue to be accounted for in accordance with existing accounting standards. However, for income statement presentation purposes, mutual institutions should report goodwill amortization expense and any impairment losses in new item 7.c.(1) and the amortization expense and any impairment losses on other intangible assets in new item 7.c.(2).

I. Write-Downs on Loans Transferred to the Held-for-Sale Account

On March 26, 2001, the agencies issued Interagency Guidance on Certain Loans Held for Sale to provide instruction about the appropriate accounting and reporting treatment for certain loans that are sold directly from the loan portfolio or transferred to a held-for-sale (HFS) account. The guidance applies when:

- An institution decides to sell loans that were not originated or otherwise acquired with the intent to sell, and
- The fair value of those loans has declined for any reason other than a change in the general market level of interest or foreign exchange rates.

One element of the guidance reminds institutions to appropriately report reductions in the value of loans transferred to held for sale through a write-down of the recorded investment to fair value upon transfer. The guidance explains that this write-down should be reported as a charge-off in Schedule RI–B, part I, Charge-offs and Recoveries on Loans and Leases. In Schedule RI–B, part II, Changes in Allowance for Loan and Lease Losses, the corresponding reduction in the allowance should be reported as an ''Adjustment'' to the allowance in item 5. Because each type of ''Adjustment'' reported in part II, item 5, must be disclosed and described in item 6 of Schedule RI–E, Explanations, the guidance also states that write-downs included in part II, item 5, should be disclosed in Schedule RI–E and described as ''Write-downs arising from transfers of loans to HFS.'' A preprinted caption to that effect was inserted in Schedule RI–E, item 6.a, in the June 30, 2001, Call Report forms.

To simplify the reporting of these write-downs, the agencies are proposing to move the disclosure now made in Schedule RI–E, item 6.a, directly into Schedule RI–B, part II, item 5, ''Adjustments.'' This item would be modified by creating item 5.a, ''LESS: Write-downs arising from transfers of loans to the held-for-sale account,'' and item 5.b, ''Other adjustments.'' As a result, going forward, only those amounts included in item 5.b, ''Other adjustments,'' would need to be

[3] A goodwill impairment loss associated with a discontinued operation would be included (on a net-of-tax basis) in Schedule RI, item 11, ''Extraordinary items and other adjustments, net of income taxes.''

disclosed and described in Schedule RI–E, item 6.

III. Other Issues

The AICPA is currently finalizing a Statement of Position (SOP), Accounting for Certain Purchased Loans or Debt Securities, following the FASB's nonobjection to its issuance subject to certain changes being made. The agencies understand that the provisions of this SOP would be effective for loans acquired in fiscal years beginning after June 15, 2002, with early application permitted. The SOP will change the accounting for loans purchased with credit quality concerns and will prohibit an institution from carrying over allowances for loan losses associated with purchased loans. The agencies invite comments on (i) how the reporting of information in the Call Report about loans and the loan loss allowance, e.g., loan delinquencies and charge-offs, should be revised and (ii) what types of new information should be collected in response to the expected issuance of this SOP.

IV. Request for Comment

The agencies request comment on all aspects of the proposed revisions discussed above. In addition, comments are invited on:

(a) Whether the proposed revisions to the Call Report collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections 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.

Comments submitted in response to this notice will be shared among the agencies and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden as well as other relevant aspects of the information collection request.

Dated: October 9, 2001.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, October 10, 2001.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 9th day of October, 2001.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 01–26284 Filed 10–17–01; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P

Corrections

Federal Register

Vol. 66, No. 202

Thursday, October 18, 2001

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

Correction

In notice document 01–25341 beginning on page 51647 in the issue of Wednesday, October 10, 2001, make the following correction:

On page 51648, in the first column, in the **DATES:** section, in the third line ‘‘ December 10, 2001 ’’ should read ‘‘November 9, 2001’’.

[FR Doc. C1–25341 Filed 10–17–01; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
October 18, 2001

Part II

Department of the Treasury

Customs Service

Privacy Act of 1974, as Amended: System of Records; Notice

DEPARTMENT OF THE TREASURY

Customs Service

Privacy Act of 1974, as Amended: System of Records

AGENCY: U. S. Customs Service, Treasury.

ACTION: Notice of Privacy Act system of records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the United States Customs Service, Treasury, is publishing its Privacy Act systems of records.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Office of Management and Budget (OMB) Circular No. A–130, the United States Customs Service (Customs) has completed a review of its Privacy Act systems of records notices to identify minor changes that will more accurately describe these records.

The changes throughout the document are editorial in nature and consist principally of changes to system locations and system manager addresses.

The following systems of records have been added to the Customs inventory of Privacy Act notices since September 30, 1998:

(Published December 1, 1998, at 63 FR 66232)

CS.286—Electronic Job Application Processing System (Published April 24, 2001, at 66 FR 20717.

The following system of records has been removed from Customs inventory of Privacy Act systems:

CS.078—Disclosure of Information File (Published December 3, 1999 at 64 FR 67966)

CS.172—Parking Permits File (Published December 14, 2000, at 65 FR 78263).

Systems Covered by This Notice: This notice covers all systems of records adopted by the Bureau up to August 30, 2001.

The systems notices are reprinted in their entirety following the Table of Contents.

Dated: September 26, 2001.

W. Earl Wright, Jr.,

Chief Management and Administrative Programs Officer.

Table of Contents

CS.001—Acceptable Level of Competence, Negative Determination
CS.002—Accident Reports
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CS.009—Acting Customs Inspector (Excepted)
CS.021—Arrest/Seizure/Search Report and Notice of Penalty File
CS.022—Attorney Case File
CS.030—Bankrupt Parties-In-Interest
CS.031—Bills Issued Files
CS.032—Biographical Files (Headquarters)
CS.040—Carrier File
CS.041—Cartmen or Lightermen
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CS.043—Case Files (Associate Chief Counsel—Gulf Customs Management Center
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CS.098—Fines, Penalties and Forfeitures Records
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CS.105—Former Employees
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CS.163—Outside Employment Requests
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CS.208—Restoration of Forfeited Annual Leave Cases
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CS.211—Sanction List
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CS.213—Seized Asset and Case Tracking System (SEACATS)
CS.214—Seizure File
CS.215—Seizure Report File
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CS.227—Temporary Importation under Bond (TIB) Defaulter Control System
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CS.234—Tort Claims Act File
CS.238—Training and Career Individual Development Plans
CS.239—Training Records
CS.244—Treasury Enforcement Communications System
CS.249—Uniform Allowance-Unit Record
CS.251—Unscheduled Overtime Report
CS.252—Valuables Shipped under Government Losses in Shipment Act
CS.258—Violator's Case Files
CS.260—Warehouse Proprietor Files
CS.262—Warnings to Importers in Lieu of Penalty
CS.268—Military Personnel and Civilian Employees' Claim Act File
CS.269—Accounts Payable Voucher File
CS.270—Background—Record File on Non-Customs Employees
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CS.274—Importers, Brokers, Carriers, Individuals and Sureties Master File
CS.278—Automated Commercial System (ACS)
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CS.285—Automated Index to Central Investigative Files
CS.286—Electronic Job Application Processing System
Appendix A—US Customs Service

Customs Service

(CS) Treasury/CS .001

SYSTEM NAME:

Acceptable Level of Competence, Negative Determination-Treasury/Customs.

SYSTEM LOCATION:

Located in Customs Headquarters Offices and in each Customs Management Center, Port, SAC, and appropriate post of duty.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM: ANY EMPLOYEE OF U.S. CUSTOMS SERVICE, WHO RECEIVES A NEGATIVE DETERMINATION REGARDING ACCEPTABLE LEVEL OF COMPETENCE.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee's name, social security number, position description, grade, and correspondence containing specific reasons for negative determination.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and stored in locked file cabinets.

RETRIEVABILITY:

The records are filed by the individual's name.

SAFEGUARDS:

Stored in locked cabinets.

RETENTION AND DISPOSAL:

Records are retained until the employee leaves the Customs Service.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Labor and Employee Relations Division, Office of Human Resources, Customs Headquarters, or Labor and Employee Relations Office, Customs Management Center Headquarters, or appropriate managerial official in employee's, SAC, port or post of duty offices.

NOTIFICATION PROCEDURE:

Correspondence with systems manager.

RECORD ACCESS PROCEDURES:

Correspondence with systems manager.

CONTESTING RECORD PROCEDURES:

Correspondence with systems manager.

RECORD SOURCE CATEGORIES:

Information is furnished by the employee, employee's supervisor and the Merit Systems Protection Board.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None. (See 31 CFR 1.36.)

Treasury/CS .002

SYSTEM NAME:

Accident Reports—Treasury/Customs.

SYSTEM LOCATION:

Field Mission Support, U. S. Customs Service, 555 Battery Street, Rm. 326, San Francisco, CA 94111.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any employee who has had an accident on Government property or in an official vehicle since 1973.

CATEGORIES OF RECORDS IN THE SYSTEM:

Standard Government forms dealing with accidents and personal injuries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended. Executive Order 11807 and Section 19 of Occupational Health & Safety Act of 1970; 5 U.S.C. 8101–8150, 8191–8193.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose to employee's beneficiary in event of death following the accident or injury or to employee's agent in case of disability; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case folder is maintained in an unlocked drawer in chronological order by date.

RETRIEVABILITY:

Each case is identified by employee name and date of accident.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Logistics Management Division within the Southeast Region Headquarters Building. During non-working hours the room in which the metal container is located is locked.

RETENTION AND DISPOSAL:

Accident Record files are retained in accordance with the Records Disposal Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Management Program Technician, Field Mission Support, U. S. Customs Service, 555 Battery Street, San Francisco, CA 94111.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Information originates with employees who have been injured and/

or have been involved in accidents during the exercise of their official duties. Also included are witness reports and statements, the employees' supervisors' statements and doctors' reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .005

SYSTEM NAME:

Accounts Receivable—Treasury/Customs.

SYSTEM LOCATION:

Financial Management Division, National Finance Center, U.S. Customs Service, 6026 Lakeside Blvd., Indianapolis, IN 46278; U.S. Customs Service, Financial Management Division, Increase and Refund Section, 6 World Trade Center, New York, NY 10048; Financial Management Division, U.S. Customs Service, 423 Canal Street, New Orleans, LA 70130.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons owing money for Customs duties and services and money owed to persons for overpayment of excessive duties and services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and documentation of telephone calls with debtors and creditors or their representatives.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is stored in file folders which are contained in an unlocked metal file cabinet.

RETRIEVABILITY:

The file is retrieved by the name of the individual which is kept in alphabetical order within the work area of the Collection Section.

SAFEGUARDS:

The files are located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

RETENTION AND DISPOSAL:

The file is retained until collection or refund is effected and two (2) years thereafter, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Customs Management Center, U.S. Customs Service, 6 World Trade Center, New York, NY 10048; Financial Management Division, U.S. Customs Service, Gulf Customs Management Center, 423 Canal Street, New Orleans, LA 70130.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information in the system is obtained from data gathered from the automated billing system and ports of entry.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .009

SYSTEM NAME:

Acting Customs Inspector (Excepted)—Treasury/Customs.

SYSTEM LOCATION:

Director, East Texas Customs Management Center, 2323 South Shepherd Drive, Suite 1200, Houston, TX 77019; Office of the Port Director, San Diego, CA; Offices of the Port Directors, San Ysidro, CA; Calexico, CA; Tecate, CA; Andrade, CA; San Diego Barge Office; U.S. Customhouse, P.O. Box 111, Port Director's Office, St. Albans, VT 05478.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees or members of other Federal agencies who are designated by the Port Directors as Customs Inspectors (Excepted).

CATEGORIES OF RECORDS IN THE SYSTEM:

System has name, social security number, rank or grade and duty station of the individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

CF 55 forms kept in manila folders in file cabinet.

RETRIEVABILITY:

Filed alphabetically.

SAFEGUARDS:

During non-working hours the offices and/or buildings in which records are located are locked.

RETENTION AND DISPOSAL:

Until individual transfers or designation is canceled. Form is then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, East Texas Customs Management Center, 2323 South Shepherd Drive, Suite 1200, Houston, TX 77019; Port Directors within the San Diego Customs District (see appendix A); Port Director, U.S. Customs Service, St. Albans, VT 05478, Port Director, 1, LaPontilla St. Room 203, San Juan, PR 00901.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Information is supplied by the individual and his or her agency.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .021

SYSTEM NAME:

Arrest/Seizure/Search Report and Notice of Penalty File—Treasury/Customs.

SYSTEM LOCATION:

Port Director, United States Customs Service, P.O. Box 1641, Honolulu, HI 96806.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are suspected of attempting to smuggle, or have smuggled, merchandise or contraband into the United States; individuals who have undervalued merchandise upon entry into the United States; vessels and aircraft which have been found to be in violation of Customs laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names of individuals, vessels, aircraft; identifying factors; nature of violation or suspected violation; circumstances surrounding violation or suspected violation; date and place of violation or suspected violation; and on-site disposition actions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each report is assigned a case number and filed accordingly in a locked, metal file located in the Office of Investigations.

RETRIEVABILITY:

Each report is identified in a manual alphabetical card file by the name of the individual, vessel or aircraft.

SAFEGUARDS:

In addition to being stored in a locked metal cabinet, these records are located in a locked room, the keys of which are controlled and issued only to authorized personnel.

RETENTION AND DISPOSAL:

These records are retained for one year (1) or until action has been completed.

SYSTEM MANAGER(S) AND ADDRESS:

Office of Investigations, U.S. Customs Service, Post Office Box 1641, Honolulu, HI 96806.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

See ''Categories of individuals covered by the system'' above. The system contains material for which sources may not need to be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I) and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .022

SYSTEM NAME:

Attorney Case File—Treasury/Customs.

SYSTEM LOCATION:

The Chief Counsel, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Office of the Associate Chief Counsel of each Region (for addresses see ''Customs Management Center Directors'' section, appendix A). Assistant Chief Counsel, Charleston, SC; Assistant Chief Counsel, San Diego, CA; Assistant Chief Counsel, Seattle, WA; Assistant Chief Counsel, 9400 Viscount Drive, Suite 102, El Paso, TX 79925; Resident Counsel, U.S. Customs Service Academy, Building 67–FLETC, Glynco, GA 31524; Assistant Chief Counsel (CIT), U.S. Customs Service, Room 258, 26 Federal Plaza, New York, NY 10007; Assistant Chief Counsel (NFC), National Logistics Finance Center, U.S. Customs Service, P.O. Box 68914, Indianapolis, IN 46278.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are subject of adverse actions, equal employment opportunity complaints, unfair labor practice complaints, and grievances; individuals who are the subject of Customs license or other administrative revocation or suspension proceedings; individuals who are the subject of or have requested legal advice from the various offices; individuals requesting access to information pursuant to any statute, regulation, directive, or policy to disclose such information, including individuals who are the subject of a Federal or state administrative or judicial subpoena; individuals who have filed or may file claims under the various Federal claims acts; individuals who are parties in litigation with the United States government or subunits or employees or officers thereof, in matters which affect or involve the United States Customs Service; individuals who are seeking relief from fines and penalties and forfeitures assessed for violations of the law and regulations administered by Customs; individuals who have outstanding Customs bills submitted for collection; and individuals who have challenged contracting decisions of the agency.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records consists of a computer database containing information designed to allow the system manager to track matters which have come into his or her office. The categories of records maintained in the file folders which are indexed by computer system are personnel actions; administrative revocation or suspension proceedings; intra-agency or inter-agency memoranda, reports of investigation, and other documents relating to the request for legal advice; claims and cases in administrative and judicial litigation; requests, information, records, documents, internal Customs Service memoranda, or memoranda from other agencies and related materials regarding the disclosure of information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 28 U.S.C. 2672, *et seq.;* 28 CFR 14.1, *et seq.;* 31 CFR 3.1, *et seq.;* 31 U.S.C. 3701 *et seq.;* 31 CFR part 4; 5 U.S.C. 552, 31 CFR part 1, Reorganization Plan No. 1 of 1965; Government employee laws found in Title 5 of the United States Code; government contracting laws found in Titles 31, 40, and 41 of the United States Code; and the Customs laws and regulations found in Title 19 of the United States Code and Code of Federal Regulations, respectively.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau' s hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The computerized indices are maintained in computer data base. Each file is maintained in a numbered file folder which is filed in an unlocked drawer in the responsible attorney's office, a metal file cabinet, or a storage room at the local system manager's location.

RETRIEVABILITY:

Through the use of the computer located at the local system manager's location, each file is retrievable by name, number and title.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Background checks are made on employees. All facilities where records are stored have access limited to authorized personnel. During non-working hours the rooms in which the files are located are locked. During working hours, the rooms in which the files are located are under control of the staff of the local systems manager.

RETENTION AND DISPOSAL:

The file folders are retained in accordance with the Federal Records Retention Manual.

SYSTEM MANAGER(S) AND ADDRESS:

See systems location above.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates from the subject individual, U.S. Customs employees, Reports of Investigation, Customs penalty case files, other government agencies, parties involved in administrative and judicial litigation, administrative proceedings regarding disciplinary action taken against Customs Service employees, Equal Opportunity complaints, unfair labor practice complaints, parties involved in administrative revocation or suspension proceedings, individuals or employees requesting legal advice, and from the parties requesting disclosure of information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .030

SYSTEM NAME:

Bankrupt Parties-in-Interest—Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Service, Director, National Finance Center, PO Box 68907, Indianapolis, Indiana 46268.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals indebted to U.S. Customs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listed by name, address, port of service, bill number, and dollar amount of delinquent receivables.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 89–508, the ''Federal Claims Collection Act of 1966;'' 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Cases are maintained in file folders at work site.

RETRIEVABILITY:

Alphabetical order by name.

SAFEGUARDS:

These cases are placed in locked cabinets during non-working hours. The building is guarded by uniformed security police.

RETENTION AND DISPOSAL:

As satisfaction is received, cases are closed. Records are maintained per Records Control Manual FIS–4 No. 124.

SYSTEM MANAGER(S) AND ADDRESS:

Director, U.S. Customs, National Finance Center, 6026 Lakeside Boulevard, Indianapolis, IN 46268.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The source of information is obtained from individuals, bankruptcy courts, Customhouse brokers, and sureties.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .031

SYSTEM NAME:

Bills Issued Files—Treasury/Customs.

SYSTEM LOCATION:

Director, U.S. Customs, National Finance Center, P.O. Box 68907.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals to whom bills have been issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence received from or sent to individuals in relation to bills issued by the United States Customs Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency'' s or the bureau'' s hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency'' s functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Individual alphabetical file folders in file cabinet.

RETRIEVABILITY:

Access by name of individual.

SAFEGUARDS:

The file cabinet is maintained in the offices of the Director, National Finance Center. During non-working hours the room/building in which the file is located is locked. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Correspondence is maintained for a period of three (3) years then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, U.S. Customs, National Finance Center, PO Box 68907, Indianapolis, Indiana 46268.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information consists of copies of letters or memoranda issued to or received from individuals. Records of phone calls and copies of documents related to the individual's transaction.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .032

SYSTEM NAME:

Biographical Files (Headquarters)—Treasury/Customs.

SYSTEM LOCATION:

Public Information Division, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW, Washington, DC 20229, and the Customs Management Center Public Information offices located at the addresses listed in Customs appendix A.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

General biographical records are maintained on all Customs employees for news release and public information purposes.

CATEGORIES OF RECORDS IN THE SYSTEM:

General biographical information including home address, date and place of birth, educational background, work experience, honors and awards, hobbies, and other information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is maintained in file cabinets in the Public Information Division at Customs Headquarters.

RETRIEVABILITY:

File folders are identified by the name of the person and are filed in alphabetical order.

SAFEGUARDS:

The office in which the records are located is locked during non-working hours and the building is guarded by uniformed guards.

RETENTION AND DISPOSAL:

Files are retained during the individual's tenure as an employee of the Customs Service, after which the files are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Public Information Division, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The individual involved, Customs personnel officers and co-workers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .040

SYSTEM NAME:

Carrier File—Treasury/Customs.

SYSTEM LOCATION:

Located in the Office of the Area Port Director, Terminal Island, San Pedro, CA; Office of the Port Director, San Diego, CA; Office of the Port Director, Los Angeles International Airport, Los Angeles, CA; Office of the Port Director, Terrace and International Streets, Nogales, AZ 85621; San Ysidro, CA; Tecate, CA; Calexico, CA; Andrade, CA; San Diego Barge Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officers or owners, employees, associates of Customs Bonded Carriers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, social security number, place of birth and other information relating to Officers, Associates, employees, etc., of Bonded Carriers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended, and the Customs Regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila folder in file cabinet.

RETRIEVABILITY:

Filed by name of company or individual.

SAFEGUARDS:

Building locked during non-working hours.

RETENTION AND DISPOSAL:

Records retained until obsolete, then destroyed by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Customs Management Center Director and Service Port Directors, within the San Diego Customs District; Area Port Director, Terminal Island, San Pedro, CA; Area Port Director, Los Angeles International Airport;and Port Director, U.S. Customhouse, Nogales, AZ 85621. (See Customs appendix A.)

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Customs Bonded Carriers' employees and correspondence.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .041

SYSTEM NAME:

Cartmen or Lightermen—Treasury/Customs.

SYSTEM LOCATION:

Customs ports and Customs Management Centers. (See Customs appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and firms who have applied for or hold a license as a bonded cartman or lighterman and individuals employed by cartman or lightermen.

CATEGORIES OF RECORDS IN THE SYSTEM:

Internal Customs Service memoranda and related materials regarding applications for licenses and identification cards, reports of investigations for approving these licenses and identification cards and card files showing outstanding identification cards and their location. Files also include fingerprint cards.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and the information in these records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or

the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in this system is contained in a metal file cabinet in the office maintaining the system, or on magnetic disc.

RETRIEVABILITY:

Each case file is identified in a manual alphabetical card file by the name of the licensed cartman or lighterman and in the alphabetical file folder by the name of the licensed cartman or lighterman. Each employee's record is filed in a manual alphabetical card file cross-referenced with company names.

SAFEGUARDS:

The file is placed in a metal file cabinet at the work site. At locations where work is not performed on a 24-hour basis the work area is locked and only authorized persons are permitted in the building.

RETENTION AND DISPOSAL:

Files are reviewed at least once a year at which time canceled I.D. cards may be removed. Closed CF 3078's may also be removed, but normally are held for approximately three years in case a new application is received from the same company or transferred to another company after a new investigation.

SYSTEM MANAGER(S) AND ADDRESS:

Area Port Directors and Customs Management Center Directors. (See Customs appendix A.)

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

See ''Categories of individuals covered by the system'' above. The system contains material for which sources may not need to be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .042

SYSTEM NAME:

Case and Complaint File—Treasury/Customs.

SYSTEM LOCATION:

Office of Associate Chief Counsel (Chicago), U.S. Customs Service, 610 S. Canal St., 7th floor, Chicago, IL 60607.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual initiating a court case or against whom a court case is brought; any individual involved in a personnel action, either initiating a grievance, discrimination complaint, or unfair labor practice complaint against the U.S. Customs Service or against whom a disciplinary or other adverse action is initiated; claimants or potential claimants under the Federal Tort Claim Act; individuals involved in accidents with U.S. Customs Service employees; U.S. Customs Service employees involved in accidents; persons seeking relief from fines, penalties and forfeitures and restoration of proceeds from the sale of seized and forfeited property; requesters under the Freedom of Information Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

The System contains the individual's name, the type of case, the uniform filing guide number, the Associate Chief Counsel's office file number, by whom the matter was referred, the district where the action originated, if applicable.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each alphabetical card is inserted in a metal file drawer.

RETRIEVABILITY:

Each card is identified alphabetically by the individual's name described in Category of Individual and the filing is alphabetically used by last name.

SAFEGUARDS:

The metal filing drawer containing the alphabetical cards described above is maintained within the area assigned to the Office of Associate Chief Counsel (Chicago), U.S. Customs Service, 610 S. Canal St., 7th floor, Chicago, IL 60607. During non-working hours, the room in which the metal filing drawer is located is locked and access to the building is controlled at all times by uniformed guards with a check-in system for employees. Only employees of the Associate Chief Counsel's office and authorized building personnel have keys to the building.

RETENTION AND DISPOSAL:

These files are retained until there is no longer space available for them within the metal filing drawer at which time the oldest cards for closed files will be transferred to the storage area within the confines of the office. The storage area is a large area containing cardboard boxes and metal storage cabinets, unable to be locked.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Chicago), U.S. Customs Service, 610 S. Canal St., 7th floor, Chicago, IL 60607.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained on these cards originates with the initiation of any action by an individual which is channeled through the Assistant Chief Counsel's office. Additional information is identifying information for locating the particular case file relating to the court case, personnel action, tort claim, relief petition, or request under the Freedom of Information Act.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .043

SYSTEM NAME:

Case Files (Associate Chief Counsel—Gulf Customs Management Center)—Treasury/Customs.

SYSTEM LOCATION:

The system is located at 423 Canal Street, New Orleans, LA 70130; Associate Chief Counsel—Gulf Customs Management Center, United States Customs Service.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) The first category of individuals on whom records are maintained in the system includes employees who have filed adverse actions, equal employment opportunity complaints, and grievances within the Gulf Region; employees who have filed tort claims under the Military Personnel and Civilian Employees Act; employees of the Associate Chief Counsel's staff with regard to travel, training, evaluations, and other related personnel records; and applications for employment submitted to the Office of the Associate Chief Counsel by prospective employees. (2) The second category of individuals on whom records are maintained in the system includes those individuals not employed by the agency who have filed equal employment opportunity complaints; tort claims under the Federal Tort Claims Act; tort claims filed under the Small Claims Act; individuals who have outstanding Customs bills submitted for collection; individuals, corporations, partnerships, and proprietorships who have filed supplemental petitions on fines, penalties, and forfeitures within the Gulf Region; files relating to individuals, corporations, partnerships, and proprietorships upon whom criminal case reports are prepared pending litigation and prosecution for violation of 19 U.S.C. 1305, 18 U.S.C. 542, 18 U.S.C. 545, 18 U.S.C. 549, 18 U.S.C. 1001, 18 U.S.C. 496, and 18 U.S.C. 371; on individuals, corporations, partnerships, and proprietorships who have filed supplemental petitions submitted in civil and technical violations for 19 U.S.C. 1592, 19 U.S.C. 1453, 19 U.S.C. 1448, 19 U.S.C. 1584, irregular deliveries, shortages and overages; and miscellaneous civil and technical violations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The categories of records maintained in the system are personnel actions; tort claims; collection efforts; supplemental petitions for fines, penalties, and forfeitures cases in the Gulf Region; criminal case reports for pending litigation and prosecution of cases in the Gulf Region; supplemental petitions for civil and technical violations committed within the Gulf Region; and employment applications for positions in the Office of the Associate Chief Counsel, Gulf Region.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency;s functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are currently maintained in alphabetical file folders which are filed in two steel filing cabinets in the Office of the Assistant Chief Counsel (New Orleans), and they are maintained under lock and key outside the ordinary business hours.

RETRIEVABILITY:

Records maintained by the Office of the Assistant Chief Counsel (New Orleans), are retrievable by identifying the character of the record (i.e., adverse action, grievance, tort claim, criminal case), then by comparable statute or regulation, and then alphabetically by name and identifier. In addition, each case file is similarly identified on the alphabetical file folder within the steel filing cabinet.

SAFEGUARDS:

The steel filing cabinets described above are maintained within the area assigned to the Office of the Assistant Chief Counsel (New Orleans), 423 Canal Street, New Orleans, LA 70130. During non-working hours the room in which the locked steel cabinets are located is locked, and access to the building is controlled at all times by uniformed guards. The policies and practices of the Office of the Assistant Chief Counsel regarding access controls are that only members of the staff of the Office of the Assistant Chief Counsel have access to the records maintained by the office.

RETENTION AND DISPOSAL:

Individual records are placed into a file of closed cases by category as stated above, and within each category by name. The oldest closed cases are forwarded to the Federal Records Center in accordance with the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

The agency official responsible for the system of records maintained by the Office of the Assistant Chief Counsel is the Assistant Chief Counsel (New Orleans), 423 Canal Street, New Orleans, LA 70130.

NOTIFICATION PROCEDURE:

See appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The categories of sources of records in this system are the individual himself and files compiled by the United States Customs Services by using employers, other government agency resources, financial institutions, educational institutions attended, and previous employers. Additional information in these files is also derived from reports of investigation regarding the enforcement of civil or criminal statutes, administrative proceedings regarding disciplinary action taken against

Customs Service employees, equal opportunity complaints, investigations of tort claims, the processing of interoffice memoranda information requested under the Freedom of Information Act, and the investigation regarding the collection of debts due the Government.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .044

SYSTEM NAME:

Certificates of Clearance—Treasury/Customs.

SYSTEM LOCATION:

North Atlantic Customs Management Center, 10 Causeway Street, Boston, MA 02222.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of the North Atlantic Region, Boston, MA, who have transferred, retired or resigned.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documented detailed information on an ''in-house'' prepared form indicating that the employee has returned all Government property in his/her personal possession and that the employee has cleared all debts owing to Customs such as unearned uniform allowances and travel advances.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is stored in file folders by Port and name of employee in a metal file cabinet in the work area of the Payment Section.

RETRIEVABILITY:

The file is retrievable by Port and name of employee.

SAFEGUARDS:

The file is located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

RETENTION AND DISPOSAL:

The files are kept for 10 years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, North Atlantic Customs Management Center, 10 Causeway Street, Boston, MA 02222.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained in the system originates at the District where the individual is employed.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .045

SYSTEM NAME:

Claims Act File—Treasury/Customs.

SYSTEM LOCATION:

Office of the Associate Chief Counsel (Los Angeles), U.S. Customs Service, One World Trade Center, Suite 741, P.O. Box 32709, Long Beach, CA 90832.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Customs employees who have filed, or may file claims under the Military Personnel and Civilian Employees' Claim Act of 1964 for damage to or loss of personal property incident to their service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 240–243; 31 CFR part 4; Treasury Department Administrative Circular No. 131, August 19, 1965.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted numerically in a file folder which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file is identified numerically in the file folder within the metal container by the name of the person who has filed or may file a claim.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Office of the Associate Chief Counsel within the New Federal Building. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

These files are retained indefinitely or until there is no longer any space available for them within the metal container, at which time the oldest closed files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel (Los Angeles), U.S. Customs Service, One World Trade Center, Suite 741, PO Box 32709, Long Beach, CA 90832.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with a Treasury Department Form No. 3079, Civilian Employee Claim For Loss or Damage to Personal Property, which is completed and filed with the Customs Service by the claimant. Additional information contained in these files may be separately provided by the claimant or by the claimant's supervisor. Where a

claim is not filed, the information is limited to the investigative reports of damage to or loss of personal property of a Customs employee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .046

SYSTEM NAME:

Claims Case File—Treasury/Customs.

SYSTEM LOCATION:

Assistant Chief Counsel (Boston), 10 Causeway Street, Boston, MA 02222; Office of the Assistant Chief Counsel (San Francisco), 555 Battery Street, San Francisco, CA 94111; Office of the Associate Chief Counsel (Houston), U.S. Customs Service, 2323 South Shepherd Drive, Suite 1246, Houston, TX 77019.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Parties who have filed claims for damage or injury against the Government, or against whom the Government has a claim for damage or injury in matters which affect or involve the U.S. Customs Service; private individuals or Government employees who are involved in the incident which gave rise to the claim.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports relative to the circumstances of the claim (including accident reports provided by Customs personnel, agents' investigative reports, correspondence between Customs and the claimant or his representative); reports relative to an individual's ability to pay a claim for damages.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 2672 *et seq.*; 28 CFR part 14; 31 CFR part 3; 5 U.S.C. 301; Reorganization Plan No. 1 of 1950; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained in file folders.

RETRIEVABILITY:

Records indexed by name of individual making a claim or against whom a claim is made, cross-referenced file with name of Government employee, if any, involved.

SAFEGUARDS:

Open case files maintained in file cabinets with access by Assistant Chief Counsel and his staff only; closed case files maintained in locked cabinet with keys retained by Assistant Chief Counsel and staff only.

RETENTION AND DISPOSAL:

Retained until there is no longer any space available within metal cabinets, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief Counsel (Boston), 10 Causeway Street, Boston, MA 02222; Office of the Assistant Chief Counsel (San Francisco), 555 Battery Street, San Francisco, CA 94111; Office of the Associate Chief Counsel (Houston), U.S. Customs Service, 2323 South Shepherd Drive, Suite 1246, Houston, TX 77019.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files is received from U.S. Customs employees, reports of investigation, credit checks, private individuals involved in the claims, other Government agencies and other individuals with pertinent information.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .050

SYSTEM NAME:

Community Leader Survey—Treasury/Customs.

SYSTEM LOCATION:

Equal Employment Opportunity Officer, U.S. Customs Service, East Texas Customs Management Center, 2323 South Shepherd Drive., Suite 1200, Houston, TX 77019.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The names, titles, and organization of persons who may be construed to be occupying a community leadership role and who may be in a position to furnish information or have some influence in regard to the equal employment opportunity program area.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records consist of a card index of the names, titles, and organization of community leaders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

An alphabetical card listing filed in a metal file cabinet.

RETRIEVABILITY:

Listed and filed alphabetically.

SAFEGUARDS:

The metal file cabinet described above is maintained within the area assigned to the Equal Employment Opportunity Officer. During non-working hours this office area is locked and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

To be useful, this information file must be kept current. Non-current files will be destroyed locally.

SYSTEM MANAGER(S) AND ADDRESS:

Equal Employment Opportunity Officer, U.S. Customs Service, East Texas Customs Management Center, 2323 South Shepherd Drive., Suite 1200, Houston, TX 77019.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information included in these files is developed from local agencies (city, county, state, and Federal) and from local civic organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .053

SYSTEM NAME:

Confidential Source Identification File—Treasury/Customs.

SYSTEM LOCATION:

Components of this system are located in the Office of Investigations, U.S. Customs Service Headquarters, and the Office of Internal Affairs, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals (sources) supplying confidential information to the U.S. Customs Service, Office of Investigations and Office of Internal Affairs.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains some or all of the following information: name (actual or assumed), source (identifying) number, date number assigned, address, citizenship, occupational information, date and place of birth, physical description, photograph, miscellaneous identifying number such as social security number, driver's license number, FBI number, passport number, Customs Form 4621 documenting information received from confidential source, amount and date of monetary payment made to source for information supplied, criminal record, copy of driver's license, and copy of alien registration card.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 19 U.S.C. 1619; and 18 U.S.C. Chapter 27.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are kept in locked cabinets. Access during working hours is limited to authorized personnel.

RETRIEVABILITY:

Office of Investigations and Office of Internal Affairs—The name of each source is filed in both alphabetical order and by location of the submitting office.

SAFEGUARDS:

In addition to being stored in secure metal cabinets with government approved locks, the files are located in closely watched rooms of the Office of Investigations and the Office of Internal Affairs. Personnel maintaining the files are selected for their reliability, among other qualities, and afforded access only after having been cleared by a full field investigation. During non-working hours the rooms in which the records are located are locked and access to the building is controlled by uniformed security guards.

RETENTION AND DISPOSAL:

The Office of Investigations destroys a file when it no longer has any utility by either shredding or burning; the Office of Internal Affairs reviews files annually for relevance and necessity, and when a file no longer has any utility, it is destroyed either by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Investigations, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, for those components of the system maintained by the Office of Investigations; Director, Office of Internal Affairs, (Integrity Management), U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, and for those components of the system maintained by the Office of Internal Affairs.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual. (See 5 U.S.C. 552a (e)(4)(G) and (f)(1).)

RECORD ACCESS PROCEDURES:

This system of records may not be accessed under the Privacy Act for the purpose of inspection.

CONTESTING RECORD PROCEDURES:

Since this system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual and those records, if any, cannot be inspected, the system may not be accessed under the Privacy Act for the purpose of contesting the content of the record.

RECORD SOURCE CATEGORIES:

This system contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). (See 31 CFR 1.36.)

Treasury/CS .054

SYSTEM NAME:

Confidential Statements of Employment and Financial Interests—Treasury/Customs.

SYSTEM LOCATION:

Located in each Assistant Commissioner Office, Headquarters, and Customs Management Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Covered individuals to be determined by agency, in accordance with 5 CFR part 2634.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form OGE–450 Executive Branch Confidential Financial Disclosure Report.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are maintained in locked safe.

RETENTION AND DISPOSAL:

Maintained for 6 years for any covered position. Records are destroyed two (2) years after the employee leaves the position, or two (2) years after leaving the agency, whichever is earlier.

SYSTEM MANAGER AND ADDRESS:

Assistant Commissioner (Internal Affairs) and Directors, Customs Management Centers.

NOTIFICATION PROCEDURE:

Write to systems manager.

RECORD ACCESS PROCEDURES:

Write to systems manager.

CONTESTING RECORD PROCEDURES:

Write to systems manager.

RECORD SOURCE CATEGORIES:

Individuals required to submit Form OGE–450.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .056

SYSTEM NAME:

Congressional and Public Correspondence File—Treasury/Customs.

SYSTEM LOCATION:

Office of Field Operations (Administrative Staff), U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Those persons sending letters of inquiry or complaint concerning Customs activities and procedures.

CATEGORIES OF RECORDS IN THE SYSTEM:

Incoming correspondence, the agency's reply, and related materials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Correspondence records are maintained in file folders and on a computer system.

RETRIEVABILITY:

Correspondence records are identified by the name of the person making inquiry or complaint. They are retrievable by name.

SAFEGUARDS:

Access to the records is granted only to authorized Customs personnel. During non-working hours the room in which the records are located is locked and access to the building is controlled by uniformed security police.

RETENTION AND DISPOSAL:

The records are maintained from two to five years and then destroyed or retired to the Federal Records Center as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Workforce Effectiveness and Development Staff, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Correspondence and related records and materials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .057

SYSTEM NAME:

Container Station Operator Files—Treasury/Customs.

SYSTEM LOCATION:

Office of Process Owner, Passenger Operations Div., Office of Field Operations, U.S. Customs, 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Director, Mid-America Customs Management Center, Chicago, IL (see Customs appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past container station operators and employees that require an investigation and related information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Report of investigations, application and approval or denial of bond to act as container station operator and other Customs Service memoranda. Names, addresses, social security numbers, and dates and places of birth of persons employed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; Customs Regulations, part 19.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of

an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and stored in file cabinets in each Port Director's office within the Mid-America Customs Management Center, Chicago, IL.

RETRIEVABILITY:

Each file is identified by the name of the container station operator.

SAFEGUARDS:

The file cabinets are maintained within the area assigned to the Port Director. During non-working hours, the room and/or building in which the file cabinet is located is locked.

RETENTION AND DISPOSAL:

These files are disposed of in accordance with the Treasury Records Control Manual. Employee name data retained for period of employment with container station operator.

SYSTEM MANAGER(S) AND ADDRESS:

Process Owner, Office of Field Operations, U.S. Customs, 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Director, each Port within the Mid-America Customs Management Center, Chicago, IL. (See Customs appendix A.)

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information in this file originates from the individual applicant for container station operator bond, from reports of investigation and other Customs memoranda.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .058

SYSTEM NAME:

Cooperating Individual Files—Treasury/Customs.

SYSTEM LOCATION:

These files are located in field and local Customs Office of Investigations Offices within the United States. (See Customs appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons providing confidential information to the U.S. Customs Service Office of Investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include: Assumed names; actual names; code numbers; addresses; telephone numbers; physical descriptions; miscellaneous identifying numbers such as social security numbers, driver's license number, etc., date individual's record was established; amount and date of reward paid for information supplied.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All files and indices relating to cooperating individuals are stored in metal file cabinets secured with combination locks in a government secured building.

RETRIEVABILITY:

The name of each cooperating individual is filed in alphabetical order by assumed name and by actual name. The indices are maintained in the same alphabetical order and are also cross-referenced by the Office of Investigations alphanumeric code number. All other identifying data is used for verification of identity rather than method of retrieval.

SAFEGUARDS:

In addition to being stored in secure metal cabinets with government approved locks, the metal files are kept locked when not in use and located in a closely watched room of the Office of Investigations. Personnel maintaining the files are selected for their reliability among other qualities, and they are afforded access only after having been cleared by a full field investigation. The files are given the same treatment as material classified as Secret. During duty hours, Office of Investigations personnel maintain visual control and during off-duty hours the area containing the files is locked.

RETENTION AND DISPOSAL:

Retention periods have been established for records contained in the file in accordance with the Treasury Records Control Manual. When a file no longer has any utility, it is destroyed either by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The Assistant Commissioner (Investigations); the Special Agent in Charge in regional SAC Offices; and the Resident Agent in Charge in sub-offices of the Special Agent in Charge. (See Customs appendix A.)

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

See ''Categories of individuals covered by the system'' above. The system contains material for which sources may not need to be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .061

SYSTEM NAME:

Court Case File—Treasury/Customs.

SYSTEM LOCATION:

Office of the Associate Chief Counsel, One World Trade Center, Suite 741, P.O. Box 32709, Los Angeles, CA 90832; Office of the Assistant Chief Counsel, 555 Battery Street, San Francisco, CA 94111; Office of the Associate Chief Counsel, Mid-America Customs Management Center, 55 E. Monroe Street, Room 1417, Chicago, IL 60603; Office of the Assistant Chief Counsel, 1000 Second Avenue, Suite 2200, Seattle, Washington 98104.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are parties in litigation with the United States Government or subunits or employees or officers thereof, in matters which affect or involve the United States Customs Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Court documents with exhibits, reports of investigations, internal Customs Service memoranda summarizing or relating to the matter in controversy and other background information relating to the subject matter or origin of the litigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 2676, 19 U.S.C. 1603, 5 U.S.C. 301; E.O. 6166; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted in a numerical file folder which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file is identified by the name of the person against whom the Government has initiated the litigation, or by the name of the person who initiated the litigation against the Government.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Office of the Associate Chief Counsel. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

These files are retained until there is no longer any space available for them within the metal container, at which time the oldest closed files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel, One World Trade Center, Suite 741, P.O. Box 32709, Los Angeles, CA 90832; Assistant Chief Counsel, 555 Battery Street, San Francisco, CA 94111; Associate Chief Counsel, Mid-America Customs Management Center, 55 E. Monroe Street, Room 1417, Chicago, IL 60603; Office of the Assistant Chief Counsel, U.S. Customs Service 1000 Second Avenue, Suite 2200, Seattle, Washington 98104.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with a request by the Port Director to the appropriate United States Attorney that he institutes suitable judicial action to enforce the forfeiture of merchandise and vehicles, or the value thereof, which had been imported or used in violation of the Customs laws, and upon which final administrative action has taken place. Information in this file also originates with the filing of a complaint by a private person against the Government, and by the filing of a complaint by the Government against private persons or former employees to enforce the collection of debts due the Government. Information in the files is also derived from reports of investigation regarding the enforcement of civil or criminal statutes and denial of tort claims.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .064

SYSTEM NAME:

Credit Card File—Treasury/Customs.

SYSTEM LOCATION:

National Logistics Center, U.S. Customs Service, Fleet and Property Management Section, 6026 Lakeside Blvd. Indianapolis, IN 46278.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Headquarters Customs Service employees to whom national gasoline credit cards have been issued.

CATEGORIES OF RECORDS IN THE SYSTEM:

Credit card numbers, names, and signatures of employees to whom credit cards have been issued, and the date of issuance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Alphabetically by name or by credit card number.

RETRIEVABILITY:

A portion of the index cards are identified by the name of the person to whom the credit card was issued in the case of credit cards which have been permanently assigned to higher level Customs Service officers and such index cards are filed alphabetically. The remainder of the index cards relate to credit cards which are issued to Customs Service officers or employees on a one-transaction basis, and these index cards are filed by the applicable credit card number.

SAFEGUARDS:

Index cards are maintained and stored in a secured room with limited accessibility. The building is guarded by uniformed security police, and only authorized persons are permitted in the building.

RETENTION AND DISPOSAL:

Index cards filed alphabetically by name are filed during the period that the officials named thereon are in possession of the credit cards, and then these index cards are retained (for audit purposes) when the officials are no longer in possession of the credit cards. Index cards are filed by office titles and contain receipt signatures.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Headquarters Services Division, Office of Logistics Management, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information in this system is obtained from Customs Service records and is also furnished by the officers or employees to whom the credit cards have been issued.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .069

SYSTEM NAME:

Customs Brokers File—Treasury/Customs.

SYSTEM LOCATION:

Office of the Chief Counsel, Broker Compliance and Evaluation Branch, Office of Trade Operations; U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, and Customs Management Centers and Service Ports.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Licensed customs brokers, employees of customs brokers, individuals or firms who have applied for a broker's license.

CATEGORIES OF RECORDS IN THE SYSTEM:

Internal Customs Service memoranda and related material regarding proposed administrative disciplinary action against customs brokers for violation of the regulations governing the conduct of their business; broker applications and related material; notification of change of business address, organization, name, or location of business records; status reports; requests for written approval to employ persons who have been convicted of a felony.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

19 U.S.C. 1641; 19 CFR part 111; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted in an alphabetical file folder which is filed in drawers that are capable of being locked and are locked at the close of business. Some records are in a separate room which is locked at other than official hours. File cards covering individual customhouse brokers, corporations, partnerships and trade names are in files not capable of being locked, but the entire area is locked at night.

RETRIEVABILITY:

Each case file is identified in a manual alphabetical card file by the name and in the alphabetical file folder within the metal container by the name of the customs broker or employees of customs brokers.

SAFEGUARDS:

The files described above are maintained in Customs Service Buildings. During non-working hours the room in which the files are located is locked, and access to the building is controlled after business hours by electronic access and alarm systems and during business hours access is controlled at all times by a U.S. Customs Service employee.

RETENTION AND DISPOSAL:

Broker files and records of broker's employees are kept indefinitely. They are periodically updated and removed to an inactive file, as necessary.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Counsel; Director, Field Operations Division, Office of Trade Operations, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, Directors, Customs Management Centers, and Port Directors.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates from audits of or investigations into the conduct of customhouse brokers' businesses, applications for licenses, references as to character, court records, and local credit reporting services, as well as reports, notifications, and other

applications filed by brokers pursuant to statutory and regulatory requirements.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .077

SYSTEM NAME:

Disciplinary Action, Grievance and Appeal Case Files—Treasury/Customs.

SYSTEM LOCATION:

Located in the Office of Human Resources, Customs Headquarters, and in each Customs Management Centers, SAC, Port, and appropriate post of duty offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs employees on whom disciplinary action is pending or has occurred, and employees who have filed grievances and appeals.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records on such action as leave restriction letters, reprimands, suspensions, adverse actions, etc., and grievance and appeals by employees. Copies of correspondence, management requests for assistance, evidentiary materials on which action is contemplated, proposed or taken, regulatory material, examiners' reports, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency''s or the bureau''s hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in manila folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are maintained in a locked file.

RETENTION AND DISPOSAL:

Grievance records are maintained for 3 years; discipline and adverse action records are maintained for four years; and appeals are maintained for 5 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Labor and Employee Relations Division, Office of Human Resources, Customs Headquarters, or Customs Management Centers Labor and Employee Relations Office, or appropriate managerial official in employee' s port or post of duty.

NOTIFICATION PROCEDURE:

Write to system manager.

RECORD ACCESS PROCEDURE:

Request from system manager.

CONTESTING RECORD PROCEDURES:

Write to the system manager.

RECORD SOURCE CATEGORIES:

Supervisors and supervisory records and notes; evidentiary materials supporting planned, proposed, or accomplished actions; grievance letters submitted by employee, grievance examiner, etc.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .081

SYSTEM NAME:

Dock Passes—Treasury/Customs.

SYSTEM LOCATION:

Port Director, U.S. Customs Service, P.O. Box 1641, Honolulu, HI 96806.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Consulate staff members, brokers, private individuals, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Form lists following information: pass number; port; date of issue; name of individual; organizational affiliation; expiration date of pass; and vessel name.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

3 × 5 card box, looseleaf binder.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Building locked during non-working hours. Retention and disposal: Retained until expiration.

SYSTEM MANAGER(S) AND ADDRESS:

Port Director, U.S. Customs Service, 228 Federal Building, 335 Merchant Street, Honolulu, HI 96806.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Individual applicants.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .083

SYSTEM NAME:

Employee Relations Case Files—Treasury/Customs.

SYSTEM LOCATION:

Office of Human Resources, U.S. Customs Service, Washington, DC 20229, and in each Headquarters, Customs Management Centers, Port, SAC, and appropriate post of duty offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records maintained on the benefit aspects of employment such as, workers' and unemployment compensation, leave, health and life insurance, retirement, suggestions, awards, etc. and employees who have requested assistance with these programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of initiating correspondence and Customs correspondence and any forms submitted by or completed on behalf of the employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are maintained in a locked file.

RETENTION AND DISPOSAL:

Maintained for period of time employee remains with Customs. Records destroyed upon separation of employee.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Labor and Employee Relations Division, Office of Human Resources, U.S. Customs Service, Washington, DC 20229, Customs Management Center, Labor and Employee Relations Office, and in SAC, Port and appropriate post of duty offices.

NOTIFICATION PROCEDURE:

Write to systems manager—providing your name and social security account number.

RECORD ACCESS PROCEDURES:

Write to systems manager.

CONTESTING RECORD PROCEDURES:

Write to systems manager.

RECORD SOURCE CATEGORIES:

Individuals and offices depending on the problem.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .096

SYSTEM NAME:

Fines, Penalties and Forfeiture Control and Information Retrieval System—Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Service, Office of Trade Operations, Fines, Penalties and Forfeiture Branch, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, and each Customs Service Port, Fines, Penalties and Forfeitures Office in the United States and Puerto Rico.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and/or businesses who have been fined, penalized or have forfeited merchandise because of violations of Customs and/or related laws or breaches of bond conditions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual and business names, address, personal identifying numbers, date and type of violation, parties entitled to legal notice or who are legally liable, case information, bond and petition information, and actions (administrative) taken by U.S. Customs. Also included are actions taken by violator prior to the disposition of the penalty or liquidated damage case.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency' s or the bureau' s hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(1) Hard copy Customs Form 5955a (Notice of Liquidated Damages Incurred and Demand for payment) and Customs Form 151 Search/Arrest/Seizure Report.

RETRIEVABILITY:

Case number.

SAFEGUARDS:

All inquiries are made by officers with a full field background investigation on a ''need-to-know'' basis only. Procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access and alarm protection systems, special communications security, etc.

RETENTION AND DISPOSAL:

A maximum of 11 years. Erasure of disc/tapes and shredding and/or burning of hard copy Customs Form 5955a.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Trade Operations, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229 and the Area Port Directors of Customs for each Customs Port in the United States and Puerto Rico.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Customs Form 5955a (Notice of Penalty or Liquidated Damages Incurred and Demand for Payment) and CF 151 (Search/Arrest/Seizure Report) prepared by Customs employees at the time and place where the violation has occurred.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .098

SYSTEM NAME:

Fines, Penalties and Forfeitures Records—Treasury/Customs

SYSTEM LOCATION:

Customs Fines, Penalties and Forfeitures offices, Customs Ports. (See Customs appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and firms who have been administratively charged with violations of Customs laws and regulations and other laws and regulations enforced by the Customs Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Entry documentation, notices, investigative reports, memoranda, petitions, recommendations, referrals and dispositions of fines, penalties and forfeiture cases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended. 19 U.S.C. 66, 1618, 1624; 19 CFR parts 171 and 172.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in response to a subpoena, in connection with criminal law proceedings; (3) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are maintained in folders in locked file cabinets and safes and in the automated FP&F module in the Automated Commercial System (ACS).

RETRIEVABILITY:

The records are filed either by numerical sequence using year and port code, name of individual and/or company, with a cross reference available through ACS.

SAFEGUARDS:

During non-working hours, the records are maintained in locked file cabinets, locked buildings and buildings guarded by uniform guards or security detection devices.

RETENTION AND DISPOSAL:

The records are retained for one to three years after which they are either destroyed or forwarded to the Federal Records Center. Automated records are periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Area Port Directors of Customs (See Customs appendix A.)

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Information and representations supplied by importers, brokers and other agents pursuant to the entry and processing of merchandise or in the clearing of individuals or baggage through Customs. Information also includes information gathered pursuant to Customs investigations of suspected or actual violations of Customs and related laws and regulations and recommendations and information supplied by other agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .099

SYSTEM NAME:

Fines, Penalties, and Forfeiture Files (Supplemental Petitions)—Treasury/Customs.

SYSTEM LOCATION:

Office of the Assistant Chief Counsel, 555 Battery Street, San Francisco, CA 94111; Office of Associate Chief Counsel, One World Trade Center, Suite 741, P.O. Box 32709, Long Beach, CA 90832–2709; Office of the Associate Chief Counsel, U.S. Customs Service, 55 E. Monroe Street, Room 1417, Chicago, IL 60603; Office of the Assistant Chief Counsel, 1000 Second Avenue, Suite 2200, Seattle, WA 98104–1049; Fines, Penalties and Forfeitures Office, Laredo, TX, and National Seizure and Penalties Office (NSPO), U.S. Customs, Hemisphere Center, Newark, NJ.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed supplemental petitions for relief from fines, penalties and forfeitures assessed for violations of the laws and regulations administered by Customs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Petitions and supplemental petitions and other documents filed by the individual; reports of investigation concerning the fine, penalty or forfeiture; and documents relating to the internal review and consideration of the request for relief and decision thereon.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 19 U.S.C. 1618; 19 CFR parts 171 and 172; Treasury Department Order No. 165, Revised, as amended; Reorganization Plan No. 1 of 1965.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose to the Department of Justice or an individual United States Attorney to assist that Department or United States Attorney when suit is filed by the Government in civil prosecution of the fine, penalty or forfeiture; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency' s or the bureau' s hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or

other benefit; (4) disclose information to a court, magistrate, or administrative tribunal in the course or presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted in a numerical file folder which is filed in an unlocked drawer within a metal file cabinet.

RETRIEVABILITY:

Each case file is identified in a manual alphabetical card file by the name of the petitioner and in the numerical file folder within the metal file cabinet by the name of the petitioner.

SAFEGUARDS:

The metal file cabinet described above is maintained within the area assigned to the Office of the Regional Counsel within the Federal Building. During non-working hours the room in which the metal file cabinet is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

Supplemental petition files are retained until there is no longer any space available for them within the metal file cabinet, at which time the oldest files may be transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief Counsel, 555 Battery Street, San Francisco, CA 94111; Associate Chief Counsel, One World Trade Center, Suite 741, PO Box 32709, Long Beach, CA 90832–2709; Associate Chief Counsel, Room 1417, U.S. Customs Service, 55 E. Monroe Street, Chicago, IL 60603; Assistant Chief Counsel, 1000 Second Avenue, Suite 2200, Seattle, WA 98104–1049; and NSPO, U.S. Customs, Hemisphere Center, Newark, NJ.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Information contained in these files is obtained from the individual petitioning for relief and from the Port Director of Customs within whose jurisdiction the fine, penalty or forfeiture action lies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .100

SYSTEM NAME:

Fines, Penalties and Forfeiture Records (Headquarters)—Treasury/Customs.

SYSTEM LOCATION:

Penalties Branch, International Trade Compliance Division, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229 and Fines, Penalties, and Forfeiture Offices at each Customs Port in the United States and Puerto Rico.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on persons who have been administratively charged with violating Customs and related laws and regulations and on persons who have applied for awards of compensation under 19 U.S.C. 1619 based on their having provided original information on violations of Customs, navigation or other laws enforced by Customs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Entry documentation, notices, investigative and other reports, memoranda of information received, petitions, recommendations, referrals and dispositions of fines, and penalties cases and applications for awards of compensation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 19 U.S.C. 66, 1618, 1624; 19 CFR parts 171 and 172.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS NAD THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records are kept in file cabinets in the office and central file room of the International Trade Compliance Division at U.S. Customs Service Headquarters and in the storage facilities for the Fines, Penalties and Forfeitures Office in each Customs Management Center.

RETRIEVABILITY:

The records are filed chronologically with a case number given to each file.

SAFEGUARDS:

The records are maintained in the U.S. Customs Service Headquarters building which is guarded by security police. During non-working hours, the central file room is locked and the building is guarded by security police. Records are maintained in each Customs Service District buildings.

RETENTION AND DISPOSAL:

The records are generally retained for five years after closing of the case. The records are then forwarded to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Penalties Branch, International Trade Compliance Division, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, and each Fines, Penalties and Forfeitures Officer for the United States Customs Service Ports.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Information and representations supplied by importers, brokers and other agents pursuant to the entry and processing of merchandise or in the clearing of individuals or baggage through Customs. Records also includes information gathered pursuant to Customs investigations of suspected or actual violations of Customs and related laws and regulations and recommendations and information supplied by other agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .105

SYSTEM NAME:

Former Employees—Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Laboratory, Suite 1429, 630 Sansome Street, San Francisco, CA 94111.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All past employees of the Customs Laboratory.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains copies of personnel action notices.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may by used to: (1) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and stored in a metal file cabinet.

RETRIEVABILITY:

The record is filed alphabetically by name.

SAFEGUARDS:

The file is stored in a metal file cabinet in a private inner office of a government building protected by 24-hour guard service with limited access. The file is only used on a ''need-to-know'' basis and only by the laboratory employees.

RETENTION AND DISPOSAL:

Retained in Accordance with the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Laboratory Director, U.S. Customs Laboratory, Suite 1429, 630 Sansome Street, San Francisco, CA 94111.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Information contained in personnel action files.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .109

SYSTEM NAME:

Handicapped Employee File—Treasury/Customs.

SYSTEM LOCATION:

Human Resources Division, Mid-America Customs Management Center, 55 East Monroe Street, Suite 1501, Chicago, IL 60603.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees identified as handicapped.

CATEGORIES OF RECORDS IN THE SYSTEM:

Indicates employee's home and organizational location and various physical and mental handicaps, infirmities and conditions. Also shows veteran's preference.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

List.

RETRIEVABILITY:

Lists employees alphabetically by district.

SAFEGUARDS:

None at present and none required.

RETENTION AND DISPOSAL:

Employee's name removed from list at time of termination.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Division. (See Customs appendix A.)

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Data furnished by employee and employee's physician.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .122

SYSTEM NAME:

Information Received File—Treasury/Customs.

SYSTEM LOCATION:

District Division, Room 200, United States Customhouse, La Marina, Old San Juan, PR 00901; Office of the Special Agent In Charge, 423 Canal St, New Orleans, LA 70130; Office of the Port Director, 880 Front Street, San Diego, CA 92318; Offices of the Port Directors, San Ysidro, CA., Tecate, CA., Calexico, CA., Andrade, CA; San Diego Barge Office, Offices of the Special Agent In Charge, San Diego, CA., San Ysidro, CA., Calexico, CA., Tecate, CA; Los Angeles Region. Office of the Port

Director, 423 Canal St., New Orleans, LA 70130; Special Agent In Charge, Room 213, International Trade Center, 250 N. Water Street, Mobile, AL 36602; Intelligence Support Staff (Pacific Region), Room 7514, 300 N. Los Angeles Street, Los Angeles, CA 90053; Special Agent In Charge, 300 Ferry Street, Terminal Island, San Pedro, CA 90731; Resident Agent in Charge, Office of Investigations, P. O. Box 1385, Nogales, AZ 85621; Special Agent In Charge, Room 7N–FB–05, 301 W. Congress, Tucson, AZ 85701.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons in whom Customs and/or other government agencies are interested from a law-enforcement and/or security point of view.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, alias, date of birth or age, personal data, addresses, home and business telephone number, occupation, background information, associations, license number and registration number of vehicle, vessel and/or aircraft, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are kept in a locked metal cabinet.

RETRIEVABILITY:

Records are filed within a metal file.

SAFEGUARDS:

The files are located within an office that is locked during non-working hours. The building is guarded by a central alarm system which is monitored by local law enforcement agencies, and only authorized persons are permitted in the building.

RETENTION AND DISPOSAL:

Files are retained for a period of three (3) years after which they are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Special Agent In Charge, United States Custom Service, Room 200, La Marina, Old San Juan, PR 00901; Special Agent In Charge, 423 Canal St., New Orleans, LA 70130; Chief, Air Branch, U.S. Customs Service, Bldg. 240, Homestead Air Force Base, Homestead, FL 33039; Regional Agent In Charge, 423 Canal St., New Orleans, LA 70130; Directors, Customs Management Centers, Port Directors, and Directors within the San Diego Customs District: Intelligence Support Staff (Pacific Region), Room 7514, 300 N. Los Angeles Street, Los Angeles, CA 90053; Special Agent In Charge, 300 Ferry Street, Terminal Island, San Pedro, CA 90731; Resident Agent in Charge of Enforcement, P.O. Box 1385, Nogales, AZ 85621; Special Agent in Charge, Room 7N–FB–05, 301 W. Congress, Tucson, AZ 85701 (see Customs appendix A).

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

See ''Categories of individuals covered by the system'' above. The system contains material for which sources may not need to be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .123

SYSTEM NAME:

Injury Notice—Treasury/Customs.

SYSTEM LOCATION:

Director, Gulf Customs Management Center, 423 Canal Street, New Orleans, LA 70130; Port Director, 423 Canal Street, New Orleans, LA 70130; Port Director, 150 N. Royal, Mobile, Alabama 36602; Special Agent-in-Charge, 108 Decatur St., New Orleans, LA 70150; Special Agent-in-Charge, 951 Government St., Mobile, AL 36604.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who sustain an injury in performance of duty as an employee of U.S. Customs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, date of birth, home address, organization, place of injury, date and hour of injury, dependents, occupation, cause of injury, nature of injury, statement of witness, supervisor's report of injury.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 19 and 24 of the Occupational Safety and Health Act of 1970; 84 Statute 1609, 1614, 29 U.S.C. 668, 673 and the provisions of Executive Order 11807.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose to the Department of Labor for that agency's official use; (2) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (3) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in this system is contained on CA forms. The CA forms are filed in folders, alphabetically, and placed in a metal file cabinet.

RETRIEVABILITY:

Each CA form is identified by the name of the injured employee and filed alphabetically in a folder.

SAFEGUARDS:

The binder is placed within a metal file container located within an office that is locked during non-working hours. The building is guarded by uniformed security personnel and only authorized persons are permitted in the building.

RETENTION AND DISPOSAL:

Notice of injury reports are maintained in the employee's OPF and disposed of in accordance with the Treasury Records Control Manual. Copies maintained by the systems manager are maintained at location for two years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Commissioner, 423 Canal Street, New Orleans, LA 70130; Port Director, 423 Canal St., New Orleans, LA 70130; Port Director, 150 N. Royal St., Mobile, Alabama 36602; Special Agent-in-Charge, 108 Decatur St., New Orleans, LA 70130; Special Agent-in-Charge, 951 Government St., Mobile, Alabama 36604.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information in this system originates with and consists solely of information supplied by the injured employee, his supervisor, appropriate witness and attending physician on CA forms.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .125

SYSTEM NAME:

Intelligence Log—Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Air Branch, Bldg. 240 PM–TUM, Homestead Air Force Base, Homestead, FL 33030.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are believed to be involved in activities which constitute, or may develop into, possible violation of Customs and related laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Internal Customs Service memoranda and related materials regarding the activities of individuals, vessels, or aircraft believed to be involved in acts which are contrary to Customs and related laws.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The intelligence log is maintained within a security area.

RETRIEVABILITY:

A manual, master card index, is maintained for the entire system. This index includes name and/or numerical identifier.

SAFEGUARDS:

The information files and master card index are located within an office which is locked during non-working hours. The building is guarded by U.S. Air Force Military Police and only authorized persons are permitted in the building.

RETENTION AND DISPOSAL:

These files are retained until such time that it has been determined that there is no longer a need for their existence, at which time the oldest files are destroyed under Customs supervision.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Air Branch, U.S. Customs, PM–TUM Bld 240, Homestead Air Force Base, Homestead, FL 33039.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

See ''Categories of individuals covered by the system'' above. The system contains material for which sources may not need to be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .127

SYSTEM NAME:

Internal Affairs Records System—Treasury/Customs

SYSTEM LOCATION:

Security Programs Division, Office of Internal Affairs, 1300 Pennsylvania Avenue, NW., Room 8.4.D, Washington, DC 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past employees; contractor applicants/employees; and applicants for positions that require an investigation; and others that are principals or non-principals in an investigation or integrity issue.

CATEGORIES OF RECORDS IN THE SYSTEM:

Background investigations, integrity investigations, and photographic images.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order Number 165, revised, as amended.

PURPOSES:

To maintain all records on applicants, employees, contractors, and contractor

applicants relating to investigations conducted by Internal Affairs, and to support personnel and administrative programs of the Customs Service.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2, which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ASSESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Investigative records are maintained in computers, as well as in file folders, in metal security cabinets secured by government approved three-position combination locks, and in a mobile filing system within a secured area that is alarmed with motion detectors.

RETRIEVABILITY:

These records are indexed by name and/or numerical identifier in a manual filing system and/or computerized system.

SAFEGUARDS:

In addition to being stored in secured metal containers with government approved combination locks, mobile filing system, etc., the containers are located in a locked, alarmed room, the keys of which are controlled and issued to the custodians of the files. The security specialists and administrative personnel who maintain the files are selected for their experience and afforded access only after having been cleared by a full-field background investigation and granted appropriate security clearances for critical sensitive positions. Those departmental officials who may occasionally be granted access consistent with their positions to employ and concur in the granting of security clearances have also been investigated prior to filling critical-sensitive positions.

RETENTION AND DISPOSAL:

The file records are maintained as long as the subject of the investigation is employed by the U.S. Customs Service and then for 1 year after the subject terminates employment. The files are then transferred to the Federal Records Center for retention. After transfer, records are retained by the Federal Records Center for the following period of time and then destroyed: Background Investigations—15 years; Conduct and Special Inquiry Investigations—25 years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Security Programs Division, Office of Internal Affairs, 1300 Pennsylvania Avenue, NW., Room 8.4.D, Washington, DC 20229.

NOTIFICATION PROCEDURE:

See Customs appendix A (31 CFR part 1, subpart C).

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORD SOURCE CATEGORIES:

Sources of information are: Employers; educational institutions; police; government agencies; credit bureaus; references; neighborhood checks; confidential sources; medical sources; personal interviews; photographic images, military, financial, citizenship, birth and tax records; and the applicant's, employee's or contractor's personal history and application forms.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4), (G), (H) and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2), (k)(2) and (k)(5). (See 31 CFR 1.36.)

Treasury/CS .129

SYSTEM NAME:

Investigations Record System—Treasury/Customs.

SYSTEM LOCATION:

All Office of Investigations offices located in the United States and within each Office of Investigations office located in a foreign country. (See Customs appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on individuals who may bear some necessary relevance to investigations conducted within the scope of authority of the Office of Investigations, United States Customs Service. The categories include but are not limited to: (1) Known violators of U.S. Customs laws; (2) Convicted violators of U.S. Customs and/or drug laws in the U.S. and foreign countries; (3) Fugitives with outstanding warrants, Federal or State; (4) Suspect violators of U.S. Customs or other related laws; (5) Victims of violations of the U.S. Customs or related laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

The subject records may contain any identifying or other relevant information on subject individuals which might relate to the following categories of investigations: Smuggling, Diamonds & Jewelry; Smuggling, Liquor; Smuggling, Narcotics; Smuggling, All Other; Prohibited Importations; Navigation, Airplane and Vehicle Violations; Neutrality Violations; Illegal Exports. Baggage Declaration Violations; Customhouse Brokers and Customs Attorneys; Applications for Licenses; Theft, Loss, Damage and Shortage; Irregular Deliveries; All Other Criminal Cases; Currency Violations. Organized Crime; Personnel Derelictions; Other Departments, Bureaus and Agencies; Federal Tort Claims; Personnel Background Investigations. Undervaluation and False Invoicing; Petitions for Relief; Drawback; Marking of Merchandise; Customs Bonds; Customs Procedures; Collections of Duties and Penalties; Trademarks and Copyrights; Foreign Repairs to Vessels and Aircraft. Classification; Market Value; Dumping; Countervailing Duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended; 19

U.S.C. 2072; Title 19, United States Code; Title 18, United States Code.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in both hard copy files and on microfiche which are placed in locked metal containers.

RETRIEVABILITY:

The record system is indexed on 3 x 5 file cards by the individual's name and/or identification number and by the investigative case numbers to which the information relates. The hard copy and microfiche records are retrieved by means of the investigative case numbers.

SAFEGUARDS:

All records are held in steel cabinets and are maintained according to the requirements of the United States Customs Records Manual and the United States Customs Security Manual. Access is limited by visual controls and/or a lock system. During normal working hours, files are either attended by responsible Office of Investigations employees or the file area is restricted. The office in which the records are located is locked during non-working hours and the building is patrolled by uniformed security guards.

RETENTION AND DISPOSAL:

The index cards, the hard copies and microfiche records are retained in accordance with standard Customs Service record retention and disposal procedures.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Investigations, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC, 20229.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual. (*See* 5 U.S.C. 552a (e)(4)(G) and (f)(1).)

RECORD ACCESS PROCEDURES:

This system of records may not be accessed under the Privacy Act for the purpose of inspection.

CONTESTING RECORD PROCEDURES:

Since this system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual and those records, if any, cannot be inspected, the system may not be accessed under the Privacy Act for the purpose of contesting the content of the record.

RECORD SOURCE CATEGORIES:

This system contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). (See 31 CFR 1.36.)

Treasury/CS .133

SYSTEM NAME:

Justice Department Case File—Treasury/Customs.

SYSTEM LOCATION:

Office of the Chief Counsel, U.S. Customs Service Headquarters, 1300 Pennsylvania Ave., NW., Washington, DC, 20229. Office of the Assistant Chief Counsel, U. S Customs Service, 10 Causeway Street, Boston, MA 02222.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are parties in litigation with the United States Government or subunits or employees or officers thereof, in matters which affect or involve the United States Customs Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Litigation report requests and responses thereto, reports of investigations, internal Customs Service memoranda summarizing or relating to the matter in controversy and other background information relating to the subject matter or origin of the litigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 507; 19 U.S.C. 1603; 5 U.S.C. 301; E.O. 6166; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose to the Department of Justice or directly to United States Attorneys upon request to assist in representing the interests of the Government, the agency or officer or employee involved in the litigation, or to other agencies involved in the same or similar litigation; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) provide information to the news media in accordance with guidelines contained in

28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted in file folder which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file is identified in the file folder within the metal container.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Office of the Counsel. During non-working hours the room in which the metal container is located is locked.

RETENTION AND DISPOSAL:

The files are retained until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Counsel, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC, 20229; Assistant Chief Counsel, 10 Causeway Street, Boston, MA 02222.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with the request from an appropriate customs official, the Department of Justice or directly from a United States Attorney or other Government agency or officer which results in a communication regarding the particular case. Information in this file is also derived from reports of investigation regarding the enforcement of civil or criminal statutes or regulations, administrative proceedings or any matter affecting or involving the United States Customs Service or its officers or employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .136

SYSTEM NAME:

All Liquidated Damage, Penalty, and Seizure Cases; Prior Violators—Treasury/Customs.

SYSTEM LOCATION:

Office of the Director, Fines and Penalties Office, U.S. Customs Service, 10 Causeway Street, Boston, MA 02109; Office of the Director, Fines and Penalties Office, U.S. Customs Service, P.O. Box 1490, St. Albans, VT 05478; and Fines, Penalties and Forfeitures Office, Laredo, TX 78044.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prior violators of Customs Laws: e.g. Customhouse brokers, individual TIB violators, liquidated damage cases, penalty cases, and seizure cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and case number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored on 3 x 5 index cards and in file folders.

RETRIEVABILITY:

Alphabetically; by name.

SAFEGUARDS:

In file cabinet in locked room when not in use.

RETENTION AND DISPOSAL:

Boston District files are kept for two years and then destroyed on site. St. Albans District files are kept for five (5) years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Fines and Penalties Officer, U.S. Customhouse, Boston, MA 02109. Fines and Penalties Officer, Post Office and Customhouse Building, St. Albans, VT 05478; and Fines and Penalties Officer, Laredo, TX 78044.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Information is received from the individual at the time the violation occurs and from penalty notices which are issued in the Penalties section. Also, the Office of Investigations provides any information developed during its investigation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .137

SYSTEM NAME:

List of Vessel Agents Employees—Treasury/U.S. Customs.

SYSTEM LOCATION:

Office of Director, Mid-America Customs Management Center, Chicago, IL (see Customs appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons employed by Vessel agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, addresses, Social Security numbers, and dates and places of birth of persons employed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in

response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Open file.

RETRIEVABILITY:

Alphabetical listing of employees by vessel agent name.

SAFEGUARDS:

The file described is maintained in the Office of the Director, Mid-America Customs Management Center, Chicago, IL. During non-working hours the room/building in which the file is located is locked. Access limited to authorized Customs personnel.

RETENTION AND DISPOSAL:

Employee name retained for period of employment with vessel agent agency.

SYSTEM MANAGER(S) AND ADDRESS:

Director, as appropriate, Mid-America Customs Management Center, Chicago, IL (see Location above).

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Submission of data by importing carrier or his agent.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .138

SYSTEM NAME:

Litigation Issue Files—Treasury/Customs.

SYSTEM LOCATION:

Office of Assistant Chief Counsel, Customs Court Litigation, Second Floor, 26 Federal Plaza, New York, NY 10007.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Parties in litigation before the United States Customs Court (or subunits or employees or officers thereof), and other individuals with knowledge of the issues in controversy, e.g., trade witnesses, foreign or domestic manufacturers, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Litigation report requests and responses thereto, reports of investigations, internal Customs Service memoranda summarizing or relating to the matter in controversy and other background information relating to the subject matter or origin of the litigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

19 U.S.C. 1514–1516; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose to the Department of Justice upon request to assist that Department in representing the interests of the Government, or agency involved in the litigation; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relates to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each issue file is inserted in a numerical file folder (according to issue) which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each issue filed is cross-indexed in the following card files: (a) By name of party—plaintiff; (b) by issue; and, (c) by titles of decided cases.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Office of the Assistant Chief Counsel within the Federal Building. At all times the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

These files are retained until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief Counsel, Customs Court Litigation, Second Floor, 26 Federal Plaza, New York, NY 10007.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with the receipt of protest reports (based on information supplied by the subject individuals or by their authorized agents or attorneys) from the various Ports of Entry and/or litigation report requests from the Department of Justice which results in a written report to that Department regarding the facts of the particular case.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4), (G), (H), and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36.)

Treasury/CS .144

SYSTEM NAME:

Mail Protest File—Treasury/Customs.

SYSTEM LOCATION:

Foreign Mail Branch, 1751 NW 79th Avenue, Miami, FL 33166; Port Director of Customs, P.O. Box 17423, Washington, DC 20041; 300 2nd Ave., South Great Falls, MT 59405; P.O. Box 1641, Honolulu, HI 96806; 1000 2nd Ave., suite 2100, Seattle, WA 98104–1049; U.S. Customs Mail Facility, Room 416, 1675—7th Street, Oakland, California 94615.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed formal protest of the amount of duty assessed against mail parcels.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters, invoices, and other pertinent documents pertaining to protests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are kept in file folders within a metal file cabinet.

RETRIEVABILITY:

Records are retrievable by name or protest number.

SAFEGUARDS:

Access is limited to appropriate personnel and the office is locked during non-working hours.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Port Director of Customs, 1751 NW 79th Avenue, Miami, FL 33166; PO Box 17423, Washington, DC 20041; 405 W. Fourth Ave., Anchorage, AK 99501; 300 2nd Ave. South, Great Falls, MT 59405; 335 Merchant, Honolulu, HI 96813; 511 NW. Broadway, Portland, OR 97209; 555 Battery Street, San Francisco, CA 94126; 1000 2nd Ave., Suite 2100, Seattle, WA 98104–1049.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Source of information is from the sender, the addressee, the Customs value records, and the manufacturer of the item.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .148

SYSTEM NAME:

Military Personnel and Civilian Employees' Claims Act File—Treasury/Customs.

SYSTEM LOCATION:

Office of the Chief Counsel, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Office of the Assistant Chief Counsel, Room 125, U.S. Customhouse, 40 S. Gay Street, Baltimore, MD 21202; Associate Chief Counsel, U.S. Customs Service, 6 World Trade Center, New York, NY 10048.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons filing claims under the Military Personnel and Civilian Employees' Claims Act of 1964.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 240–243; 5 U.S.C. 301; 31 CFR part 4; Treasury Department Administrative Circular No. 131, August 19, 1965; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted alphabetically in a file folder which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file is identified in a manual alphabetical card file by the name of the person who filed the claim and alphabetically in the file folder within the metal container by the name of the person who filed the claim.

SAFEGUARDS:

The metal container described above is maintained within the Customs Service Building. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

These files are retained until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Counsel, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Assistant Counsel, U.S. Customhouse, 40 S. Gay Street, Baltimore, MD 21202; Associate Counsel, U.S. Customs Service, 6 World Trade Center, New York, NY 10048.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with the Treasury Department Form No. 3079, Civilian Employee Claim For Loss or Damage to Personal Property, which is completed and filed with the Customs Service by the claimant. Additional information contained in these files may be separately provided by the claimant or by the claimant's supervisor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .151

SYSTEM NAME:

Motor Vehicle Accident Reports—Treasury/Customs.

SYSTEM LOCATION:

National Finance Center, U.S. Customs Service, 6026 Lakeside Blvd., Indianapolis, IN 46278.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Customs employees involved in automobile accident while on official duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, social security number, home address, telephone number, age, title, date of accident, place of accident, make, year, license number of vehicles, description of accident, information on driver of other vehicle.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Administrative Circular No. 131, dated August 19, 1965, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted in an alphabetical file folder which is filed in an unlocked drawer in a metal file cabinet.

RETRIEVABILITY:

Each case file is in a file folder designated by the name of the Customs employee involved in the automobile accident.

SAFEGUARDS:

The metal file cabinet described above is maintained within the area assigned to the Regional Safety Coordinator within the office of the Customs Management Center. Access to the building during non-working hours is controlled.

RETENTION AND DISPOSAL:

Files are maintained at location for two years and then transferred to the Federal Records Center where they are retained for four years.

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Finance Center, U.S. Customs Service, 6026 Lakeside Blvd., Indianapolis, IN 46278.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information in these files originates from the employee involved in the automobile accidents, police report and report of investigation conducted by the Office of Internal Affairs.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .156

SYSTEM NAME:

Narcotic Violator File—Treasury/Customs.

SYSTEM LOCATION:

Fines, Penalties and Forfeitures Office, East Great Lakes Customs Management Center, 4455 Genessee St., Buffalo, NY 14225.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have been found in possession of any controlled substance within the Buffalo District.

CATEGORIES OF RECORDS IN THE SYSTEM:

Alphabetized cross reference of violators' names and the associated case numbers assigned to these individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Open card file (3 x 5) is kept in metal flip file.

RETRIEVABILITY:

Narcotic violator files are cross-referenced by a 3 x 5 alphabetized card which contains both name and case number.

SAFEGUARDS:

Open card file kept in the Fines, Penalties and Forfeitures Office which is locked after working hours. During working hours, a staff person is always in the office. The building is under 24 hour guard.

RETENTION AND DISPOSAL:

File system has a purge date of two years after which cross reference cards are destroyed and case numbered file is no longer accessible by name of the individual.

SYSTEM MANAGER(S) AND ADDRESS:

Director, East Great Lakes Customs Management Center, 4455 Genessee St., Buffalo, NY 14225.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information in these files is obtained from Search/Arrest and Seizure Reports transmitted to the Fines, Penalties and Forfeitures Office by ports and stations within the area.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .159

SYSTEM NAME:

Notification of Personnel Management Division when an employee is placed under investigation by the Office of Internal Affairs—Treasury/Customs.

SYSTEM LOCATION:

Human Resources Division, East Texas Customs Management Center, 2323 S. Shepherd St., Suite 1200, Houston, TX 77019.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs employees who are suspected of misconduct.

CATEGORIES OF RECORDS IN THE SYSTEM:

A written or telephonic notification made by the Office of Internal Affairs that an investigation has been opened on an individual employee.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Notifications provided by the Office of Internal Affairs are maintained in a file folder and stored in a metal security cabinet equipped with a lock.

RETRIEVABILITY:

The file contains the name of the employee; therefore, Retrievability is by the individual's name.

SAFEGUARDS:

A metal container, described above, is maintained within the area assigned to Personnel Management. During non-working hours the room in which the metal container is kept is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

The name file is retained until notification has been received that the investigation has been canceled or on receipt of a report of investigation from the Office of Internal Affairs.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Division, East Texas Customs Management Center, 2323 S. Shepherd St., Suite 1200, Houston, TX 77019.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The only source of notification that an employee has been placed under investigation is the Regional Director, Internal Affairs.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4), (G), (H), and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36.)

Treasury/CS .162

SYSTEM NAME:

Organization (Customs) and Automated Position Management System (COAPMS)—Treasury/Customs.

SYSTEM LOCATION:

Chief Financial Officer, U.S. Customs Service, Washington, DC 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Customs employees by organizational entity.

CATEGORIES OF RECORDS IN THE SYSTEM:

Position control number and other personnel data such as social security number, date of birth, name, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape.

RETRIEVABILITY:

Records are indexed by organizational segment, code, position control number, and name.

SAFEGUARDS:

Limited access.

RETENTION AND DISPOSAL:

Records are maintained on magnetic tape until employee separation.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Human Resources Division, U.S. Customs Service, Washington, DC 20229.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

COAPMS is composed of four basic inputs—CF–105—Position Change Form—presently prepared by the Headquarters Personnel Branch and operating offices: Post of Duty Codes-established by the Accounting Division; Ceilings-established by the Budget Division; and CF–112–a Request for PPBS Code and Standard Abbreviation of Position. In addition to these four sources, the IRS payroll tape has many inputs—1150, 1125, 50, 52, union dues, etc., and Accounting tape K from IRS.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .163

SYSTEM NAME:

Outside Employment Requests—Treasury/Customs.

SYSTEM LOCATION:

Located in Headquarters and Customs Management Centers and/or appropriate Port or post of duty office of employee making request.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees engaged in outside employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Outside employment request.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

CF–3031 kept in manila folder.

RETRIEVABILITY:

By employee name.

SAFEGUARDS:

Locked file cabinet or limited access offices.

RETENTION AND DISPOSAL:

Until disengagement from outside employment or employee separation.

SYSTEM MANAGER(S) AND ADDRESS:

Appropriate managerial official in each headquarters, Customs Management Centers, SAC, port of employee.

NOTIFICATION PROCEDURE:

Write to System Manager, provide your name and social security number.

RECORD ACCESS PROCEDURES:

Write to System Manager.

CONTESTING RECORD PROCEDURES:

Write to System Manager, specify changes you are requesting and provide your name and social security number.

RECORD SOURCE CATEGORIES:

Employee submission of Form CF–3031.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .165

SYSTEM NAME:

Overtime Earnings—Treasury/Customs.

SYSTEM LOCATION:

Passenger Processing Port of San Francisco, San Francisco International Airport, P.O. Box 251867, San Francisco, CA 94125–1867; Los Angeles International Airport, 1099 S. LaCienega Blvd., Los Angeles, CA 90045; Port Director, 300 S. Ferry Street, Terminal Island, San Pedro, CA 90731; Port Director, 9 North Grande Ave., Nogales, AZ 85620; Customs Management Center Director, 4740 N. Oracle Rd., Suite 310, Tucson, AZ 85705; San Diego Barge Office; Offices of the Port Directors: San Ysidro, CA; Andrade, CA; Calexico, CA; Douglas, AZ; Las Vegas, NV; Lochiel, AZ; Lukeville, AZ; Naco, AZ; Oxnard, CA; Phoenix, AZ; San Luis Obispo, CA; San Luis, AZ; Sasabe, AZ; Tecate, CA; Tucson, AZ; Pembina, ND; Detroit, MI; Minneapolis, MN; Cleveland, OH; St. Louis, MO; Duluth, MN; Milwaukee, WI; Office of the Supervisory Warehouse Officer, U.S. Customhouse, Room 103, 2nd and Chestnut Streets, Philadelphia, PA 19106; Port Director, U.S. Customs Service, 40 S. Gay St., Baltimore, MD 21202–2004; Port Director, U.S. Customs Service, 111 West Huron Street, Buffalo, NY 14202; Port Director, U.S. Customs Service, 127 North Water Street, Ogdenburg, NY 13669; Port Director, U.S. Customs Service, 312 Fore Street, Box 4688, Portland, ME 04112; Port Director, U.S. Customs Service, 49 Pavilion Avenue, Providence, RI 02905; Port Director, U.S. Customs Service, PO Box 1490, St. Albans, VT 05478; Port Director, U.S. Customs Service, 10 Causeway Street, Boston, MA 02222; U.S. Customs Service, Honolulu International Airport, Honolulu, HI 96816, and maintained at each individual port within the south Texas Customs Management Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Inspection and Control employees participating in overtime assignments.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and the total current monetary earnings computed to the nearest dollar.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, revised as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to: (1) Provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information is stored on government internal control personal computer data disks and the information on earnings is updated on a daily basis.

RETRIEVABILITY:

The individual's name appears alphabetically.

SAFEGUARDS:

The room where the records are kept is locked at other than regular working hours. Passwords are required for access to records.

RETENTION AND DISPOSAL:

The information on each employee constantly changes and is maintained as long as the employee is working in the overtime system.

SYSTEM MANAGER(S) AND ADDRESSES:

Supervisory Customs Inspector, Station 1, U.S. Customs Service, 555 Battery Street, Room 111, San Francisco, CA 94125; Director, (Airport), Los Angeles International Airport, 1109 S. LaCienega Blvd., Los Angeles, CA 90045; Port Director, 300 S. Ferry Street, Terminal Island, San Pedro, CA 90731; Port Director, 9 North Grande Ave., Nogales, AZ 85620; Customs

Management Center Director, 4740 N. Oracle Rd., Suite 310, Tucson, AZ 85705; San Diego Barge Office; Port Directors: San Ysidro, CA; Andrade, CA; Calexico, CA; Douglas, AZ; Las Vegas, NV; Lochiel, AZ; Lukeville, AZ; Naco, AZ; Oxnard, CA; Phoenix, AZ; San Luis Obispo, CA; San Luis, AZ; Sasabe, AZ; Tecate, CA; Tucson, AZ; Directors: Chicago, IL; Pembina, ND; Detroit, MI; Minneapolis, MN; Cleveland, OH; St. Louis, MO; Duluth, MN; Milwaukee, WI. Port Director of Customs, 77 SE 5th Street, Miami, FL 33131; Port Director of Customs, U.S. Customhouse, 2nd and Chestnut Streets, Philadelphia, PA 19106; Port Director of Customs, U.S. Customs Service, Honolulu, HI 96819.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORDS ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORDS PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Information is obtained from actual overtime earnings made by each employee in the system.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .170

SYSTEM NAME:

Overtime Reports—Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Service, Office of Investigations, South Central Region, RDI, 423 Canal Street, New Orleans, LA 70130; SAC, 423 Canal Street, New Orleans, LA 70130; RA, 1719 West End Building, Room 303, Nashville, TN 37203, and each port within the South Texas Customs Management Centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All special agents in region certified to receive premium compensation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Numbers of hours worked by special agents over and above the normal 40-hour week.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, revised as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to: (1) Provide information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These forms are maintained in file folders in a locked cabinet.

RETRIEVABILITY:

Files are kept in alphabetical order.

SAFEGUARDS:

During non-working hours the rooms in which the above described containers are located are locked.

RETENTION AND DISPOSAL:

These files are destroyed three years after special agent leaves agency or office.

SYSTEM MANAGER(S) AND ADDRESS:

Resident Agent, U.S. Customs Service, 6125 Interstate, Bay 11, Shreveport, LA 71109; Resident Agent in Charge, c/o Drug Enforcement Agency, Little Rock, AR 72211; Resident Agent, Hoover Building, Ste. 216B, 8312 Florida Boulevard, Baton Rouge, LA 70806; Resident Agent, 1 Government Plaza, Rm. 423, 2909 13th Street, Gulfport, MS 39501; Resident Agent in Charge, U.S. Customs Service, U.S. Federal Building, Ste. 230, Jackson, MS 39269; Resident Agent in Charge, Station 1, Box 10182, Houma, LA 70363–5990; Resident Agent in Charge, 101 E. Cypress Street, Ste. 106, Lafayette, LA 70502; Resident Agent, 811 Bayou Pines Blvd., Lake Charles, LA 70601; Resident Agent, 811 Bayou Pines Blvd., Lake Charles, LA 70601; New Orleans Aviation Branch, P.O. Box 980, Belle Chasse, LA 70037.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with, and consists solely of information supplied by employees.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .171

SYSTEM NAME:

Pacific Basin Reporting Network.

SYSTEM LOCATION:

Office of the Special Agent in Charge, U.S. Customs Service, 300 Ala Moana Boulevard, Room 7238, Honolulu, Hawaii 96813.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on masters, operators, pilots, crew members and passengers of vessels and aircraft traveling in or through the Pacific Basin. The Pacific Basin area includes the countries of northeast Asia, southeast Asia, the Pacific islands (both independent and non-independent), Australia, New Zealand, United States, Canada and Mexico.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records included information pertaining to individuals, aircraft and vessels reporting; vessel/aircraft name and registration numbers; description of vessels and aircraft; departure and arrival information; and destination locations. Information about individuals includes name, date of birth, place of birth, physical description, nationality, passport number, address and occupation.

AUTHORITY FOR MAINTENANCE OF THIS SYSTEM:

19 U.S.C. 1433, 1459, and 162; 49 U.S.C. App. 1590.

PURPOSE(S):

The purpose of the Pacific Basin Reporting Network is to implement a law enforcement data base containing records with identifying and other relevant information on vessels, aircraft and individuals traveling in or through the Pacific basin area, and where appropriate to disclose this information to other domestic and foreign agencies which have an interest in this information.

ROUTINE USES OF RECORDS MAINTAINED IN THIS SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal agencies and to state, local/territorial or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation or order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil

discovery, litigation, or settlement negotiations, or in response to a subpoena, where relevant or potentially relevant to the proceedings, or in connections with criminal law proceedings; (3) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; and (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained on tape, magnetic disc and hard copy.

RETRIEVABITY:

By name (individual, master or pilot); unique identifiers (date of birth, passport number, aircraft/vessel registration number); date, place of destination; port of registry; or vessel description.

SAFEGUARDS:

All officials accessing to the system of records have had a full field background check as required and access data on a need-to-know basis only. Procedural and physical safeguards are utilized such as accountability, receipt records and specialized communications security. The data system has an internal mechanism designed to restrict access to authorized officials. Hard-copy records are held in steel cabinets and are maintained according to the requirements of the U.S. Customs Reports Manual and Customs Security Manual. Access is limited by visual controls and/or lock system. During normal working hours, files are attended by responsible officials; they are locked during non-working hours and the building is patrolled by uniformed security guards.

RETENTION AND DISPOSAL:

The records are periodically updated to reflect changes and maintained as long as needed, then shredded and destroyed.

SYSTEM MANAGER AND ADDRESS:

Office of Special Agent in Charge, U.S. Customs Service, 300 Ala Moana Boulevard, Room 7238, Honolulu, Hawaii 96813.

NOTIFICATION PROCEDURE:

Pursuant to 5 U.S.C. 552a(j)(2), and (k)(2), this system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual.

RECORD ACCESS PROCEDURES:

See ''Notification procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification procedure'' above.

RECORDS SOURCE CATEGORIES:

See ''Categories of individuals covered by the system'' above. The system contains material for which sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5) and (e)(8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). (See 31 CFR 1.36.)

Treasury/CS .186

SYSTEM NAME:

Personnel Search—Treasury/Customs.

SYSTEM LOCATION:

Office of Investigations, 423 Canal Street, New Orleans, LA 70130; Special Agent in Charge, 951 Government Street, Suite 700, Mobile, AL 36604. U.S. Customs Service, Honolulu International Airport, Honolulu, HI 96810; Ports of Entry, Nogales, AZ.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals indicating unlawful or suspicious activity that might result in a Customs violation.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, phone number, place of business, physical description, associates, vessel, automobile, or aircraft identified with make, year, license number and registration of vehicles, area of activity, method of operation and other relevant and necessary information on individuals suspected of activity contrary to law.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, revised as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records maintained in standard Customs file folders in locked metal cabinets.

RETRIEVABILITY:

Records are indexed by identifying file number and manually retrieved.

SAFEGUARDS:

File maintained in locked metal file cabinet, the keys of which are controlled by the custodian of the files. Those departmental officials who may occasionally be granted access, consistent with their positions, have been cleared by a full background investigation and granted appropriate security clearance for critical sensitive positions. During non-working hours, the room housing the metal cabinets is locked.

RETENTION AND DISPOSAL:

Negative Search Reports are destroyed after a five year period. Method of disposal is shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Investigations, U.S. Customs Service,423 Canal Street, New Orleans, LA 70130; Port Directors, as applicable, in Mid-America Customs Management Center, Chicago, IL; Port Director of Customs, U.S. Customs Service, Honolulu, HI 96819; Port Directors at the various ports of entry in the Nogales, AZ.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information in this system originates with, and consists solely of, information supplied by the individual being searched and the patrol officer doing the search.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H), and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36.)

Treasury/CS .190

SYSTEM NAME:

Personnel Case File—Treasury/Customs

SYSTEM LOCATION:

Office of the Chief Counsel, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Office of the Associate Chief Counsel, U.S. Customs Service, Mid-America, 610 S. Canal St., Chicago, IL 60607; Associate Chief Counsel of Customs, 6 World Trade Center, New York, NY, 10048; Office of Assistant Chief Counsel, 555 Battery St., San Francisco, CA 94111; Associate Chief Counsel, 2323 S. Shepherd St., Houston, TX 77019.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Customs Service employees against whom disciplinary action has been proposed or taken, who have filed grievances, and who have filed complaints under the Equal Opportunity (EO) Program, in most cases where administrative proceedings have been instituted.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of investigation into alleged employee misconduct, internal Customs Service memoranda recommending disciplinary action, documents relating to the institution or conduct of disciplinary proceedings, documents relating to the filing and administrative disposition of formal and informal grievances and documents relating to the filing and administrative disposition of EO complaints.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, United States Code; 5 U.S.C. 301; Title 5 Code of Federal Regulations; Treasury Departmental Order No. 165, revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to the Office of Personnel Management (OPM) in connection with administrative hearings and to the Department of Justice in connection with court proceedings resulting from appeals from decisions rendered at the administrative level; (2) disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted alphabetically in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file id identified in a manual alphabetical card file by name of the person, and each case file is similarly identified in alphabetical order within the metal container.

SAFEGUARDS:

The metal container described above is maintained within the Customs Service building. During non-working hours, the room in which the metal container is located is locked. Access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

These files are retained until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Chief Counsel, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Associate Chief Counsel of Customs, U.S. Customs Service, Mid-America, 610 S. Canal St., Chicago, IL 60607; Associate Chief Counsel of Customs, New York, NY, 10048; Assistant Chief Counsel, 555 Battery St., San Francisco, CA 94111.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORDS SOURCE CATEGORIES:

The information contained in these files results from investigation into alleged misconduct on the part of Customs Service employees, recommendations from appropriate Customs Service field personnel that disciplinary proceedings be instituted against Customs Service employees, the filing of EO complaints by Customs Service employees, the statements of Customs Service employees including the employees who are directly affected by the administrative proceedings, and statements or other information provided by private non-governmental individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .193

SYSTEM NAME:

Operating Personnel Folder Files—Treasury/Customs.

SYSTEM LOCATION:

Files are located in Headquarters, Customs Management Centers, SACs, Area Ports and other post of duty offices throughout the Customs Service depending upon post of duty of employee. (See Customs appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs employees, present.

CATEGORIES OF RECORDS IN THE SYSTEM:

In addition to the appropriate Personnel offices, records are also maintained by district, port, or other post of duty management on personnel matters such as, but not limited to name, Social Security number, awards, letters of appreciation, promotions, step increases, memoranda, forms and materials related to hiring, address, pay, transfer and separation, service time, salary, phone, education, society memberships, publications, skills, chronological work history, position descriptions, reports of discussions held with employee regarding performance, copies of letters written to employee concerning performance, overtime hours, seniority status, leave, overtime earnings, productivity, locator card information, and related employment records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: (1) To disclose to the public for employment and salary verification upon request. (2) To disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation. (3) To disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings. (5) To provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, and/or on index cards, ledgers, and computer disc.

RETRIEVABILITY:

Records are indexed by name, or Social Security number.

SAFEGUARDS:

Records are located in lockable metal file cabinets or in secured rooms with limited access.

RETENTION AND DISPOSAL:

When the employee leaves the Customs Service through transfer or other separation, the file will immediately be forwarded to the office maintaining the Official Personnel Folder. There it will be screened to insure that it contains no documents that should be permanently filed in the Official Personnel Folder other than exact duplicates of papers already so filed. The file and its contents will then be destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Program Management Officers at Headquarters, local Management Program Officers (MPOs) in Customs Management Centers and SAC offices, or managerial official in appropriate posts of duty of employee. (See Customs appendix A.)

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from employee, from personnel actions as noted in official personnel folders, and from supervisor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .196

SYSTEM NAME:

Preclearance Costs—Treasury/Customs.

SYSTEM LOCATION:

Customs Management Center, 10 Causeway Street, Boston, MA 02222.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Customs Inspectors and Foreign Service employees of North Central Region, who are stationed at Toronto and Montreal, Canada.

CATEGORIES OF RECORDS IN THE SYSTEM:

Salaries, living allowances and benefits paid to employees who are stationed at Toronto and Montreal, Canada.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114; (6) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Data is stored in a file folder within two metal file cabinets in the work area of the Budget Section.

RETRIEVABILITY:

The file is identified as the ''Pre-clearance Record'' which contains the names of all employees listed in alphabetical order with corresponding costs associated with each employee.

SAFEGUARDS:

The file is located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted entry to the building.

RETENTION AND DISPOSAL:

The files are kept for three years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Customs Management Center, 10 Causeway Street, Boston, MA 02222.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained in the system is obtained from the Bi-weekly Comprehensive Payroll Listing, Treasury Form 2979, supplied by the Payroll Data Center.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .197

SYSTEM NAME:

Private Aircraft/Vessel Inspection Reporting System—Treasury/Customs.

SYSTEM LOCATION:

Office of Field Operations, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Names of pilots and vessel masters arriving in the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names and personal identifiers of pilots, vessel masters, and owners of vessels with appropriate registration and/or documentation numbers and characteristics, and arrival dates at port of entry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disc and tape storage; microfiche.

RETRIEVABILITY:

By individual name, private aircraft/vessel registration number; vessel name.

SAFEGUARDS:

All inquiries are made by officers with full field background investigation on a ''need-to-know'' basis only. Procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access and alarm protection systems, special communications security, etc.

RETENTION AND DISPOSAL:

Customs Form 178 (Private Aircraft Inspection Report) is destroyed after entry into data system.

SYSTEM MANAGER(S) AND ADDRESS:

Process Owner, Passenger Operations Division, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Proposed Customs Form 178 (Private Aircraft Inspection Report) which will be prepared by Customs officers, unnumbered forms prepared by vessel masters or owners who report their arrival to a United States port of entry, and other Federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3). (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). (See 31 CFR 1.36.)

Treasury/CS .201

SYSTEM NAME:

Property File-Non-Expendable-Treasury/Customs.

SYSTEM LOCATION:

Offices of each Port within the Mid-America Customs Management Center (see Customs appendix A.); Office of Logistics Management, U.S. Customs Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Office of the Director, Customs Management Center, San Diego, CA; Offices of the Port Directors: San Ysidro, CA; Tecate, CA; Calexico, CA; Andrade, CA; San Diego Barge Office, and the Offices of the Customs Patrol Division, San Diego, CA; San Ysidro, CA; Calexico, CA; Tecate, CA; Port Directors Office, Entry Control Section (see Customs appendix A.); United States Customs Service, PO Box 1641, Honolulu, HI 96806; Federal Building, Room 198, 511 NW. Broadway, Portland, OR 97209; Management Program Specialist, U.S. Customs Service, 555 Battery Street, Room 329, San Francisco, CA 94126.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees issued non-expendable property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Receipts for badges, cap insignias, bonded warehouse keys, identification cards, Government driver's licenses, firearms and other non-expendable property.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Locked file cabinet.

RETRIEVABILITY:

Folders identified by individual's name.

SAFEGUARDS:

During non-working hours the room/building in which the file is located is locked. Access limited to authorized Customs personnel.

RETENTION AND DISPOSAL:

Until employee separates/transfers. Transfer to National Personnel Records Center (NPRC), (CPR), St. Louis, MO, thirty days after employee is separated.

SYSTEM MANAGER(S) AND ADDRESS:

Port Directors in Mid-America Region; Director, Office of Logistics Management, U.S. Customs Service, Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC, 20229; Customs Management Center Directors, Port Directors, and Division Directors within the San Diego Customs District (see Customs appendix A.); Chief, Headquarters Support Branch, Logistics Management Division, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229; Local Property Officer, Room 228, Federal Building, Entry Control Section, 335 Merchant Street, Honolulu, HI 96813; Director, Federal Building, Room 198, 511 NW. Broadway, Portland, OR 97209; Administrative Officer, U.S. Customs Service, 555 Battery Street, Room 327, San Francisco, CA 94111.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information in this system consists of receipts of employees receiving non-expendable property.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .206

SYSTEM NAME:

Regulatory Audits of Customhouse Brokers—Treasury/Customs.

SYSTEM LOCATION:

Office of Regulatory Audit, United States Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, and at each of the field offices of Regulatory Audit (see Customs appendix A for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons licensed to do business pursuant to 19 U.S.C. 1641.

CATEGORIES OF RECORDS IN THE SYSTEM:

Audit reports of customs broker accounts and records; correspondence regarding such reports; Congressional inquiries concerning customs brokers and disposition made of such inquiries; names of officers of customs broker firms, license numbers and dates issued and district covered.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

19 U.S.C. 1641; 19 CFR part 111. 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, SAFEGUARDING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each custom broker permanent file is inserted in alphabetical order by name of the firm in an unlocked drawer within a metal file cabinet located in one or more regulatory audit offices. Each customs broker work paper file is similarly stored, but maintained in numerical order by audit report number.

RETRIEVABILITY:

Each broker permanent file is readily retrievable when the name is given, while the workpaper file is retrievable after obtaining the audit report file number from within the permanent file.

SAFEGUARDS:

The files described above are maintained within the respective regulatory audit offices. During non-working hours, the offices in which the files are located are locked.

RETENTION AND DISPOSAL:

Customhouse broker files are generally retained in each office at least three years, after which they are placed in General Service Administration long-term archival storage.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Regulatory Audit, United States Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, and the Regional Directors, Regulatory Audit at each of the regional offices (see Customs appendix A for addresses).

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates in connection with customs broker audits conducted by the regional regulatory audit staffs. The audits may be supplemented with information furnished by the Office of the Regional Counsel, Office of Enforcement, and the Office of Regulations and Rulings. These audits include examinations of brokers business records, including data maintained in support of client customs business.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .207

SYSTEM NAME:

Reimbursable Assignment/Workticket System-Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs Service employees who perform reimbursable services and parties in interest for whom reimbursable services are performed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, Social Security number or importer of record number assigned by the Customs Service, listings of reimbursable overtime assignments of Customs employees, bills and refund checks issued to parties in interest, travel expenses incurred by Customs employees in connection with the reimbursable services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

19 U.S.C. 261, 267, and 1451; 19 CFR 24.16 and 24.17; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in this system is contained in a computerized system utilizing magnetic tape storage techniques.

RETRIEVABILITY:

The information in this system is retrieved by the individual's Social Security number or by the individual's importer of record number.

SAFEGUARDS:

Procedural and physical safeguards are utilized such as accountability and receipt access, guards patrolling the area, restricted access and alarm systems.

RETENTION AND DISPOSAL:

The records in this system are retained in accordance with the requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Field Operations, U.S. Customs Service Headquarters, 1300 Pennsylvania Ave, NW., Washington, DC 20229.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information in this system originates with the receipt of a request for reimbursable services from the party in interest. In addition, information in this system is derived from Customs Form 5106 (Notification of Importer's Number/Application for Importer's Number) which is filed with the Customs Service by the importer, and from Customs Form 6082 (Work Ticket) which is filed by the Customs Inspector who performed the reimbursable services.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .208

SYSTEM NAME:

Restoration of Forfeited Annual Leave Cases—Treasury/Customs.

SYSTEM LOCATION:

Located in U.S. Customs Service, National Finance Center, Indianapolis, Indiana, and Mission support Office of each Customs Management Center. (see Customs appendix A for addresses).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the U.S. Customs Service who have applied for restoration of forfeited annual leave.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee applications for restoration of leave. Management decisions on employee applications for restoration of leave. Applicable regulations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in manila folders.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are maintained in locked files.

RETENTION AND DISPOSAL:

Records are retained in accordance with the requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Mission Support Officer in each Customs Management Center, and the Director, National Finance Center, Indianapolis, Indiana.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Evidential materials supporting employee applications for restoration of forfeited annual leave. Evidential materials supporting management decisions.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .209

SYSTEM NAME:

Resumes of Professional Artists—Treasury/Customs.

SYSTEM LOCATION:

Area Director, New York Seaport Area, 6 World Trade Center, New York, NY 10048.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Professional Artists.

CATEGORIES OF RECORDS IN THE SYSTEM:

Artist's name and professional art background.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

Alphabetical listing.

SAFEGUARDS:

Filing cabinet, office locked at end of day.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with the requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Area Director New York Seaport Area, 6 World Trade Center, New York, NY 10048.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Resume information provided by artist.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .211

SYSTEM NAME:

Sanction List—Treasury/Customs.

SYSTEM LOCATION:

Director, U.S. Customs, National Finance Center, P.O. Box 68907, Indianapolis, Indiana 46228.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who are indebted to the United States Government for bills that are unpaid and past due.

CATEGORIES OF RECORDS IN THE SYSTEM:

Listing is issued weekly showing individual's name and address plus number and amount of unpaid and past due bills.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each sanction list is stored in a file drawer in an unlocked file cabinet.

RETRIEVABILITY:

Each sanction list is identified by month and year of issuance.

SAFEGUARDS:

The file cabinet described above is maintained within the area assigned in the Customs Office. During non-working hours the room and/or building in which the file cabinet is located is locked.

RETENTION AND DISPOSAL:

Retained in Customs Office for minimum of one year. Disposal in accordance with Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Director, U.S. Customs, National Finance Center, P.O. Box 68907, Indianapolis, Indiana 46022.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information in this listing is secured from CF 6084 Bill Form issued to each individual and correspondence files maintained for individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .212

SYSTEM NAME:

Search/Arrest/Seizure Report—Treasury/Customs.

SYSTEM LOCATION:

Office of Investigations, Offices of the U.S. Customs Service. (See Customs appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons who have or may have violated a law of the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, alias, date of birth, age, personal data, addresses, home and business telephone numbers, occupation, background information, associations, license number and registration number of vehicle, vessel and/or aircraft, mode of entry of individual or contraband, fingerprints, pictures, declaration forms, cash receipts, receipt for seized goods, all other forms pertinent to the case, such as Notice to Master, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statue, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency''s functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case is placed in a folder which is filed in numerical order according to the assigned case file number. These files are kept in a locked metal cabinet.

RETRIEVABILITY:

The above-mentioned case file numbers are cross-indexed by name to such numbers, and cards are filed alphabetically within a metal file box.

SAFEGUARDS:

The metal file cabinet and the metal file box are located within an office that is locked during non-working hours.

RETENTION AND DISPOSAL:

These cases are retained for a period of three years after which they are destroyed together with related index cards.

SYSTEM MANAGER(S) AND ADDRESS:

Special Agent in Charge. (See Customs appendix A.)

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

See ''Categories of individuals covered by the system'' above. The system contains material for which sources may not need to be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/Customs .213

SYSTEM NAME:

Seized Asset and Case Tracking System (SEACATS).

SYSTEM LOCATION:

Office of Information and Technology, U.S. Customs Service, 1300 Pennsylvania Ave. NW., Washington, DC 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Owners, claimants, and other interested parties to seized property; (2) those who have been administratively or criminally charged with violations of Customs laws and regulations, and other laws and regulations enforced by the Customs Service, U.S. Secret Service, Bureau of Alcohol, Tobacco and Firearms, and the Internal Revenue Service; (3) purchasers of forfeited property.

CATEGORIES OF RECORDS IN THE SYSTEM:

Includes records containing information related to property that was forfeited or seized by the U.S. Customs Service, the U.S. Secret Service, the Bureau of Alcohol, Tobacco and Firearms, such as: (1) Individual and business names, (2) phone numbers, (3) identifying numbers, (4) dates, (5) types of violations, (6) parties entitled to legal notice, (7) parties who are legally liable, (8) case information pertaining to violation, (9) bond information, (10) entry documentation, (11) petitions and supplemental petitions, (12) reports of investigation concerning the fine, penalty or forfeiture, (13) information related to internal review and consideration of request for relief, (14) offer information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended. 19 U.S.C. 66, 1618, 1624; 19 CFR parts 171 and 172.

PURPOSE(S):

The purpose is to provide Customs and the Treasury Executive Office of Asset Forfeiture with a comprehensive system for tracking seized and forfeited property, penalties, and liquidated damages from case initiation to final resolution.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosure to opposing counsel or witnesses in the course of civil discovery, litigation or settlement negotiations, or in response to a subpoena, in connection with criminal law proceedings; (3) Disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (5) Provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relates to an agency's functions relating to civil and criminal proceedings.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media.

RETRIEVABILITY:

By identification codes, name, phone number, identifying number, and date and type of violation.

SAFEGUARDS:

Access to the computer area is controlled by a security pass arrangement and personnel not connected with the operation of the computer are prohibited from entering. At ports of processing, terminal rooms are under close supervision during working hours and locked after the close of business. Users gain access to the system by unique identification code and password. Access is on a need-to-know basis only. Passwords are changed frequently to enhance security.

RETENTION AND DISPOSAL:

Files are periodically updated to reflect changes and are disposed of in accordance with the requirements of the National Archives and Records Administration's record retention schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Information and Technology, U.S. Customs Service, 1300 Pennsylvania Ave. NW., Washington, DC 20229.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual. (See 5 U.S.C. 552a (e)(4)(G) and (f)(1).)

RECORD ACCESS PROCEDURES:

This system of records may not be accessed under the Privacy Act for the purpose of inspection.

CONTESTING RECORD PROCEDURES:

Since this system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual and those records, if any, cannot be inspected, the system may not be accessed under the Privacy Act for the purpose of contesting the content of the record.

RECORD SOURCE CATEGORIES:

This system of records is exempt from the Privacy Act provision which requires that record source categories be reported. (See ''Exemptions Claimed for the System,'' below.)

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4) (G), (H) and (I), (e)(5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). (See 31 CFR 1.36.)

Treasury/CS .214

SYSTEM NAME:

Seizure File—Treasury/Customs.

SYSTEM LOCATION:

Special Agent in Charge, Room 508, U.S. Customs Service, 6 World Trade Center, New York, NY 10048.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Ship masters, ship crew members, longshoremen, vessels, private aircraft, private vessels, individuals from whom seizures have been made, or upon whom Memoranda of Information Received and Reports of Investigation have been written.

CATEGORIES OF RECORDS IN THE SYSTEM:

Memoranda of Information Received and reports of Investigation which are reports from law enforcement agencies of suspects or arrests. Reports of Seizures by Customs, other information indicating violators or suspected violators.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manila files within metal file cabinets.

RETRIEVABILITY:

Alphabetical; for aircraft or car by number; by seizure number; by name of individual.

SAFEGUARDS:

Room has a 24-hour guard and is locked.

RETENTION AND DISPOSAL:

Seizure files are maintained for three years after final disposition. Memoranda of Information Received are maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Patrol Division, U.S. Customs Service, 6 World Trade Center, New York, NY 10048.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

See ''Categories of individuals covered by the system'' above. The system contains material for which sources may not need to be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .215

SYSTEM NAME:

Seizure Report File—Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Mail Facility, Room 416, 1675–7th Street, Oakland, CA 94615.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals to whom prohibited merchandise is addressed.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address, property description, estimated foreign value, duty, domestic

value, circumstances of seizure, sender, section of law violated, delivery to San Francisco seizure clerk.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statue, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in this system is contained on Customs Form 6051 Custody Receipt for Retained or Seized Property and Customs Form 151–Search/Arrest/Seizure Report. These forms are placed within file folders which are located in a metal file cabinet.

RETRIEVABILITY:

Each Seizure Report and Custody Receipt (stapled together) are identified by the name of the person to which the seized items are addressed and the names are filed by seizure number by fiscal year.

SAFEGUARDS:

The file folders are placed within a metal cabinet which is located within an office that is locked during non-working hours. The building is guarded by uniformed security police and only authorized persons are permitted in the building.

RETENTION AND DISPOSAL:

Last three fiscal years records are kept in a file cabinet in the office.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Mail Branch. See location above.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information in this system originates with and consists of information obtained from mail shipments.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .224

SYSTEM NAME:

Suspect Persons Index-Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Officers located at the following addresses: 300 2nd Avenue, So., Great Falls, MT 59405; 555 Battery Street, San Francisco, CA 94111; 1000 2nd Ave., Suite 2100, Seattle, WA 98104.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons suspected of violation of Customs Laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and related file number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statue, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in folders and stored in metal file cabinet.

RETRIEVABILITY:

The office and building are locked during non-working hours.

SAFEGUARDS:

Alphabetical by use of cross index.

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with Records Disposal Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Port Directors of Customs. See location above.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .226

SYSTEM NAME:

Television System—Treasury/Customs.

SYSTEM LOCATION:

Office of Port Directors at ports of entry.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons involved in incidents related to a secondary search and subsequent disturbance while entering the United States from Mexico.

CATEGORIES OF RECORDS IN THE SYSTEM:

An audio-video cassette recording of persons being escorted into, as well as inside, the secondary offices of the Customs area of the Port of Entry.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, revised, as amended, and the Customs Regulations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Audio-video cassette.

RETRIEVABILITY:

By subject's name, date, and time.

SAFEGUARDS:

Cassettes are under control of Port Director and released only to the courts when subpoenaed or when requested to be reviewed by subject and his attorney.

RETENTION AND DISPOSAL:

All cassettes with incidents are retained for six months. Those on which some action may be taken are retained for one year or close of the case. Cassettes are reusable. Therefore, erasure occurs when new recording takes place.

SYSTEM MANAGER(S) AND ADDRESS:

Port Directors offices.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, above.

RECORD SOURCE CATEGORIES:

Audio-video recording of persons being escorted into the Customs area.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .227

SYSTEM NAME:

Temporary Importation Under Bond (TIB) Defaulter Control System—Treasury/Customs.

SYSTEM LOCATION:

U.S. Customs Service, Office of Investigations, 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have been denied T.I.B. privileges because of failure to pay outstanding liquidated damages.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name, personal identifying numbers and characteristics, address, company and case description, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(1) Magnetic disc and tape storage; (2) Hard Copy; (3) Microfiche files.

RETRIEVABILITY:

Indexing is by violator name.

SAFEGUARDS:

All inquiries are made by officers with full field background investigations on a ''need to know'' basis only. Procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access and alarm protection systems, special communications security, etc.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with the requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Investigations, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, above.

RECORD SOURCE CATEGORIES:

Customs officers completing Customs Form 164 (TECS–TIB Defaulter Control).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .232

SYSTEM NAME:

Tort Claims Act File—Treasury/Customs.

SYSTEM LOCATION:

Office of the Associate Chief Counsel, U. S. Customs Service, One World Trade Center, Suite 740, Long Beach, CA 90831; Associate Chief Counsel of Customs, 6 World Trade Center, New York, NY 10048; Office of the Associate Chief Counsel, U.S. Customs Service (Chicago), 610 South Canal St., Chicago, IL 60607; Office of Associate Chief Counsel (Houston), 2323 South Shepherd Drive., Houston, TX 77019; Office of the Chief Counsel, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW, Washington, DC 20229; Office of Assistant Chief Counsel, 555 Battery Street, San Francisco, CA 94126; and Office of Assistant Chief Counsel, 1000 Second Avenue, Suite 2200, Seattle, WA 98104.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Private persons who have filed or may file claims under the Federal Tort Claims Act for property damage or personal injury allegedly caused by a wrongful or negligent act or omission on the part of a Customs Service employee while acting within the scope of his employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

Reports of Investigation regarding accidents involving Customs employees, documents relating to the administrative handling of the claims filed thereon, and documents submitted by the claimant in support of the claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 2672, *et seq;* 28 CFR 14.1, *et seq;* 31 CFR 3.1, *et seq;* Treasury Department Administrative Circular No. 131, dated August 19, 1965.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted in a numerical file folder which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file is identified in the numerical file folder within the metal container by the name of the person who has filed or may file a claim.

SAFEGUARDS:

During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed guards.

RETENTION AND DISPOSAL:

Tort claim files are retained until there is no longer any space available for them within the metal container, at which time the oldest closed files are transferred to the Federal Records Centers.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel, U. S. Customs Service, One World Trade Center, Suite 741, Long Beach, CA 90832; Associate Chief Counsel, U.S. Customs Service, 6 World Trade Center, New York, NY 10048; Associate Chief Counsel of Customs, 610 South Canal St., Chicago, IL 60607; Associate Chief Counsel, 2323 South Shepherd Drive., Suite 1246, Houston, TX 77019; Chief Counsel, U.S. Customs Service Headquarters, 1300 Pennsylvania Avenue, NW, Washington, DC 20229; Office of Assistant Chief Counsel, 555 Battery Street, San Francisco, CA 94126; and Office of Assistant Chief Counsel, 1000 Second Ave., Suite 2200, Seattle, WA 98104–1049.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with a Standard Form 95 (Claim for Damage or Injury) which is completed and filed with the Customs Service by the claimant. Using these forms as a basis, investigations are conducted by authorized Customs Service investigative personnel in order to determine the facts surrounding the claims. During these investigations information may be elicited from Customs Service employees, private persons, or any other parties who may have information regarding the facts surrounding the claims. When a claim is not filed, the information is limited to the investigative reports of the property damage or personal injury.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .234

SYSTEM NAME:

Tort Claims Act File—Treasury/Customs.

SYSTEM LOCATION:

Offices of the Director, Customs Management Center, Mid-America, Chicago, IL, Ports, and South Texas Customs Management Center. (See Customs appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All individuals presenting claims of damage to personal property resulting from Customs activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Written damage claims supported by estimates, bills, claim forms and internal Customs Service memoranda.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 CFR part 3; 5 U.S.C. 301; Treasury Department Order No. 165, revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used: to provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Filed in cabinets in the Port Directors offices.

RETRIEVABILITY:

Folders filed in alphabetical sequence.

SAFEGUARDS:

File cabinets are located within the area assigned in the Customs office. During non-working hours the room in which the cabinets are located is locked.

RETENTION AND DISPOSAL:

Retained in Port Directors offices for three years then transferred to the Federal Records Centers for seven years and three months prior to destruction.

SYSTEM MANAGER(S) AND ADDRESS:

Port Director as appropriate in the Mid-America Customs Management Center, Chicago, IL. (See Customs appendix A.)

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, above.

RECORD SOURCE CATEGORIES:

The information in this system originates with a written claim submitted by the claimant, as well as information supplied on Standard Form 95 and internal Customs memoranda.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .238

SYSTEM NAME:

Training and Career Individual Development Plans—Treasury/Customs.

SYSTEM LOCATION:

Located at the Mission Support Office at each Customs Management Center.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All U.S. Customs employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are maintained on training or other development activities completed and/or planned for individual employees, whether for programs such as Executive Development or Upward Mobility, or other special emphasis development programs. Records also include such things as, but not limited to skills, abilities, education, experience, career plans and goals, and other related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are located in file folders, and/or official personnel folder, and in electronic media.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are maintained in locked file or office.

RETENTION AND DISPOSAL:

Records are retained until separation or until employee is no longer part of a special emphasis program.

SYSTEM MANAGER(S) AND ADDRESS:

Mission Support Officer at each Customs Management Center.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, above.

RECORD SOURCE CATEGORIES:

Information is obtained from the employee and supervisors.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .239

SYSTEM NAME:

Training Records—Treasury/Customs.

SYSTEM LOCATION:

Scheduling Office, U.S. Customs Service Academy, FLETC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs employees who have completed training.

CATEGORIES OF RECORDS IN THE SYSTEM:

Standard Form 182, Request, Authorization, Agreement and Certification of training. Selected information also recorded in individuals permit record, and a copy of the form is filed in the individual's official personnel folder.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, on file cards, on training forms, or on discs.

RETRIEVABILITY:

Records are indexed by name.

SAFEGUARDS:

Records are maintained in a locked file or room, or with limited access.

RETENTION AND DISPOSAL:

Records are maintained for up to three years after employee separates from the Service.

SYSTEM MANAGER(S) AND ADDRESS:

National Director of Training, U. S. Customs SVC Academy, FLETC

NOTIFICATION PROCEDURE:

U. S. Customs Service Academy, Building 70—FLETC, Glynco, GA 31524

RECORD ACCESS PROCEDURES:

U. S. Customs Service Academy, Building 70—FLETC, Glynco, GA 31524

CONTESTING RECORD PROCEDURES:

U. S. Customs Service, Director, Office of Human Resources, 1300

Pennsylvania Avenue, NW., Washington, DC 20229.

RECORD SOURCE CATEGORIES:

Information for this file is obtained from supervisors, managers, instructors, educational institutions, and/or training facilities such as the Office of Personnel Management, Department of the Treasury, etc.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .244

SYSTEM NAME:

Treasury Enforcement Communications System (TECS)—Treasury/Customs.

SYSTEM LOCATION:

Office of Investigations, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Violators or suspected violators of U.S. Customs or related laws (some of whom have been apprehended by Customs officers); (2) Individuals who are suspected of, or who have been arrested for, thefts from international commerce; (3) Convicted violators of U.S. Customs and/or drug laws in the United States and foreign countries; (4) Fugitives with outstanding warrants—Federal or state; (5) Victims of U.S. Customs law violations; (6) Owners, operators and/or passengers of vehicles, vessels or aircraft traveling across U.S. borders; (7) Individuals participating in financial transactions reported under the Bank Secrecy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Every possible type of information from a variety of Federal, state and local sources, which contributes to effective law enforcement may be maintained in this system of records. Records include but are not limited to records pertaining to known violators, wanted persons, lookouts (temporary and permanent), reference information, regulatory and compliance data. Information about individuals includes but is not limited to name, alias, date of birth, address, physical description, various identification numbers (i.e., seizure number), details and circumstances of a search, arrest, or seizure, case information such as merchandise and values, methods of theft, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation; (6) provide passenger archive information and other TECS data relevant to the National Center for Missing and Exploited Children (NCMEC) investigation through Department of the Treasury law enforcement officers to personnel of the NCMEC to assist in investigations of missing or exploited children.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disc and tape, laser optical disks, microfiche, and hard copy.

RETRIEVABILITY:

By name; unique identifiers, address, or in association with an enforcement report or other system document.

SAFEGUARDS:

(1) All officers making inquiries have had a full field background investigation and are given information on a ''need-to-know'' basis only. (2) Procedural and physical safeguards are utilized such as accountability and receipt records, guards patrolling the area, restricted access and alarm protection systems, special communications security, etc.

RETENTION AND DISPOSAL:

Review is accomplished by Customs officers each time a record is retrieved and on periodic basis to see if it should be retained or modified. Since both temporary and permanent records are maintained, period of retention will vary with type of record entered. The records are disposed of by erasure of magnetic tape or disc, and by shredding and/or burning of hard copy documents.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Investigations, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual. (See 5 U.S.C. 552a (e)(4)(G) and (f)(1).)

RECORD ACCESS PROCEDURES:

This system of records may not be accessed under the Privacy Act for the purpose of inspection.

CONTESTING RECORD PROCEDURES:

Since this system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual and those records, if any, cannot be inspected, the system may not be accessed under the Privacy Act for the purpose of contesting the content of the record.

RECORD SOURCE CATEGORIES:

This system contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). (See 31 CFR 1.36.)

Treasury/CS .249

SYSTEM NAME:

Uniform Allowances—Unit Record—Treasury/Customs.

SYSTEM LOCATION:

Financial Management Office, 99 SE First Street, Miami, FL 33131; Management Services Branch, Administration Division, Port Director,

San Juan, PR 00903; Financial Management Division, U.S. Customs Service, 10 Causeway St., Room 801, Boston, MA 02222.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Customs Employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name—Record of Uniform Allowance Payments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in an unlocked drawer within a metal file cabinet.

RETRIEVABILITY:

Alphabet by name. Appropriation Accounting Document Number.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Financial Management Division within the Customs Service Building. During non-working hours the room in which the metal container is located is locked and access to the building is controlled by uniformed guards.

RETENTION AND DISPOSAL:

These files are retained as prescribed by GAO Regulations or until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Centers.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Financial Management, 99 SE First Street, Miami, FL 33131; Port Director, U.S. Customs Service, Room 203, Old San Juan, PR 00903; Director, Financial Management Division, U.S. Customs Service, 10 Causeway St., Room 801, Boston, MA 02222.

NOTIFICATION PROCEDURE:

See Customs Appendix A.

RECORD ACCESS PROCEDURES:

See Customs Appendix A.

CONTESTING RECORD PROCEDURES:

See Access, above.

RECORD SOURCE CATEGORIES:

From memoranda received from Ports. Data transcribed from Payment Vouchers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .251

SYSTEM NAME:

Unscheduled Overtime Report (Customs Form 31)—Treasury/Customs.

SYSTEM LOCATION:

Director, Office of Operations, 6 World Trade Center, Room 508, New York, NY 10048.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Special Agents assigned to the office of Regional Director of Investigations authorized to receive unscheduled overtime remuneration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Customs Form 31 enumerates the nature of overtime performed, the number of hours and the date on which the overtime was performed and the case number of investigation.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The information in this system is contained on CF 31, the forms are contained within a file folder and are placed in a metal file cabinet.

RETRIEVABILITY:

By name.

SAFEGUARDS:

The file cabinet is maintained within the area assigned to the Director of Investigations, New York, within the Customhouse. During non-working hours the complex in which the file is located is locked and access to the building is controlled at all times by uniform guards.

RETENTION AND DISPOSAL:

The forms are destroyed after three (3) years.

SYSTEM MANAGER(S) AND ADDRESS:

Regional Director of Investigations. (See Customs appendix A.)

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information in this system originates from the Special Agent who performs the unscheduled overtime.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .252

SYSTEM NAME:

Valuables Shipped Under the Government Losses in Shipment Act—Treasury/Customs.

SYSTEM LOCATION:

Director, Customs Management Center, 610 S. Canal Street, Chicago, IL 60607.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Customs employees collecting and transmitting funds to cashier for deposit.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name of employee, collection document serial numbers, amount of collection.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 300.30, Customs Accounting Manual; 5 U.S.C. 134f; 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose to those officers and employees of the Customs Service and the Department of the Treasury who have a need for the records in the performance of their duties; (2) disclose records as required in administration of the Freedom of Information Act (5 U.S.C. 552).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Filed in folders with the individual's name appearing at the top thereof in a file cabinet.

RETRIEVABILITY:

Each record folder is filed by name of individual.

SAFEGUARDS:

The cabinet described above is maintained within the area assigned in the Customs office. During non-working hours the area in which the cabinet is located is secured.

RETENTION AND DISPOSAL:

Retained for three years and then forwarded to FRC for seven years retention.

SYSTEM MANAGER(S) AND ADDRESS:

Port Director, as appropriate, in the Mid-America Customs Management Center, Chicago, IL 60607.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Data submitted by individual Customs employee involved.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .258

SYSTEM NAME:

Violator's Case Files—Treasury/Customs.

SYSTEM LOCATION:

Port Director of Customs, U.S. Customs Service, 50 South Main St., Suite 10012, St. Albans, VT 05478.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals involved in smuggling, filing false invoices, documents or statements, violators of Customs bonds, or any violation of Customs laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's name and address, Social Security number and physical description; alias, occupation, type of violation, previous record, driver's license, passport number, notes from inspectors involved, and any other supporting documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders and 3 x 5 index cards.

RETRIEVABILITY:

Filed by case number.

SAFEGUARDS:

Files are under the supervision of Fines, Penalties and Forfeitures Officer from 8 a.m. to 5 p.m., Monday through Friday. All other hours, office remains locked.

RETENTION AND DISPOSAL:

Files are maintained in the office of the Fines, Penalties, and Forfeitures Officer for a period of five years or six years. At the conclusion of this period, they are destroyed by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Port Director, U.S. Customs Service, St. Albans, VT 05478.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

See ''Categories of individuals covered by the system'' above. The system contains material for which sources may not need to be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .260

SYSTEM NAME:

Warehouse Proprietor Files-Treasury/Customs.

SYSTEM LOCATION:

Mid-America Customs Management Center, 610 S. Canal St., Suite 900, Chicago, IL 60607.(See Customs appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past warehouse proprietors and employees that require an investigation and related information.

CATEGORIES OF RECORDS IN THE SYSTEM:

Report of investigations, application and approval or denial of bond to act as warehouse proprietor and other Customs Service Memoranda. Names, addresses, Social Security numbers, and dates and places of birth of persons employed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Customs Regulations, part 19, 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential

violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and stored in file cabinets in each Port Director's office within the Mid-America Customs Management Center, Chicago, IL 60607.

RETRIEVABILITY:

Each file is identified by the name of the warehouse proprietor.

SAFEGUARDS:

The file cabinets are maintained within the area assigned to the District Director. During non-working hours the room and/or building in which the file cabinet is located is locked.

RETENTION AND DISPOSAL:

Employee name data retained for period of employment with warehouse proprietor.

SYSTEM MANAGER(S) AND ADDRESS:

Port Director, as appropriate, in the Mid-America Customs Management Center, Chicago, IL 60607. (See Customs appendix A.)

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information in this file originates from the individual applicant for warehouse proprietor's bond, from reports of investigation, and other Customs Memoranda.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .262

SYSTEM NAME:

Warnings to Importers in lieu of Penalty—Treasury/Customs.

SYSTEM LOCATION:

Located in the Office of the Director, Customs Management Center, 610 S. Canal St., Suite 900, San Diego, CA 92101; Offices of the Port Directors, U.S. Border Station, San Ysidro, CA 92073; PO Box 189, Tecate, CA 92080; PO Box 632, Calexico, CA 92231; 235 Andrade Road, Winterhaven, CA 92283; Andrade, CA; San Diego Barge Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and firms in violation of Customs's laws.

CATEGORIES OF RECORDS IN THE SYSTEM:

Brief record of violation and warning.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on 5 x 7 cards.

RETRIEVABILITY:

Alphabetically indexed.

SAFEGUARDS:

Not accessible to other than Customs officers.

RETENTION AND DISPOSAL:

The records are disposed of in accordance with the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Port Directors, and Directors within the Customs Management Center/ Southern California Customs District. (See Customs appendix A.)

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Customs Officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .268

SYSTEM NAME:

Military Personnel and Civilian Employees' Claims Act File—Treasury/ Customs.

SYSTEM LOCATION:

Office of the Associate Chief Counsel, U. S. Customs Service, 2323 South Shepherd Drive, Houston, TX 77019.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former Customs employees filing claims under the Military Personnel and Civilian Employees' Claims Act of 1964.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents relating to the administrative handling of the claim and documents submitted by the claimant in support of the claim.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 240–243; 31 CFR part 4; Treasury Department Administrative Circular No. 131, August 19, 1965; 5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each case file is inserted alphabetically in a file folder which is filed in an unlocked drawer within a metal container.

RETRIEVABILITY:

Each case file is identified alphabetically in the file folder within the metal container by the name of the person who filed the claim.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Office of the Regional Counsel (12th floor), 500 Dallas Street, Houston, TX 77002. During non-working hours the room in which the metal container is located is locked, and access to the building is controlled at all times by uniformed security guards provided by the lessor.

RETENTION AND DISPOSAL:

These files are retained until closed at which time the closed files are transferred to the Director, Logistics Management Division, Office of the Director, East Texas Customs Management Center, Houston, TX, for ultimate transportation to the Federal Record Center.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Chief Counsel, U. S. Customs Service, 2323 South Shepherd Drive., Houston, TX 77019.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information contained in these files originates with the Treasury Department Form No. 3079, Civilian Employee Claim For Loss or Damage to Personal Property, which is completed and filed with the Customs Service by the claimant. Additional information contained in these files may be separately provided by the claimant or by the claimant's supervisor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .269

SYSTEM NAME:

Accounts Payable Voucher File—Treasury/Customs.

SYSTEM LOCATION:

Financial Management Division, U.S. Customs Service, Gulf Customs Management Center, 423 Canal Street, New Orleans, LA 70130.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All South Central Region personnel to whom travel and other disbursements are made. All individuals who provide goods and services to the South Central Region.

CATEGORIES OF RECORDS IN THE SYSTEM:

Invoices and travel/other vouchers and supporting disbursements schedules.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (2) provide information to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders in unlocked file cabinets.

RETRIEVABILITY:

By name.

SAFEGUARDS:

Usage limited to Regional personnel; cabinets are located in rooms which are locked during non-working hours.

RETENTION AND DISPOSAL:

In accordance with Records Control Manual; records are disposed of when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Management Division, U.S. Customs Service, Gulf Customs Management Center, 423 Canal Street, New Orleans, LA 70130.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Invoices and travel/other vouchers submitted by the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .270

SYSTEM NAME:

Background—Record File of Non-Customs Employees—Treasury/Customs.

SYSTEM LOCATION:

Office of Internal Affairs, U.S. Customs Service, 1300 Pennsylvania Ave. NW Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and past non-Customs personnel requiring a background investigation to be granted a permit to conduct Customs business.

CATEGORIES OF RECORDS IN THE SYSTEM:

Report of background investigations, names, addresses, Social Security numbers and date and place of birth, etc. of non-Customs employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or

the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders and stored in file cabinets in the Director's office. Records are also maintained in computer format in ports providing internal aircraft arrival/departure services.

RETRIEVABILITY:

Each file is identified by the name of the non-Customs employee.

SAFEGUARDS:

The file cabinets are maintained within the area assigned to the Director. During non-working hours the room and/or building in which the file cabinet is located is locked. Computer format are maintained in locked access areas within each respective district and/or port office.

RETENTION AND DISPOSAL:

Employee name data is retained during the period the non-Customs employee requires admittance to restricted areas.

SYSTEM MANAGER(S) AND ADDRESS:

Personnel Security Division, Office of Internal Affairs, Customs Headquarters. (For addresses see Customs Service appendix A).

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information in this file originates from the individual non-Customs employee granted a permit to conduct Custom's business and from reports of background investigation which include interviews of Customs personnel and private parties and from other Customs internal documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). (See 31 CFR 1.36.)

Treasury/CS .271

SYSTEM NAME:

Cargo Security Record System—Treasury/Customs.

SYSTEM LOCATION:

Director, Customs Management Center, 423 Canal Street, New Orleans, LA 70130; Port Director, PO Box 2748, Mobile, AL 36601.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Drivers of motor vehicles or licensed cartmen and lightermen; properties and operators of each class of Customs bonded warehouse and their employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records on drivers of motor vehicles contain information relating to personal statistical data, physical characteristics, history of past employment, previous five years residences, alias (if any), citizenship, military records, criminal record other than traffic violations, use of narcotic drugs, and photograph. Name of operator of bonded warehouse and employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to the news media in accordance with guidelines contained in 28 CFR 50.2 which relate to an agency's functions relating to civil and criminal proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folder with Customs Form 3078, Customs Form 73, Photographs, and correspondence; For bonded warehouses, file folder contains Customs Form 3581 and names, addresses, and Social Security number of all employees; all stored in metal file cabinet. Alphabetical list of current I.D. cards issued on drivers retained in file folder and stored in desk drawer.

RETRIEVABILITY:

By individual name or corporate name.

SAFEGUARDS:

Locked metal file cabinet and desk drawer of customs employee; building secured after hours.

RETENTION AND DISPOSAL:

Information on drivers is retained in an active file until revoked or canceled. After revocation or cancellation, the information folder is placed in an inactive file for a period of five years, after which time the records are disposed of in accordance with the General Services Administration Records Disposal Manual. Information on proprietor bonded warehouse operators and employees is retained on file until Customs bonded operations cease and are discontinued, then are maintained in an inactive file for a period of three years. Final disposition is in accordance with the GSA Records Disposal Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Customs Management Center, 423 Canal Street, New Orleans, LA 70130; Port Director, PO Box 2748, Mobile, AL 36601.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Information is obtained from applicant (individual or corporation) and from reports of investigation on drivers obtained from Regional Director, Investigations, U.S. Customs Service.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(4)(G), (H) and (I), and (f) of the Privacy Act pursuant to 5 U.S.C. 552a (k)(2). (See 31 CFR 1.36.)

Treasury/CS .272

SYSTEM NAME:

Currency Declaration File (Customs Form 4790)—Treasury/Customs.

SYSTEM LOCATION:

Law Enforcement Systems Division, U.S. Customs Service, PO Box 85145, San Diego, CA 92138 (for addresses of Port Directors, see Customs appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals departing from or entering the country who filed IRS Form 4790.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, identifying number, birth date, address, citizenship, visa date and place, immigration alien number, kinds and amounts of monetary instruments, address in the United States or abroad, passport number and country, and arrival or departure information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 1101; 5 U.S.C. 301; Treasury Department Order No. 165, revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosures are not made outside the Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Form 4790 is maintained in a file folder or binder in an initial file cabinet. Information is stored chronologically in TECS II.

RETRIEVABILITY:

They are indexed and filed by name and date in the folder or binder. They can be retrieved by computer and printed.

SAFEGUARDS:

The office and building are locked during non-working hours. Electronic data is limited to persons cleared for access to the data.

RETENTION AND DISPOSAL:

The records are retained from one to five years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Port Directors of Customs.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The information on the Customs Form 4790 originates from the individual or Customs agent reporting the bringing in or taking out of currency or monetary instruments exceeding 10,000 dollars.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .274

SYSTEM NAME:

Importers, Brokers, Carriers, Individuals and Sureties Master Files—Treasury/Customs.

SYSTEM LOCATION:

Office of Financial Management, 909 SE First Avenue, Miami, FL 33131.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Brokers, Importers, Individuals, Carriers, and Sureties.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of correspondence incoming and outgoing, copies of bonds, entries, bills, data center listings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used to provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in an unlocked drawer within a metal file cabinet.

RETRIEVABILITY:

Alphabetical by name appearing on correspondence.

SAFEGUARDS:

The metal container described above is maintained within the area assigned to the Financial Management Division within the Customs Service Building. During non-working hours the room in which the metal container is located is locked.

RETENTION AND DISPOSAL:

These files are retained until there is no longer any space available for them within the metal container, at which time the oldest files are transferred to the Federal Records Center.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Financial Management, 909 SE First Avenue, Miami, FL 33131.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

Correspondence, Customs Service Data Center and Ports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .278

SYSTEM NAME:

Automated Commercial System (ACS)—Treasury/Customs.

SYSTEM LOCATION:

The Computer is located in Newington, Virginia. Computer terminals are located at Customhouses and ports throughout the United States and at U.S. Customs Headquarters, Washington DC (For addresses of Customhouses, see Customs appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Customs Service employees and individuals involved in the import trade.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system data base is comprised of commodity and merchandise processing information relating to Customs administration of trade laws. The following system files may contain information about U.S. Customs Services employees and/or individuals/

companies involved in the import trade. (1) ACS Security Files: Contains randomly established five-digit identification codes assigned to Customs Service employees authorized to use the system. The file consists of the names and social security number of all Customs Service employees using the remote terminals to input information into the system. (2) Importer/Broker/Consignee Bond Files and FP and F Violator-Protest files: Records consist of importer of record number, importer name and address, type of importation bond, expiration date, surety code, violation statistics and protest information. The importer of record number is used as the method of accessing the files. The number is assigned by any one of three code formats according to availability and the following hierarchy. The first choice is the IRS Employer Identification Number (EIN). The vast majority of importers have the EIN because of the business necessity of it. The second alternative is the Social Security number (SSN). The third alternative is a Customs-assigned number. This file is referenced during entry processing to verify that the individual or company making entry is authorized to import and is properly bonded. (3) Entry Files: A record consists of a three-digit Customs—assigned Customhouse broker or importer number (non-SSN) and the name and address. The file is referenced during entry processing to validate the entry file code and is used to direct system output to the broker or importer. (4) Corporate Surety Power of Attorney and Bond Files: The data consists of names of agents who are authorized to write a Customs bond and their SSN, a three-digit surety code (non-SSN) assigned by the Customs Accounting Division, the surety name and Customs bond information. (5) Liquidator File: A record consists of a Customs-assigned three-digit liquidator identification (non-SSN) and a Customs employee's name. The employee's liquidator code is input into the system as a means of maintaining quality control and an audit trail on entries liquidated. (6) Foreign Manufacturer/Shipper File: The file contains an identification code constructed using a formula based on name and address, manufacturer name and address reported by importers and brokers on Customs entry forms or electronic formats. Carrier Files: This file consists of carrier names and codes (non SSN) which are 4 characters—Standard Carrier Agent Code (SCA) for vessel carriers and 2 or 3 character—International Air Transport Association (IATA) for air carriers. This code is used to validate data input to the manifest and entry processing systems and to direct system output to the carrier.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

19 U.S.C. 66, 1448, 1481, 1483, 1484, 1505, and 1624.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose to the Bureau of the Census by providing magnetic tapes containing foreign trade data; (2) disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (3) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (4) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (5) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic Media.

RETRIEVABILITY:

By identification codes and/or name.

SAFEGUARDS:

Access to computer area is controlled by a security pass arrangement and personnel not connected with the operation of the computer are prohibited from entering. The building security is protected by a uniformed guard. At the ports of processing, terminal rooms are under close supervision during working hours and locked after close of business. The system security officer issues a unique private five digit identification code to each authorized user. Access to the Customs computer from other than system terminals is controlled through a security software package. Users must input a unique identification code and password during the terminal log-in procedure to gain access to the system. The password is not printed or displayed at the port of processing. The system validates the user ID by transaction type, thereby limiting a system user's access to information on a ''need-to-know'' basis. A listing of identification codes of authorized users can be printed only by request of the security officer. The passwords are changed periodically to enhance security.

RETENTION AND DISPOSAL:

Files are periodically updated to reflect changes, etc., and are disposed of in accordance with the requirements of the Treasury Records Control Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Automated Systems, Customs Service Headquarters, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, is responsible for all data maintained in the files.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The system data base contains data received on authorized Customs forms or electronic formats from individuals and/or companies incidental to the conduct of foreign trade and required by the Customs Service in administering the tariff laws and regulations of the United States.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .284

SYSTEM NAME:

Personnel Verification System (PVS)–Treasury/Customs.

SYSTEM LOCATION:

Office of Information and Technical Services, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, and Regional Offices of the U.S. Customs Service. (See Customs appendix A.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Authorized Customs personnel and non-Customs personnel who have received authorization to use the Regional Communications Centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual identifiers including but not limited to name, office address, home address, office telephone number, home telephone number, badge number, Social Security number, radio call sign, page number, organization, and unit.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(1) Alphabetic or numerical listings or card files; (2) microfiche; (3) magnetic disc and tapes; (4) other electronic storage media.

RETRIEVABILITY:

By name, call sign, paging number, Social Security number, badge number, organizational code.

SAFEGUARDS:

Records are located in controlled access areas with alarm protection systems. Offices are staffed twenty-four hours a day, seven days a week.

RETENTION AND DISPOSAL:

Records are maintained in the system until such time as the individual is no longer authorized usage of the Regional Communications Center. Disposal is by erasure of disc/tapes, shredding and/or burning of listings or card files, and burning of microfiche.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Information and Technical Services, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURES:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Access, Customs appendix A.

RECORD SOURCE CATEGORIES:

The sources include but are not limited to (1) the individual to whom the record relates; (2) internal Customs Service records; (3) Personnel Verification Sheet.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Treasury/CS .285

SYSTEM NAME:

Automated Index to Central Investigative Files—Treasury/Customs.

SYSTEM LOCATION:

Office of Investigations, U.S. Customs Service, 1300 Pennsylvania Avenue NW., Washington, DC 20229.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Known violators of U.S. Customs laws. (2) Convicted violators of U.S. Customs and/or drug laws in the United States and foreign countries. (3) Suspected violators of U.S. Customs or other related laws. (4) Private yacht masters and pilots arriving in the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

A listing of Memoranda of Information Received, Reports of Investigations; Search/Arrest/Seizure Reports, Penalties, and Forfeitures, reports required by Private Aircraft Reporting System, reports required by the Private Yacht Reporting System, reports on vessel violations. Reports relating to an individual, various other correspondence (letter, memoranda, etc.), which related to an individual in the Treasury Enforcement Communications System.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301 and Treasury Department Order No. 165, Revised, as amended. Authority for the collection and maintenance of the report included in the system is: 19 U.S.C. 1603; 19 U.S.C. 1431; 19 U.S.C. 66; 31 CFR part 103.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in the records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation; (2) disclose information to a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings; (4) provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic disc and tape, microfiche.

RETRIEVABILITY:

Name, personal identification numbers, Customs case number, document's central file number.

SAFEGUARDS:

(1) All Central Files users must have a full field background investigation. (2) The ''need to know'' principle applies. (3) Procedural and physical safeguards are utilized such as accountability and

receipt records, guard patrolling restricted areas, alarm protection systems, special communication security. (4) Access is limited to all Office of Investigations terminals and all Law Enforcement Systems Division Headquarters and Newington, VA terminals.

RETENTION AND DISPOSAL:

Records will be maintained in the Automated Index to Central Enforcement files for as long as the associated document or microfiche is retained. Records will be destroyed by erasure of the magnetic disc and by burning the microfiche.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioner, Office of Investigations, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

NOTIFICATION PROCEDURE:

This system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual. (See 5 U.S.C. 552a (e)(4)(G) and (f)(1).)

RECORD ACCESS PROCEDURES:

This system of records may not be accessed under the Privacy Act for the purpose of inspection.

CONTESTING RECORD PROCEDURES:

Since this system of records may not be accessed for purposes of determining if the system contains a record pertaining to a particular individual and those records, if any, cannot be inspected, the system may not be accessed under the Privacy Act for the purpose of contesting the content of the record.

RECORD SOURCE CATEGORIES:

This system contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d)(1), (d)(2), (d)(3), (d)(4), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (5) and (8), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). (See 31 CFR 1.36.)

Treasury/CS .286

SYSTEM NAME:

Electronic Job Application Processing System—Treasury/Customs.

SYSTEM LOCATION:

Located in U.S. Customs Headquarters Offices, 1300 Pennsylvania Avenue, NW, Washington DC. 20229 and at contractor's premises (contact the system administrator for the contractor address).

CATEGORIES OF INDIVIDUALS COVERED IN THE SYSTEM:

Individuals applying for job vacancies within the United States Customs Service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Vacancy announcements, applications, applicant resumes, certificates of eligibles, rating information, test data, interview results and answers to Knowledge, Skill and Ability questions. Applicant data includes but is not limited to, name, address, social security number (SSN) and date of birth (DOB).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; Treasury Department Order No. 165, Revised, as amended.

PURPOSE(S):

The purpose of this electronic system of records is to more efficiently acquire, process, rate and rank job applicants for positions with the U.S. Customs Service. This system should result in positions being filled more quickly with the most qualified applicant.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSE OF SUCH USES:

These records may be used to: (1) Disclose pertinent information to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, regulation, order, or license, where the disclosing agency becomes aware of an indication of a violation of civil or criminal law or regulation; (2) Disclose information to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information relevant to the requesting agency's or the Customs Service's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant or other benefit; (3) Disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings; (4) Provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to an investigation; (5) Disclose information to an agency contractor for the purpose of compiling, organizing, analyzing, programming, utilizing or otherwise refining records subject to the same limitations applicable to officers and employees of the U.S. Customs Service under the Privacy Act; (6) Provide information to the National Archives and Records Administration for use in records management inspections conducted under authority of 44 U.S.C. 2904 and 2908; (7) Disclose information to officials of the Merit Systems Protection Board, the Office of the Special Counsel, the Federal Labor Relations Authority, the Equal Employment Opportunity Commission, or the Office of Personnel Management when requested in performance of their authorized duties; (8) Disclose information to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains, and (9) provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting work conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media.

RETRIEVABILITY:

Records are indexed by name and Social Security Number.

SAFEGUARDS:

Records are accessed through Internet firewalls by authorized Customs employees through IRE Virtual Private Network (VPN) and a secure connection. The host servers are protected by controlled access procedures, which includes card key entry control and cipher locks.

RETENTION AND DISPOSAL:

Merit promotion case files are maintained for two years after the closing date of the announcement, or the final disposition of appeals, whichever is later in accordance with National Archives and Records Administration GRS–1.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Staffing Policy, Office of Human Resources, U.S. Customs Service, 1300 Pennsylvania Ave., NW., Washington, DC. 20229.

NOTIFICATION PROCEDURE:

See Customs appendix A.

RECORD ACCESS PROCEDURE:

See Customs appendix A.

CONTESTING RECORD PROCEDURES:

See Customs appendix A.

RECORD SOURCE CATEGORIES:

Job applicants, and present and past employers, and other federal agencies.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Appendix A—U. S. Customs Service

I. Notification, Record Access and Amendment Procedures

Notification and Record Access Procedures: Requests by an individual to be notified if the system of records contains records pertaining to him and requesting access to the records shall be in writing with envelope and letter clearly marked ''Privacy Act Request'' and directed to the Assistant Commissioner, Office of Regulations and Rulings, U.S. Customs Service, Rm. 3.4A, Ronald Reagan Bldg., 1300 Pennsylvania Avenue, NW, Washington, DC 20229, or to the Customs Management Center Director of the region in which the records are located (see addresses below).

The request may be presented in person between the hours of 9 a.m. and 4:30 p.m. Where the request is presented in person, the requester shall present adequate identification to establish his identity, and a comparison of his signature and those in the records may be made where the records contain the signature of the person to whom the records pertain. If an individual is unable to provide the requisite documents for identification purposes, he may be required to make a signed statement asserting identity and stipulating that he understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of not more than $5,000.

Where the request is made in writing, it shall be accompanied by a notarized statement executed by the requester asserting identity and stipulating that he understands that knowingly or willfully seeking or obtaining access to records about another person under false pretenses is punishable by a fine of not more than $5,000. A comparison of his signature and those in the records may be made where the records contain the signature of the person to whom the records pertain.

Amendment Procedures: Requests by an individual contesting the context of a record within a system of records shall be in writing with the envelope and letter clearly marked ''Privacy Act Amendment'' and directed to the Assistant Commissioner, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW, Washington, DC 20229, or to the Director of the Customs Management Center of the region in which the records are located. (See addresses below.)

II. Location

Addresses of Headquarters, U.S. Customs Service, Customs Management Centers, Regional Directors (Internal Affairs), Port Directors of Customs, and Customs Office of Enforcement field offices:

Headquarters U.S. Customs Service: 1300 Pennsylvania Avenue, NW, Washington, DC 20229.

Customs Management Centers

Arizona—4740 North Oracle Road, Suite 310, Tucson, AZ 85705, (520) 670–5900.

Caribbean Area—#1 La Puntilla St., Room 203, San Juan PR 00901, (787) 729–6950.

East Great Lakes—4455 Genesee St., Buffalo, NY 14225, (716) 626–0400.

East Texas—2323 S. Shepherd St., Suite 1200, Houston, TX 77019, (713) 313–2843.

Gulf—423 Canal St., Room 337, New Orleans, LA 70130, (504) 670–2404.

Mid-America—610 S. Canal St. Suite 900, Chicago, IL 60607, (312) 353–4733.

Mid Atlantic—103 S. Gay St., Suite 208, Baltimore, MD 21202, (410) 962–6200.

Mid Pacific—33 New Montgomery St., Suite 1601, San Francisco, CA 94105, (415) 744–1530,

New York—6 World Trade Center, Room 716, New York, NY 10048, (212) 466–4444.

North Atlantic—10 Causeway St., Room 801, Boston, MA 02222, (617) 565–6210.

North Florida—1624 E. Seventh Ave., Suite 301, Tampa, FL 33605, (813) 228–2381.

North Pacific—90332 N.E. Alderwood Rd., Portland, OR 97220, (503) 326–7625.

Northwest Great Plains—1000 Second Ave., Suite 2000, Seattle, WA 98104, (206) 553–6944.

South Atlantic—1691 Phoenix Blvd., Suite 270, College Park, GA 30349, (770) 994–2306

South Florida—909 SE First Ave. Suite 980, Miami, FL 33131, (305) 536–6600.

South Pacific—One World Trade Center, Suite 705, Long Beach, CA 90831 (562) 980–3100.

South Texas—PO Box 3130, Laredo, TX 78044, (956) 718–4161

Southern California—610 W. Ash St., Suite 1200, San Diego, CA 92101, (619) 557–5455.

West Great Lakes—613 Abbott St., 3rd Floor, Detroit, MI 48226, (313) 226–2955.

West Texas/New Mexico—9400 Viscount Blvd., Suite 104, El Paso, TX 79925, (915) 540–5800.

Office of Internal Affairs Field Offices

Regional Director (Internal Affairs), 10 Causeway Street, Boston, MA 02110.

Resident Agent in Charge (Internal Affairs), 6 World Trade Center, New York, N.Y. 10048.

Resident Agent in Charge (Internal Affairs), 1000 Bricknell Avenue, Miami, FL 33101.

Resident Agent in Charge (Internal Affairs), 423 Canal Street, New Orleans, LA 70112.

Special Agent in Charge (Internal Affairs), 2323 S. Shepherd Street, Houston, TX 77002.

Resident Agent in Charge (Internal Affairs), 610 S. Canal Street, Chicago, IL. 60603.

Special Agent in Charge (Internal Affairs), One World Trade Center, Long Beach, CA 90815

Customs Service/Area Ports Offices

Anchorage: 605 West Fourth Avenue, Room 205, Anchorage, AK 99501 (907) 271–2675.

Atlanta: 700 Doug Davis Drive, Atlanta, GA 30354 (404) 763–7020.

Baltimore: 40 S. Gay St, Baltimore, MD 21202 (410) 962–2666.

Baton Rouge: 5353 Essen Lane, Baton Rouge, LA 70809 (504) 389–0261.

Blaine: 9901 Pacific Highway, Blaine, WA 98230 (360) 332–5771.

Boston: 10 Causeway Street, Boston, MA 02222–1059 (617) 565–6147.

Buffalo: 111 West Huron Street, Buffalo, NY 14202–2378 (716) 551–4373.

Calais: 1 Main Street, Calais, ME 04619 (207) 454–3621.

Calexico: PO Box 632, Calexico, CA 92231 (619) 357–7310.

Champlain: 198 West Service Road, Champlain, NY 12919–8314 (518) 298–8347.

Charleston: 200 East Bay Street, Charleston, SC 29401 (803) 727–4296.

Charlotte: 1801–K Cross Beam Drive, Charlotte, NC 28217 (704) 329–6101.

Charlotte/Amalie: Main Post Ofc-Sugar Estate, St. Thomas, VI 00801 (809) 774–2911.

Chicago: 610 South Canal Street, Chicago, IL 60607 (312) 353–6100.

Christiansted: Church Street PO Box 249, Christianstedt/ St.Croix, VI 00820 (809) 773–1490.

Cleveland: 55 Erieview Plaza, 6th Floor, Cleveland, OH 44114. (216) 891–3804

Dallas/Ft. Worth: PO Box 619050, DFW Airport, TX 75261–4818 (972) 574–2170.

Denver: 4735 Oakland Street, Denver, CO 80239 (303) 361–0715.

Derby Line: Interstate 91, Derby Line, VT 05830 (802) 873–3489.

Detroit: 477 Michigan Avenue, Detroit, MI 48226 (313) 226–3178.

Douglas: 1st Street & Pan American Avenue, Douglas, AZ 85607 (602) 364–8486.

Duluth: 515 West 1 St Street, Duluth, MN 55802–1390 (218) 720–5201.

El Paso: 9400 Viscount Boulevard, El Paso, TX 79925 (915) 540–5800.

Grand Rapids: 6450 Air Cargo Dr., Grand Rapids, MI 49512 (616) 456–2515.

Great Falls: 21 Third St., N., Suite 201, Great Falls, MT 59401 (406) 453–7631.

Greenville/Spartanburg: 150-A West Phillips Road, Greer, SC 29650 (864) 877–8006.

Harrisburg: Harrisburg International Airport, Bldg 135, Middletown, PA 17057–5035 (717) 782–4510.

Hartford: 135 High Street, Hartford, CT 06103 (203) 240–4306.

Highgate Springs: 480 Welcome Center Rd., Swanton, VT 05488 (802) 868–2778.

Honolulu: 1001 Bishop St., Suite 2500, Pacific Tower Bldg. Honolulu, HI 968813 (808) 522–8060.

Houlton: RR 3, Box 5300, Houlton, ME 04730 (207) 532–2131.

Houston/Galveston: 3549 San Edigo, Suite 700, Houston, TX 27055 (713) 985–6712.

Jacksonville: 2831 Talleyrand Avenue, Jacksonville, FL 32206 (904) 232–3476.

Kansas City: 2701 Rockcreek Parkway, N. Kansas City, Mo 64116 (816) 374–6424.

Laredo/Columbia: PO Box 3130, Laredo, TX 78044 (210) 726–2267.

Los Angeles: 300 South Ferry Street, Room 1001, Terminal Island, CA 90731 (310) 514–6001.

Los Angeles Airport Area: 300 South Ferry Street, Terminal Island, CA 90731 (310) 514–6029.

Los Angeles/Long Beach Seaport Area: 300 South Ferry Street, Terminal Island, CA 90731 (310) 514–6002.

Louisville: 601 West Broadway, Room 43, Louisville, KY 40202 (502) 582–5186.

Miami Airport: 6601 Northwest 25th Street, Miami, FL 33222–5280 (305) 869–2800.

Miami Seaport: 1500 Port Blvd, Miami, FL 33132 (305) 536–5261.

Milwaukee: PO Box 37260, Milwaukee, WI 53237–0260 (414) 571–2860.

Minneapolis: 330 2nd Ave. South, Suite 560, Minneapolis, MN 55401 (612) 348–1690.

Mobile: 150 North Royal Street, Mobile, AL 36602 (205) 441–5106.

Nashville: 322 Knapp Blvd., Suite 160, Nashville, TN 31277–0008 (615) 736–5861.

New Orleans: 423 Canal Street, New Orleans, LA 70130 (504) 589–6353.

New York: 6 World Trade Center, New York, NY 10048 (212) 466–4444.

New York-JFK Area: Bldg #77, Jamaica, NY 11430 (718) 553–1542.

New York-NY/Newark Area: Hemisphere Center, Rm 200, Rts. 1 & 9 South, Newark, NJ 07114 (201) 645–3760.

Nogales: 9 North Grand Avenue, Nogales, AZ 85621 (520) 287–1410.

Norfolk: 200 Granby Street, Norfolk, VA 23510 (804) 441–3400.

Ogdensburg: 127 N. Water Street, Ogdensburg, NY 13669 (315) 393–0660.

Orlando: 5390 Bear Road, Orlando, FL 32827 (407) 825–4301.

Oroville: 33643 Hwy 97, Oroville, WA 98844 (509) 476–2955.

Pembina: 112 West Stoutsman, Pembina, ND 58271 (701) 825–6201.

Philadelphia: 2nd & Chestnut Streets, Room 102, Philadelphia, PA 19106 (215) 597–4605.

Phoenix: 1315 S. 27th Street, Phoenix, AZ 85034 (602) 379–3516.

Otay Mesa: 9777 via De La Amistad, San Diego, CA 92173 (619) 661–3305.

Port Huron: 526 Water Street, Room 301, Port Huron, MI 48060 (810) 985–7125.

Portland, ME: 312 Fore Street, Portland, ME 04112 (207)780–3326.

Portland, OR: PO Box 55580, Portland, OR 97238 (503) 326–2865.

Providence: 49 Pavilion Avenue, Providence, RI 02905 (401) 941–6326.

Raleigh/Durham: 120 Southcenter Court, Suite 500, Morrisville, NC 27560 (919) 467–3552.

Richmond: 4501 Williamsburg Rd., Suite G, Richmond, VA 23231 (804) 226–9675.

San Antonio: 9800 Airport Boulevard, Room 1103, San Antonio, TX 78216 (210) 821–6965.

San Diego: 610 West Ash Street, San Diego, CA 92188 (619) 557–6758.

San Francisco: 555 Battery Street, San Francisco, CA 94111 (415) 744–7700.

San Juan: #1 La Puntilla, San Juan, PR 00901 (809) 729–6965.

San Luis: PO Box H, San Luis, AZ 85349 (602) 627–8854.

Sault Ste. Marie: International Bridge Plaza, Sault Ste Marie, MI 49783 (906) 632–7221.

Savannah: 1 East Bay Street, Savannah, GA 31401 (912) 447–9400.

Seattle: 1000 2nd Avenue, Seattle, WA 98104–1049 (206) 553–0770.

Seattle Airport: SEA-TAC International Airport, Seattle, WA 98158 (206) 553–7960.

Seattle Waterfront: S. Novada St., Suite 100, Seattle, WA 98134 (206) 553–1581.

San Ysidro: 720 E. San Ysidro Blvd., San Ysidro, CA 92073 (619) 662–7201.

St. Albans: PO Box 1490, St. Albans, VT 05478 (802) 524–7352.

St. Louis: 4477 Woodson Road, Suite 100, St. Louis, MO 63134–3716 (314) 428–2662.

Syracuse: 4034 S. Service Road, Hancock International Airport, Syracuse, NY 13212 (315) 455–8446.

Tacoma: 2202 Tacoma Rd., Tacoma, WA 98421 (206) 593–6336.

Tampa: 1624 E. 7th Ave., Tampa, FL 33607 (813) 228–2381.

Tucson: 7150 South Tucson Boulevard, Tucson, AZ 85706 (520) 670–6461.

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Federal Register

Thursday,
October 18, 2001

Part III

Environmental Protection Agency

40 CFR Part 9, 122, 123, 124, and 130

Effective Date of Revisions to the Water Quality Planning and Management Regulation and Revisions to the National Pollutant Discharge Elimination System Program in Support of Revisions to the Water Quality Planning and Management Regulations; and Revision of the Date for State Submission of the 2002 List of Impaired Waters; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9, 122, 123, 124, and 130

[WH–FRL–7086–1]

RIN 2040–AD79

Effective Date of Revisions to the Water Quality Planning and Management Regulation and Revisions to the National Pollutant Discharge Elimination System Program in Support of Revisions to the Water Quality Planning and Management Regulations; and Revision of the Date for State Submission of the 2002 List of Impaired Waters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's action establishes April 30, 2003 as the effective date of the revisions to EPA's Total Maximum Daily Load (TMDL) and National Pollutant Discharge Elimination System Program (NPDES) regulations published in the **Federal Register** on July 13, 2000. The July 2000 rule amends and clarifies existing regulations implementing section 303(d) of the Clean Water Act (CWA), which requires States to identify waters that are not meeting State water quality standards and to establish pollutant budgets, called TMDLs, to restore the quality of those waters. The rule also lays out specific time frames under which EPA will assure that lists of waters not meeting water quality standards (the 303(d) lists) and TMDLs are completed as scheduled, and that necessary point and nonpoint source controls are implemented to meet TMDLs.

In addition, today's action amends 40 CFR 130.7(d)(1), currently in effect, to revise the date on which States are required to submit the next list of impaired waters from April 1, 2002 to October 1, 2002. This new date will provide States who wish to do so the time to incorporate some or all of the recommendations suggested by EPA in a forthcoming guidance entitled: 2002 Integrated Water Quality Monitoring and Assessment Report Guidance, which is currently undergoing a final review.

DATES: The July 2000 rule amending 40 CFR parts 9,122,123,124 and 130 published on July 13, 2000 at 65 FR 43586 is effective on April 30, 2003. The amendment to 40 CFR 130.7(d)(1) made by this rule is effective November 19, 2001. This action is considered issued for purposes of judicial review as of 1 p.m. Eastern Daylight Time, on November 1, 2001 as provided in § 23.2.

ADDRESSES: The complete administrative record for the final rule has been established under docket number W–98–31–III TMDL, and includes supporting documentation as well as printed, paper versions of electronic comments. The docket is available for inspection from 9 a.m. to 4 p.m. Eastern Time, Monday through Friday excluding legal holidays at the Water Docket; EB 57; U.S. EPA; 401 M Street, SW., Washington, DC 20460. For access to docket materials, please call (202) 260–3027 between 9 a.m. and 4 p.m. An electronic version of this final rule will be available via the Internet at: *http://www.epa.gov/owow/tmdl/defer/*

FOR FURTHER INFORMATION CONTACT: For information about today's final rule, contact: Francoise M. Brasier, U.S. EPA Office or Wetlands, Oceans and Watersheds (4503F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, phone (202) 401–4078.

SUPPLEMENTARY INFORMATION:

A. Authority

Clean Water Act sections 106, 205(g), 205(j), 208, 301, 302, 303, 305, 308, 319, 402, 501 502, and 603; 33 U.S.C. 1256, 1285(g), 1285(j), 1288, 1311, 1312, 1313, 1315, 1318, 1329, 1342, 1361, 1362, and 1373.

B. Entities Potentially Regulated by the Proposed Rule

TABLE OF POTENTIALLY REGULATED ENTITIES

Category	Examples of potentially regulated entities
Governments	States, Territories and Tribes with CWA responsibilities

The table is not intended to be exhaustive, but rather provides a guide for readers regarding entities potentially regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be regulated by this action. To determine whether you may be regulated by this action, you should carefully examine the applicability criteria in § 130.20 of title 40 of the Code of Federal Regulations. If you have any questions regarding the applicability of this action to you, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

C. Explanation of Today's Action

I. Background

On August 9, 2001, EPA proposed to take two actions regarding the TMDL program. First, EPA proposed to delay by 18 months the effective date of a rule published in the **Federal Register** on July 13, 2000, which amends existing regulations governing the TMDL program. The July 2000 rule generated considerable controversy, as expressed in letters, testimony, public meetings, Congressional action, and litigation. Congress prohibited EPA from implementing the final rule through a spending prohibition attached to an FY2000 appropriations bill, which prohibited EPA from using funds made available for FY2000 and FY2001 ''to make a final determination on or implement'' the July 2000 TMDL rule. Cognizant of this spending prohibition, in the preamble to the July 2000 rule, EPA said that the July 2000 rule was not effective ''until 30 days after the date that Congress allows EPA to implement this regulation'' and that EPA would publish notice of the effective date in the **Federal Register**. Second, EPA proposed to revise its currently effective regulations to postpone the date by which States are required to submit the next section 303(d) list of impaired waters from April 1, 2002 to October 1, 2002. This delay was intended to provide time for EPA to issue guidance incorporating some of the National Research Council's (NRC) recommendations regarding the methodology used to develop the 303(d) lists and the content of these lists.

Based on concerns expressed by many interested organizations and in light of a recent report from the National Research Council (NRC), entitled ''Assessing the TMDL Approach to Water Quality Management,'' which recommends changes to the TMDL program, EPA believes that it is important at this time to re-consider some of the choices made in the July 2000 rule, while continuing to operate the program under the 1985 TMDL regulations, as amended in 1992. A delay of the effective date would allow the Agency to solicit and carefully consider suggestions on how to structure the TMDL program to be effective and flexible and to ensure that it leads to workable solutions that will meet the Clean Water Act goals of restoring impaired waters. In addition, EPA believes that its decision voluntarily to reconsider the July 2000 rule may result in revisions to the rule that would resolve at least some of the issues raised in pending litigation in the D.C. Circuit Court of Appeals. Instead of

expending resources in lengthy litigation, EPA believes it can speed up the process of putting in place a more workable program, while building a foundation of trust among stakeholders in the basic process for restoring impaired waters. Once this foundation is soundly built, it is far more likely that diverse stakeholders will be able to agree on plans for restoring water quality and far more likely that these important plans will be implemented.

II. Response to Comments and Final Decisions

Effective Date of the Final Regulations

EPA received approximately 100 separate comment letters and 85 duplicate postcards regarding its proposal to delay the effective date of the July 2000 rule. A majority of individual commenters supported EPA's action noting the controversy generated by the rule, the issues raised in recent lawsuits challenging the July 2000 rule, and the need to reevaluate the flexibility, practicality and scope of the rule. Other commenters, however, expressed concerns that postponing the effective date of the July 2000 rule would significantly impede progress towards cleaning up the nation's impaired waters. EPA does not agree with these commenters that an 18-month delay of the effective date of the July 2000 rule will significantly slow down the pace at which impaired waters are restored. In recent years, EPA and the States have made great strides in implementing the existing 303(d) program to list impaired waters and develop and implement TMDLs. States have substantially improved their TMDL programs while the Agency has provided the States with significant increases in technical and financial support to expand and strengthen all elements of their programs. EPA and the States also are cooperatively undertaking workshops around the country to present successful approaches to developing and implementing TMDLs. Much of this progress is driven by TMDL litigation. To date, environmental groups have filed legal actions in 38 States. Over 20 of these lawsuits have resulted in court orders or consent decrees under which EPA is required to establish TMDLs if the State fails to do so pursuant to specific schedules. The pace of TMDL establishment has increased greatly over the last few years with almost twice as many TMDLs approved or established by EPA in 2001 as in 2000.

Current court orders and consent decrees require EPA to establish (if the States do not) approximately 2000 TMDLs in the next 18 to 24 months. These requirements are in place independently of any separate requirements in the July 2000 rule. Accordingly, EPA does not believe that an 18-month delay in the July 2000 rule's effective date will in any significant way slow the development of TMDLs.

Some commenters opposed to the delay of the effective date of the July 2000 rule expressed concerns that TMDLs established during that delay might not include implementation plans, which they see as an essential component of the July 2000 rule. It is true that, absent a requirement to include an implementation plan as part of a TMDL as required by the July 2000 rule, States may not develop implementation plans for all TMDLs. However, section 130.37 of the July 2000 rule provided that EPA could approve a TMDL without an implementation plan during a 9-month transition period following the effective date of the July 2000 rule. Accordingly, for one half of the 18-month delay period, implementation plans would not have been required for TMDL approval. Moreover, EPA is working in other ways to ensure that management measures reflecting load allocations in TMDLs are undertaken. For example, EPA issued a guidance on September 13, 2001 entitled ''Supplemental Guidelines for the Award of Section 319 Nonpoint Source Grants to States and Territories in FY 2002 and Subsequent Years'' available at *http://www.epa.gov/owow/nps/Section319/fy2002.html*, which provides for a more concentrated focus on the implementation of TMDLs related to nonpoint source pollution for FY 2003 and beyond. Finally, even under the currently effective TMDL regulations, States may submit and some, such as California, Virginia, Washington and Oregon, have been submitting implementation plans along with TMDLs.

Some commenters who agreed that EPA should delay the effective date of the rule suggested that EPA should do so for longer than 18 months. EPA disagrees. EPA believes that 18 months should be a sufficient time to reconsider the controversial elements of the July 2000 rule that have already been the subject of significant comments and dialogue. Other commenters who agreed with EPA also submitted comments regarding the requirements which EPA should consider including in a new rule. EPA will consider these recommendations as it reevaluates the July 2000 rule. Several commenters also suggested that EPA should provide the public a detailed schedule for issuance of a new rule including information on planned public outreach and the internal Agency decision process. On October 9, 2001, EPA announced a series of outreach meetings and has posted information regarding these meetings on the internet. EPA also intends to post discussion guides and meeting summaries on the internet. In addition, EPA will, to the best of its ability, meet and share information with stakeholders as it develops any revisions to the July 2000 rule.

EPA is committed to structuring a flexible, effective TMDL program that States, Territories and authorized Tribes can support and implement. EPA believes that, given its decision to reconsider the July 2000 rule and to do so in an expeditious manner, it would be undesirable to have the July 2000 rule go into effect now for a relatively short time. This is especially so given that the rule's requirements would not be mandatory for another nine months (65 FR 43635). The Agency believes that by delaying the effective date of the July 2000 rule until April 30, 2003, it will be better able to reconsider the rule and address concerns expressed about it by a wide range of stakeholders. The Agency hopes to be able to narrow the differences among the diverse stakeholders interested in or are affected by the TMDL rules such that a framework is established under which TMDLs will actually be implemented in a timely and cost-effective manner.

Therefore, after carefully considering all the comments received on delaying the effective date of the July 2000 rule, EPA is promulgating a final action today that establishes April 30, 2003 as the effective date of the TMDL rule published in the **Federal Register** on July 13, 2000 (65 FR 43586). EPA believes that this delay of the effective date is the minimum necessary for the Agency to be able to conduct a meaningful consultation with the public, analyze recommendations of various stakeholders, reconcile concerns about the scope, complexity, and cost of the TMDL program, and structure a flexible yet effective solution to meet Clean Water Act goals of restoring the nation's impaired waters. During this delay, the program will continue to operate under the 1985 TMDL regulations, as amended in 1992 at 40 CFR part 130, and EPA and the States and Territories will continue to develop TMDLs to work towards cleaning up the nation's waters and meeting water quality standards.

Revisions to the Due Date of the Next List of Impaired Waters

EPA received approximately 60 separate comments and 85 duplicate postcards regarding its proposal to revise the date on which States are required to submit the next section 303(d) list of impaired waters from April 1, 2002 to October 1, 2002. A substantial number of individual commenters agreed with the Agency's proposal and its rationale. However, several commenters disagreed. A few commenters stated that the Agency should not allow any more time for States to develop the next list. In their view, an April 2002 list already represents a two-year delay because EPA had earlier eliminated the requirement for States to submit a list to EPA on April 1, 2000. They also disagreed with EPA's rationale that new guidance was needed before States should be required to submit a new list. They argued any guidance issued at this time would have to follow the current regulations and could not incorporate some of the recommendations of the NRC. They, therefore, believed that existing guidance was sufficient to produce the 2002 list. EPA agrees that any guidance it issues at this point must be based on current regulations and it is not EPA's intent to change these existing regulations by guidance. However, EPA believes that within the context of the current regulations, there is sufficient flexibility to issue guidance that it believes could significantly improve some States' lists. EPA has drafted a guidance entitled ''2002 Integrated Water Quality Monitoring and Assessment Report Guidance'' which will be released shortly. EPA believes that States should be given additional time to review and incorporate some of the elements of the guidance in their next list if they so wish. For that reason, EPA continues to believe that a relatively brief 6-month delay of the 303(d) lists' due date is warranted.

Some commenters believed that the Agency should postpone the next 303(d) list until after the new rule is in place. They argued that development of a new rule would introduce substantial uncertainty while the States are developing their listing methodologies and their next lists pursuant to a rule and guidance that may be substantially changed soon after the 2002 lists are submitted. EPA continues to believe, however, that it is important for a new list to be produced in 2002. EPA believes that it is important to update States' 1998 lists to reflect current information to maintain the credibility of the TMDL program. EPA is aware of concerns expressed by some point source dischargers about the impact of being located on a listed stream. EPA believes that its upcoming guidance should help ensure that the 2002 section 303(d) lists more accurately identify currently impaired waters than earlier lists.

Some commenters stated their concerns that, if the 2002 list deadline is moved to October, the report required under section 305(b) of the CWA and the list required under section 303(d) would be due at different times. These commenters asked that the Agency also delay the date of the section 305(b) report. However, the due date of the section 305 (b) report is a statutory requirement and EPA cannot change it by regulation or guidance. The Agency can take steps however, to ensure that States that choose to submit a 305(b) report on October 1, 2002 do not suffer any adverse consequences. EPA will review its agreements with States regarding distribution of grants under section 106 of the CWA to make sure that receipt of grant funds are not contingent upon completion of a section 305 (b) report on April 1, 2002.

EPA received only one comment on its proposal to retain the April 1, 2002 listing requirement if a court order or consent decree or commitment in a settlement agreement expressly requires EPA to take action related to the State's 2002 list prior to October 1, 2002. When EPA published the proposal, EPA stated that it believed that this provision would only apply to the State of Georgia. The commenter expressed concern that, notwithstanding a consent decree, it was inequitable to require Georgia to meet the existing April 2002 deadline. The commenter noted that, if Georgia was required to submit its 2002 list prior to issuance of EPA's 2002 listing guidance, parts of the Georgia list may be invalidated.

EPA believes that the commenter's concerns can be addressed while requiring Georgia to submit its 2002 list in April 2002. EPA continues to believe that a State should be required to submit a 2002 list by April 1, 2002, in order to enable EPA to meet a commitment embodied in a court order, consent decree, or settlement agreement expressly requiring EPA to take action related to the State's 2002 list prior to October 1, 2002. Since this provision only applies to the State of Georgia, EPA will work with Georgia to ensure that the list it submits to EPA by April 1, 2002, meets the requirements of the Clean Water Act and EPA's currently effective regulations. In addition, EPA anticipates issuing guidance on the 2002 lists shortly so that Georgia will have the benefit of that guidance at least several months before the date it is required to submit its 2002 list. Finally, the listing guidance will not and cannot impose any binding requirements on the States, separate and apart from the statutory and regulatory requirements.

After careful review of all comments, EPA continues to believe that briefly delaying the due date of the next section 303(d) list is an appropriate step that will give the States that wish to do so time to adopt some or all of the recommendations of EPA's new guidance. EPA is aware that some States are well underway in their development of a 2002 section 303(d) list which they intended to submit on April 1, 2002. EPA will review and approve or disapprove a State list within 30 days as required by the CWA regardless of when it is submitted. EPA's decision to approve or disapprove such a list will be based on the statutory requirements at section 303(d) and EPA's regulations at 40 CFR 130.7.

III. Administrative Requirements

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, (October 4, 1993)), EPA must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action'' and as such, has not been submitted to OMB for review.

B. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (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 EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by EPA. This rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866.

C. Unfunded Mandates Reform Act (UMRA) of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Tribal and local governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal Mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or Tribal governments or the private sector. The rule imposes no enforceable duty on any State, local or Tribal government or the private sector. Thus, today's rule is not subject to the requirements of sections 202 and 205 of UMRA. For the same reason, EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. This action does not impose any requirement on anyone. Thus, there are no costs associated with this action . Therefore, today's rule is not subject to the requirements of section 203 of UMRA.

D. Paperwork Reduction Act (PRA)

This action does not impose any new information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This action does not impose any requirements on anyone and does not voluntarily request information.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

E. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et. seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. After considering the economic impacts of today's rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action does not impose any requirements on anyone, including small entities.

F. National Technology Transfer and Advancement Act

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

G. Executive Order 13132: Federalism

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

This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in executive Order 13132. It merely delays

the effective date of the July 2000 rule and the due date of the April 2002 lists. Thus, Executive Order 13132 does not apply to this rule.

H. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

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

This rule establishes a relatively short delay in the effective date of the July 2000 TMDL Rule and the due date of the April 1, 2002 lists. Because these delays are relatively brief (18 months and six months, respectively) EPA does not believe this rule will have ''substantial direct effects'' on Tribes or the relationship or distribution of power between Tribes and the Federal Government. As discussed earlier in the preamble, during the 18-month period before the July 2000 rule becomes effective, TMDLs will continue to be developed pursuant to the regulations in effect at section 130.7. Moreover, EPA does not believe that a 6-month delay in submission of the 2000 lists will slow the pace of TMDL development given the number of waters on existing lists and the many court orders and schedules directing TMDL development. Thus, Executive Order 13175 does not apply to this rule.

I. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). The July 2000 rule amending 40 CFR parts 9, 122, 123, 124 and 130 published on July 13, 2000 at 65 FR 43586 is effective on April 30, 2003. The amendment to 40 CFR 130.7(d)(1) is effective November 19, 2001.

J. Executive Order 12866—Plain Language Considerations

Executive Order 12866 requires each agency to write all rules in plain language. EPA invited public comment in the proposed rule on how to make this rule easier to understand including addressing concerns regarding organization of material, clear presentation of technical terms and concepts, and alternative formats to facilitate better understanding of the Agency's action. The Agency received only one comment on this issue requesting that the rule be clearly written. The Agency has addressed this concern by reducing the amount of technical jargon in this notice, by organizing the material in a straightforward, understandable format, and by clearly discussing each of the requirements of this rule. By doing so the Agency has met the plain language requirements of Executive Order 12866.

K. Executive Order 13211: Energy Effects

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) because it is not a significant regulatory action under Executive Order 12866.

List of Subjects

40 CFR Part 9

Reporting and recordkeeping requirements.

40 CFR Part 122

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 123

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous substances, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control.

40 CFR Part 124

Environmental protection, Administrative practice and procedure, Hazardous substances, Indians-lands, Reporting and recordkeeping requirements, Water pollution control, Water supply.

40 CFR Part 130

Environmental protection, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

Dated: October 12, 2001.

Christine T. Whitman,

Administrator.

PARTS 9, 122, 123, 124 AND 130—EFFECTIVE DATE AND REVISIONS

For the reasons stated in the preamble, EPA is establishing April 30, 2003 as the effective date of the amendments to 40 CFR parts 9, 122, 123, 124 and 130 published July 13, 2000 (65 FR 43586).

For the reasons stated in the preamble, EPA is amending 40 CFR part 130 as follows:

PART 130—WATER QUALITY PLANNING AND MANAGEMENT

1. The authority citation for part 130 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Section 130.7, currently in effect, is amended by adding a new sentence after the fourth sentence in paragraph (d)(1) to read as follows:

§ 130.7 Total maximum daily loads (TMDL) and individual water quality-based effluent limitations.

* * * * *

(d) * * * (1) * * * For the year 2002 submission, a State must submit a list required under paragraph (b) of this section by October 1, 2002, unless a court order, consent decree or commitment in a settlement agreement expressly requires EPA to take an action related to that State's 2002 list prior to October 1, 2002, in which case, the State must submit a list by April 1, 2002. * * *

* * * * *

[FR Doc. 01–26265 Filed 10–17–01; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Thursday,
October 18, 2001

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 52

Federal Acquisition Regulation; Payments Under Fixed-Price Construction Contracts; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[FAR Case 2001–012]

RIN 9000–AJ22

Federal Acquisition Regulation; Payments Under Fixed-Price Construction Contracts

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to clarify in the certification language of the clause entitled Payments under Fixed-Price Construction Contracts that all payments due to subcontractors and suppliers have been made by the prime contractor from previous progress payments received from the Government.

DATES: Interested parties should submit comments in writing on or before December 17, 2001 to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, FAR Secretariat (MVP), 1800 F Street, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405. Submit electronic comments via the Internet to: *farcase.2001–012@gsa.gov.*

Please submit comments only and cite FAR case 2001–012 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Jeremy Olson, Procurement Analyst, at (202) 501–3221. Please cite FAR case 2001–012.

SUPPLEMENTARY INFORMATION

A. Background

In 1988, Congress passed the Prompt Payment Act Amendments, in part to ensure that subcontractors and suppliers were being promptly paid by the prime contractors. 31 U.S.C. 3903(b)(1)(B)(ii) requires the contractor to certify, with each progress payment request, that payments to subcontractors and suppliers have been made from previous payments received under the contracts. This certification language is reflected in paragraph (c) of FAR 52.232–5, Payments under Fixed-Price Construction Contracts.

An ambiguity in FAR 52.232–5 surfaced as a result of a decision issued on April 2, 1999, by the United States Court of Appeals for the Sixth Circuit in *United States* vs. *Gatewood*, 173 F.3d 983 (6th Cir. 1999). The Court concluded that certifying that the prime contractor has made payments to subcontractors and suppliers is not the same as certifying that the prime contractor has made all payments due to subcontractors and suppliers.

The Government's intention has always been that all payments due to subcontractors and suppliers be covered by this certification. Accordingly, the rule amends FAR 52.232–5 to clarify the Government's intent.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because most contracts awarded to small entities have a dollar value less than the simplified acquisition threshold, and, therefore, do not have the progress payment type of financing. In addition, this change is a clarification of existing policy, rather than the addition of new policy. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Part in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 2001–012), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: October 10, 2001.

Al Matera,

Director, Acquisition Policy Division.

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 52 as set forth below:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Amend section 52.232–5 by revising the date of the clause and paragraph (c)(2) to read as follows:

52.232–5 Payments under Fixed-Price Construction Contracts.

* * * * *

Payments Under Fixed-Price Construction Contracts (Date)

* * * * *

(c) * * *

(2) All payments due to subcontractors and suppliers from previous payments received under the contract have been made, and timely payments will be made from the proceeds of the payment covered by this certification, in accordance with subcontract agreements and the requirements of chapter 39 of Title 31, United States Code;

* * * * *

[FR Doc. 01–26009 Filed 10–17–01; 8:45 am]

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Federal Register

Thursday,
October 18, 2001

Part V

Department of Housing and Urban Development

24 CFR Part 3500

Real Estate Settlement Procedures Act Statement of Policy 2001–1: Clarification of Statement of Policy 1999–1 Regarding Lender Payments to Mortgage Brokers, and Guidance Concerning Unearned Fees Under Section 8(b); Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3500

[Docket No. FR–4714–N–01]

RIN 2502–AH74

Real Estate Settlement Procedures Act Statement of Policy 2001–1: Clarification of Statement of Policy 1999–1 Regarding Lender Payments to Mortgage Brokers, and Guidance Concerning Unearned Fees Under Section 8(b)

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Statement of Policy 2001–1.

SUMMARY: This Statement of Policy is being issued to eliminate any ambiguity concerning the Department's position with respect to those lender payments to mortgage brokers characterized as yield spread premiums and to overcharges by settlement service providers as a result of questions raised by two recent court decisions, *Culpepper* v. *Irwin Mortgage Corp.* and *Echevarria* v. *Chicago Title and Trust Co.,* respectively. In issuing this Statement of Policy, the Department clarifies its interpretation of Section 8 of the Real Estate Settlement Procedures Act (RESPA) in Statement of Policy 1999–1 Regarding Lender Payments to Mortgage Brokers (the 1999 Statement of Policy), and reiterates its long-standing interpretation of Section 8(b)'s prohibitions. *Culpepper* v. *Irwin Mortgage Corp.* involved the payment of yield spread premiums from lenders to mortgage brokers. *Echevarria* v. *Chicago Title and Trust Co.* involved the applicability of Section 8(b) to a settlement service provider that overcharged a borrower for the service of another settlement service provider, and then retained the amount of the overcharge.

Today's Statement of Policy reiterates the Department's position that yield spread premiums are not per se legal or illegal, and clarifies the test for the legality of such payments set forth in HUD's 1999 Statement of Policy. As stated there, HUD's position that lender payments to mortgage brokers are not illegal per se does not imply, however, that yield spread premiums are legal in individual cases or classes of transactions. The legality of yield spread premiums turns on the application of HUD's test in the 1999 Statement of Policy as clarified today.

The Department also reiterates its long-standing position that it may violate Section 8(b) and HUD's implementing regulations: (1) For two or more persons to split a fee for settlement services, any portion of which is unearned; or (2) for one settlement service provider to mark-up the cost of the services performed or goods provided by another settlement service provider without providing additional actual, necessary, and distinct services, goods, or facilities to justify the additional charge; or (3) for one settlement service provider to charge the consumer a fee where no, nominal, or duplicative work is done, or the fee is in excess of the reasonable value of goods or facilities provided or the services actually performed.

This Statement of Policy also reiterates the importance of disclosure so that borrowers can choose the best loan for themselves, and it describes disclosures HUD considers best practices. The Secretary is also announcing that he intends to make full use of his regulatory authority to establish clear requirements for disclosure of mortgage broker fees and to improve the settlement process for lenders, mortgage brokers, and consumers.

EFFECTIVE DATE: October 18, 2001.

FOR FURTHER INFORMATION CONTACT: Ivy M. Jackson, Acting Director, RESPA/ILS Division, Room 9156, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–0502, or (for legal questions) Kenneth A. Markison, Assistant General Counsel for GSE/RESPA, Room 9262, Department of Housing and Urban Development, Washington, DC 20410; telephone (202) 708–3137 (these are not toll-free numbers). Persons who have difficulty hearing or speaking may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

General Background

The Department is issuing this Statement of Policy in accordance with 5 U.S.C. 552 as a formal pronouncement of its interpretation of relevant statutory and regulatory provisions. Section 19(a) (12 U.S.C. 2617(a)) of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601–2617) (RESPA) specifically authorizes the Secretary ''to prescribe such rules and regulations [and] to make such interpretations * * * as may be necessary to achieve the purposes of [RESPA].''

Section 8(a) of RESPA prohibits any person from giving and any person from accepting ''any fee, kickback, or thing of value pursuant to an agreement or understanding, oral or otherwise'' that real estate settlement service business shall be referred to any person. See 12 U.S.C. 2607(a). Section 8(b) prohibits anyone from giving or accepting ''any portion, split, or percentage of any charge made or received for the rendering of a real estate settlement service * * * other than for services actually performed.'' 12 U.S.C. 2607(b). Section 8(c) of RESPA provides, ''Nothing in [Section 8] shall be construed as prohibiting * * * (2) the payment to any person of a bona fide salary or compensation or other payment for goods or facilities actually furnished or for services actually performed * * *'' 12 U.S.C. 2607(c)(2). RESPA also requires the disclosure of settlement costs to consumers at the time of or soon after a borrower applies for a loan and again at the time of real estate settlement. 12 U.S.C. 2603–4. RESPA's requirements apply to transactions involving a ''federally related mortgage loan'' as that term is defined at 12 U.S.C. 2602(1).

I. Lender Payments to Mortgage Brokers

The Conference Report on the Department's 1999 Appropriations Act directed HUD to address the issue of lender payments to mortgage brokers under RESPA. The Conference Report stated that ''Congress never intended payments by lenders to mortgage brokers for goods or facilities actually furnished or for services actually performed to be violations of [Sections 8](a) or (b) (12 U.S.C. sec. 2607) in its enactment of RESPA.'' H. Rep. 105–769, at 260. As also directed by Congress, HUD worked with industry groups, federal agencies, consumer groups and other interested parties in collectively producing the 1999 Statement of Policy issued on March 1, 1999. 64 FR 10080. Interested members of the public are urged to consult the 1999 Statement of Policy for a more detailed discussion of the background on lender payments to brokers addressed in today's Statement.

HUD's 1999 Statement of Policy established a two-part test for determining the legality of lender payments to mortgage brokers for table funded transactions and intermediary transactions under RESPA: (1) Whether goods or facilities were actually furnished or services were actually performed for the compensation paid and; (2) whether the payments are reasonably related to the value of the goods or facilities that were actually furnished or services that were actually performed. In applying this test, HUD believes that total compensation should be scrutinized to assure that it is reasonably related to the goods,

facilities, or services furnished or performed to determine whether it is legal under RESPA. In the determination of whether payments from lenders to mortgage brokers are permissible under Section 8 of RESPA, the threshold question is whether there were goods or facilities actually furnished or services actually performed for the total compensation paid to the mortgage broker. Where a lender payment to a mortgage broker comprises a portion of total broker compensation, the amount of the payment is not, under the HUD test, scrutinized separately and apart from total broker compensation.

Since HUD issued its 1999 Statement of Policy, most courts have held that yield spread premiums from lenders to mortgage brokers are legal provided that such payments meet the test for legality articulated in the 1999 Statement of Policy and otherwise comport with RESPA. However, in a recent decision, *Culpepper* v. *Irwin Mortgage Corp.,* 253 F.3d 1324 (11th Cir. 2001), the Court of Appeals for the Eleventh Circuit upheld certification of a class in a case alleging that yield spread premiums violated Section 8 of RESPA where the defendant lender, pursuant to a prior understanding with mortgage brokers, paid yield spread premiums to the brokers based solely on the brokers' delivery of above par interest rate loans. The court concluded that a jury could find that yield spread premiums were illegal kickbacks or referral fees under RESPA where the lender's payments were based exclusively on interest rate differentials reflected on rate sheets, and the lender had no knowledge of what services, if any, the broker performed. The court described HUD's 1999 Statement of Policy as ''ambiguous.'' *Id.* at 1327. Accordingly, and because courts have now rendered conflicting decisions, HUD has an obligation to clarify its position and issues this Statement today to provide such clarification and certainty to lenders, brokers, and consumers.

Because this clarification focuses on the legality of lender payments to mortgage brokers in transactions subject to RESPA, the coverage of this statement is restricted to payments to mortgage brokers in table funded and intermediary broker transactions. Lender payments to mortgage brokers where mortgage brokers initially fund the loan and then sell the loan after settlement are outside the coverage of this statement as exempt from RESPA under the secondary market exception.

II. Disclosure

Besides establishing the two-part test for determining the legality of yield spread premiums, the 1999 Statement of Policy discussed the importance of disclosure in permitting borrowers to choose the best loan for themselves. The mortgage transaction is complicated, and most people engage in such transactions relatively infrequently, compared to the other purchases they make. In some instances, borrowers have paid very large origination costs, either up front fees, yield spread premiums, or both, which they might have been able to avoid with timely disclosure. Timely disclosure would permit them to shop for preferable origination costs and mortgage terms and to agree to those costs and terms that meet their needs. The Department therefore is issuing a clarification of the importance of disclosure, with a description of disclosures that it considers to be best practices.

In this Statement of Policy, the Secretary is announcing that he intends to make full use of his regulatory authority as expeditiously as possible to provide clear requirements and guidance prospectively regarding disclosure of mortgage broker fees and, more broadly, to improve the mortgage settlement process so that homebuyers and homeowners are better served. Pending the promulgation of such a rule, the Secretary asks the industry to adopt new disclosure requirements to promote competition and to better serve consumers.

III. Unearned Fees

The 1999 Statement of Policy also touched upon another area of recurring questions under Section 8 of RESPA: the legality of payments that are in excess of the reasonable value of the goods or facilities provided or services performed. See 64 FR 10082–3.

Since RESPA was enacted, HUD has consistently interpreted Section 8(b) and HUD's RESPA regulations to prohibit settlement service providers from charging unearned fees, as occurred in *Echevarria* v. *Chicago Title & Trust Co.,* 256 F.3d 623 (7th Cir. 2001). Such an interpretation is consistent with Congress's finding, when enacting RESPA, that consumers need protection from unnecessarily high settlement costs. Through this Statement of Policy, HUD makes clear that Section 8(b) prohibits any person from giving or accepting any fees other than payments for goods and facilities provided or services actually performed. Payments that are unearned fees occur in, but are not limited to, cases where: (1) Two or more persons split a fee for settlement services, any portion of which is unearned; or (2) one settlement service provider marks-up the cost of the services performed or goods provided by another settlement service provider without providing additional actual, necessary, and distinct services, goods, or facilities to justify the additional charge; or (3) one settlement service provider charges the consumer a fee where no, nominal, or duplicative work is done, or the fee is in excess of the reasonable value of goods or facilities provided or the services actually performed.

In a July 5, 2001 decision, the Court of Appeals for the Seventh Circuit concluded that unearned fees must be passed from one settlement provider to another in order for such fees to violate Section 8(b). Accordingly, the court held that a settlement service provider did not violate Section 8(b) when, in billing a borrower, it added an overcharge to another provider's fees and retained the additional charge without providing any additional goods, facilities or services. *Echevarria* v. *Chicago Title & Trust Co.* Other courts have held that two or more parties must split or share a fee in order for a violation of Section 8(b) to occur. Still other courts have stated, however, that a single provider can violate Section 8(b). Because the courts are now divided, HUD is issuing this Statement of Policy to reiterate its interpretation of Section 8(b).

The Court of Appeals for the Seventh Circuit rendered its conclusion in *Echevarria* ''absent a formal commitment by HUD to an opposing position. * * *'' *Id.* at 630. In issuing this Statement of Policy pursuant to Section 19(a), HUD reiterates its position on unearned fees under Section 8(b) of RESPA, which HUD regards as long standing.

IV. Statement of Policy 2001–1

To give guidance to interested members of the real estate settlement industry and the general public on the application of RESPA and its implementing regulations, the Secretary hereby issues the following Statement of Policy. The interpretations embodied in this Statement of Policy are issued pursuant to Section 19(a) of RESPA. 12 U.S.C. 2617(a).

Part A. Mortgage Broker Fees

Yield Spread Premiums

One of the primary barriers to homeownership and homeowners' ability to refinance and lower their housing costs is the up front cash needed to obtain a mortgage. The closing costs and origination fees associated with a mortgage loan are a significant component of these up front

cash requirements. Borrowers may choose to pay these fees out of pocket, or to pay the origination fees, and possibly all the closing fees, by financing them; *i.e.,* adding the amount of such fees to the principal balance of their mortgage loan. The latter approach, however, is not available to those whose loan-to-value ratio has already reached the maximum permitted by the lender. For those without the available cash, who are at the maximum loan-to-value ratio, or who simply choose to do so, there is a third option. This third option is a yield spread premium.

Yield spread premiums permit homebuyers to pay some or all of the up front settlement costs over the life of the mortgage through a higher interest rate. Because the mortgage carries a higher interest rate, the lender is able to sell it to an investor at a higher price. In turn, the lender pays the broker an amount reflective of this price difference. The payment allows the broker to recoup the up front costs incurred on the borrower's behalf in originating the loan. Payments from lenders to brokers based on the rates of borrowers' loans are characterized as ''indirect'' fees and are referred to as yield spread premiums.[1]

A yield spread premium is calculated based upon the difference between the interest rate at which the broker originates the loan and the par, or market, rate offered by a lender. The Department believes, and industry and consumers agree, that a yield spread premium can be a useful means to pay some or all of a borrower's settlement costs. In these cases, lender payments reduce the up front cash requirements to borrowers. In some cases, borrowers are able to obtain loans without paying any up front cash for the services required in connection with the origination of the loan. Instead, the fees for these services are financed through a higher interest rate on the loan. The yield spread premium thus can be a legitimate tool to assist the borrower. The availability of this option fosters homeownership.

HUD has recognized the utility of yield spread premiums in regulations issued prior to the 1999 Statement of Policy. In a final rule concerning ''Deregulation of Mortgagor Income Requirements,'' HUD indicated that up front costs could be lowered by yield spread premiums.54 FR 38646 (September 20, 1989).

In a 1992 rule concerning RESPA, HUD specifically listed yield spread premiums as an example of fees that must be disclosed. The example was codified as Illustrations of Requirements of RESPA, Fact Situations 5 and 13 in Appendix B to 24 CFR part 3500. (See also Instructions at Appendix A to 24 CFR part 3500 for Completing HUD–1 and HUD–1A Settlement Statements.) HUD did not by these examples mean that yield spread premiums were *per se* legal, but HUD also did not mean that yield spread premiums were *per se* illegal.

HUD also recognizes, however, that in some cases less scrupulous brokers and lenders take advantage of the complexity of the settlement transaction and use yield spread premiums as a way to enhance the profitability of mortgage transactions without offering the borrower lower up front fees. In these cases, yield spread premiums serve to increase the borrower's interest rate and the broker's overall compensation, without lowering up front cash requirements for the borrower. As set forth in this Statement of Policy, such uses of yield spread premiums may result in total compensation in excess of what is reasonably related to the total value of the origination services provided by the broker, and fail to comply with the second part of HUD's two-part test as enunciated in the 1999 Statement of Policy, and with Section 8.

The 1999 Statement of Policy's Test for Legality

The Department restates its position that yield spread premiums are not per se illegal. HUD also reiterates that this statement ''does not imply * * * that yield spread premiums are legal in individual cases or classes of transactions.'' 64 FR 10084. The legality of any yield spread premium can only be evaluated in the context of the test HUD established and the specific factual circumstances applicable to each transaction in which a yield spread premium is used.

The 1999 Statement of Policy established a two-part test for determining whether lender payments to mortgage brokers are legal under RESPA. In applying Section 8 and HUD's regulations, the 1999 Statement of Policy stated:

> In transactions where lenders make payments to mortgage brokers, HUD does not consider such payments (*i.e.,* yield spread premiums or any other class of named payments) to be illegal *per se.* HUD does not view the name of the payment as the appropriate issue under RESPA. HUD's position that lender payments to mortgage brokers are not illegal *per se* does not imply, however, that yield spread premiums are legal in individual cases or classes of transactions. The fees in cases and classes of transactions are illegal if they violate the prohibitions of Section 8 of RESPA.
>
> In determining whether a payment from a lender to a mortgage broker is permissible under Section 8 of RESPA, the first question is whether goods or facilities were actually furnished or services were actually performed for the compensation paid. The fact that goods or facilities have been actually furnished or that services have been actually performed by the mortgage broker does not by itself make the payment legal. The second question is whether the payments are reasonably related to the value of the goods or facilities that were actually furnished or services that were actually performed.
>
> In applying this test, HUD believes that total compensation should be scrutinized to assure that it is reasonably related to goods, facilities, or services furnished or performed to determine whether it is legal under RESPA. Total compensation to a broker includes direct origination and other fees paid by the borrower, indirect fees, including those that are derived from the interest rate paid by the borrower, or a combination of some or all. The Department considers that higher interest rates alone cannot justify higher total fees to mortgage brokers. All fees will be scrutinized as part of total compensation to determine that total compensation is reasonably related to the goods or facilities actually furnished or services actually performed. HUD believes that total compensation should be carefully considered in relation to price structures and practices in similar transactions and in similar markets. 64 FR 10084.

Culpepper

The need for further clarification of HUD's position, as set forth in the 1999 Statement of Policy, on the treatment of lender payments to mortgage brokers under Section 8 of RESPA (12 U.S.C. 2607), is evident from the recent decision of the Court of Appeals for the Eleventh Circuit in *Culpepper.*

In upholding class certification in *Culpepper,* the court only applied the first part of the HUD test, and then further narrowed its examination of whether the lender's yield spread payments were ''for services'' by focusing exclusively on the presumed intent of the lender in making the payments. The crux of the court's decision is that Section 8 liability for the payment of unlawful referral fees could be established under the first part of the HUD test alone, based on the facts that the lender's payments to mortgage brokers were calculated solely on the difference between the par interest rate and the higher rate at which the mortgage brokers delivered loans, and that the lender had no knowledge of what services, if any, the brokers had performed.

HUD was not a party to the case and disagrees with the judicial interpretation regarding Section 8 of

[1] Indirect fees from lenders are also known as ''back funded payments,'' ''overages,'' or ''servicing release premiums.''

RESPA and the 1999 Statement of Policy.

Clarification of the HUD Test

It is HUD's position that where compensable services are performed, the 1999 Statement of Policy requires application of both parts of the HUD test before a determination can be made regarding the legality of a lender payment to a mortgage broker.

1. *The First Part of the HUD Test:* Under the first part of HUD's test, the total compensation to a mortgage broker, of which a yield spread premium may be a component or the entire amount, must be for goods or facilities provided or services performed. HUD's position is that in order to discern whether a yield spread premium was for goods, facilities or services under the first part of the HUD test, it is necessary to look at each transaction individually, including examining all of the goods or facilities provided or services performed by the broker in the transaction, whether the goods, facilities or services are paid for by the borrower, the lender, or partly by both.

It is HUD's position that neither Section 8(a) of RESPA nor the 1999 Statement of Policy supports the conclusion that a yield spread premium can be presumed to be a referral fee based solely upon the fact that the lender pays the broker a yield spread premium that is based upon a rate sheet, or because the lender does not have specific knowledge of what services the broker has performed. HUD considers the latter situation to be rare. The common industry practice is that lenders follow underwriting standards that demand a review of originations and that therefore lenders typically know that brokers have performed the services required to meet those standards.

Yield spread premiums are by definition derived from the interest rate. HUD believes that a rate sheet is merely a mechanism for displaying the yield spread premium, and does not indicate whether a particular yield spread premium is a payment for goods and facilities actually furnished or services actually performed under the HUD test. Whether or not a yield spread premium is legal or illegal cannot be determined by the use of a rate sheet, but by how HUD's test applies to the transaction involved.

Section 8 prohibits the giving and accepting of fees, kickbacks, or things of value for the referral of settlement services and also unearned fees. It is therefore prudent for a lender to take action so as to ensure that brokers are performing compensable services and receiving only compensation that, in total, is reasonable for those services provided. As stated, however, in the 1999 Statement of Policy:

> The Department recognizes that some of the goods or facilities actually furnished or services actually performed by the broker in originating a loan are ''for'' the lender and other goods or facilities actually furnished or services actually performed are ''for'' the borrower. HUD does not believe that it is necessary or even feasible to identify or allocate which facilities, goods or services are performed or provided for the lender, for the borrower, or as a function of State or Federal law. All services, goods and facilities inure to the benefit of both the borrower and the lender in the sense that they make the loan transaction possible. * * * 64 FR 10086.

The 1999 Statement of Policy provided a list of compensable loan origination services originally developed by HUD in a response to an inquiry from the Independent Bankers Association of America (IBAA), which HUD considers relevant in evaluating mortgage broker services. In analyzing each transaction to determine if services are performed HUD believes the 1999 Statement of Policy should be used as a guide. As stated there, the IBAA list is not exhaustive, and while technology is changing the process of performing settlement services, HUD believes that the list is still a generally accurate description of settlement services. Compensation for these services may be paid either by the borrower or by the lender, or partly by both. Compensable services for the first part of the test do not include referrals or no, nominal, or duplicative work.

2. *Reasonableness of Broker Fees:* The second part of HUD's test requires that total compensation to the mortgage broker be reasonably related to the total set of goods or facilities actually furnished or services performed.

The 1999 Statement of Policy said in part:

> The Department considers that higher interest rates alone cannot justify higher total fees to mortgage brokers. All fees will be scrutinized as part of total compensation to determine that total compensation is reasonably related to the goods or facilities actually furnished or services actually performed. 64 FR 10084.

Accordingly, the Department believes that the second part of the test is applied by determining whether a mortgage broker's total compensation is reasonable. Total compensation includes fees paid by a borrower and any yield spread premium paid by a lender, not simply the yield spread premium alone. Yield spread premiums serve to allow the borrower a lower up front cash payment in return for a higher interest rate, while allowing the broker to recoup the total costs of originating the loan. Total compensation to the broker must be reasonably related to the total value of goods or facilities provided or services performed by the broker. Simply delivering a loan with a higher interest rate is not a compensable service. The Department affirms the 1999 Statement of Policy's position on this matter for purposes of RESPA enforcement.

The 1999 Statement also said:

> In analyzing whether a particular payment or fee bears a reasonable relationship to the value of the goods or facilities actually furnished or services actually performed, HUD believes that payments must be commensurate with the amount normally charged for similar services, goods or facilities. This analysis requires careful consideration of fees paid in relation to price structures and practices in similar transactions and in similar markets. If the payment or a portion thereof bears no reasonable relationship to the market value of the goods, facilities or services provided, the excess over the market rate may be used as evidence of a compensated referral or an unearned fee in violation of Section 8(a) or (b) of RESPA. 64 FR 10086.

The 1999 Statement of Policy also stated:

> The level of services mortgage brokers provide in particular transactions depends on the level of difficulty involved in qualifying applicants for particular loan programs. For example, applicants have differences in credit ratings, employment status, levels of debt, or experience that will translate into various degrees of effort required for processing a loan. Also, the mortgage broker may be required to perform various levels of services under different servicing or processing arrangements with wholesale lenders. 64 FR 10081.

In evaluating mortgage broker fees for enforcement purposes, HUD will consider these factors as relevant in assessing the reasonableness of mortgage broker compensation, as well as comparing total compensation for loans of similar size and similar characteristics within similar geographic markets.

Also, while the Department continues to believe that comparison to prices in similar markets is generally a key factor in determining whether a mortgage broker's total compensation is reasonable, it is also true that in less competitive markets comparisons to the prices charged by other similarly situated providers may not, standing alone, provide a useful measure. As a general principle, HUD believes that in evaluating the reasonableness of broker compensation in less competitive markets, consideration of price structures from a wider range of

providers may be warranted to reach a meaningful conclusion.

Part B. Providing Meaningful Information to Borrowers

In addition to addressing the legality of yield spread premiums in the 1999 Statement of Policy, HUD emphasized the importance of disclosing broker fees, including yield spread premiums.

There is no requirement under existing law that consumers be fully informed of the broker's services and compensation prior to the GFE. Nevertheless, HUD believes that the broker should provide the consumer with information about the broker's services and compensation, and agreement by the consumer to the arrangement should occur as early as possible in the process. 64 FR 10087.

HUD continues to believe that disclosure is extremely important, and that many of the concerns expressed by borrowers over yield spread premiums can be addressed by disclosing yield spread premiums, borrower compensation to the broker, and the terms of the mortgage loan, so that the borrower may evaluate and choose among alternative loan options.

In the 1999 Statement of Policy, HUD stated:

* * * HUD believes that for the market to work effectively, borrowers should be afforded a meaningful opportunity to select the most appropriate product and determine what price they are willing to pay for the loan based on disclosures which provide clear and understandable information.

The Department reiterates its long-standing view that disclosure alone does not make illegal fees legal under RESPA. On the other hand, while under current law, pre-application disclosure to the consumer is not required, HUD believes that fuller information provided at the earliest possible moment in the shopping process would increase consumer satisfaction and reduce the possibility of misunderstanding. 64 FR 10087.

HUD currently requires the disclosure of yield spread premiums on the Good Faith Estimate and the HUD–1. The 1999 Statement of Policy said:

The Department has always indicated that any fees charged in settlement transactions should be clearly disclosed so that the consumer can understand the nature and recipient of the payment. Code-like abbreviations like 'YSP to DBG, POC', for instance, have been noted. [Footnote omitted.] Also the Department has seen examples on the GFE and/or the settlement statement where the identity and/or purposes of the fees are not clearly disclosed.

The Department considers unclear and confusing disclosures to be contrary to the statute's and the regulation's purposes of making RESPA-covered transactions understandable to the consumer. At a minimum, all fees to the mortgage broker are to be clearly labeled and properly estimated on the GFE. On the settlement statement, the name of the recipient of the fee (in this case, the mortgage broker) is to be clearly labeled and listed, and the fee received from a lender is to be clearly labeled and listed in the interest of clarity. 64 FR 10086–10087.

While the disclosure on the GFE and HUD–1 is required, the Department is aware and has stated that the current GFE/HUD–1 disclosure framework is often insufficient to adequately inform consumers about yield spread premiums and other lender paid fees to brokers. Under the current rules, the GFE need not be provided until after the consumer has applied for a mortgage and may have paid a significant fee, and the HUD–1 is only given at closing. Because of this, HUD has in recent years sought to foster a more consumer beneficial approach to disclosure regarding yield spread premiums through successive rulemaking efforts. This history is discussed more fully in the 1999 Statement of Policy.[2]

Representatives of the mortgage industry have said that since the 1999 Statement of Policy, many brokers provide borrowers a disclosure describing the function of mortgage brokers and stating that a mortgage broker may receive a fee in the transaction from the lender. While the 1999 Statement of Policy commended the National Association of Mortgage Brokers and the Mortgage Bankers Association of America for strongly suggesting such a disclosure to their respective memberships, the Statement of Policy added:

Although this statement of policy does not mandate disclosures beyond those currently required by RESPA and Regulation X, the most effective approach to disclosure would allow a prospective borrower to properly evaluate the nature of the services and all costs for a broker transaction, and to agree to such services and costs before applying for a loan. Under such an approach, the broker would make the borrower aware of whether the broker is or is not serving as the consumer's agent to shop for a loan, and the total compensation to be paid to the mortgage broker, including the amounts of each of the fees making up the compensation. 64 FR 10087.

In HUD's view, meaningful disclosure includes many types of information: what services a mortgage broker will perform, the amount of the broker's total compensation for performing those services (including any yield spread premium paid by the lender), and whether or not the broker has an agency or fiduciary relationship with the borrower. The disclosure should also make the borrower aware that he or she may pay higher up front costs for a mortgage with a lower interest rate, or conversely pay a higher interest rate in return for lower up front costs, and should identify the specific trade-off between the amount of the increase in the borrower's monthly payment (and also the increase in the interest rate) and the amount by which up front costs are reduced. HUD believes that disclosure of this information, and written acknowledgment by the borrower that he or she has received the information, should be provided early in the transaction. Such disclosure facilitates comparison shopping by the borrower, to choose the best combination of up front costs and mortgage terms from his or her individual standpoint. HUD regards full disclosure and written acknowledgment by the borrower, at the earliest possible time, as a best practice.

Yield spread premiums are currently required to be listed in the ''800'' series of the HUD–1 form, listing ''Items Payable in Connection with Loan.'' This existing practice, however, does not disclose the purpose of the yield spread premium, which is to lower up front cost to borrowers. To achieve this end it has been suggested to the Department that the yield spread premium should be reported as a credit to the borrower in the ''200'' series, among the ''Amounts Paid by or in Behalf of Borrowers.'' The homebuyer or homeowner could then see that the yield spread premium is reducing closing costs, and also see the extent of the reduction.

HUD believes that improved early disclosure regarding mortgage broker compensation and the entry of yield spread premiums as credits to borrowers on the GFE and the HUD–1 settlement statement are both useful and complementary forms of disclosure. The Department believes that used together these methods of disclosure offer greater assurance that lender payments to mortgage brokers serve borrowers' best interests.

While the 1999 Policy Statement and IV. Part A. of this Statement only cover certain lender payments to mortgage brokers, as described above, HUD also believes that similar information on the trade-off between lower up front costs and higher interest rates and monthly payments should be disclosed to borrowers on all mortgage loan originations, not merely those originated by brokers. HUD is aware that while yield spread premiums are not used in loans originated by lenders, lenders are able to offer loans with low or no up

[2] In both the HUD/Federal Reserve Board Report on RESPA/TILA Reform, 1998, and the HUD/Treasury Report on Curbing Predatory Home Mortgage Lending, 2000, the agencies recommended earlier disclosures to facilitate shopping and lower settlement costs.

front costs required at closing by charging higher interest rates and recouping the costs by selling the loans into the secondary market for a price representing the difference between the interest rate on the loan and the par, or market, interest rate. Sale of such a loan achieves the same purpose as the yield spread premium does on a loan originated by a broker. The Department strongly believes that all lenders and brokers should provide the level of consumer disclosure that the purposes of RESPA intend and that fair business practices demand. As indicated in the 1999 Statement of Policy, HUD emphasizes that fuller information provided as early as possible in the shopping process would increase consumer satisfaction and reduce the possibility of misunderstanding. In the future, full and early disclosures are factors that the Department would weigh favorably in exercising its enforcement discretion in cases involving mortgage broker fees. Nevertheless, the Department also again makes clear that disclosure alone does not make illegal fees legal under RESPA. The Department will scrutinize all relevant information in making enforcement decisions, including whether transactions evidence practices that may be illegal.

Part C. Section 8(b) Unearned Fees

A. Background

RESPA was enacted in 1974 to provide consumers ''greater and more timely information on the nature of the costs of the [real estate] settlement process'' and to protect consumers from ''unnecessarily high settlement charges caused by certain abusive practices * * *'' 12 U.S.C. 2601.

Since RESPA was enacted, HUD has interpreted Section 8(b) as prohibiting any person from giving or accepting any unearned fees, i.e., charges or payments for real estate settlement services other than for goods or facilities provided or services performed. Payments that are unearned fees for settlement services occur in, but are not limited to, cases where: (1) Two or more persons split a fee for settlement services, any portion of which is unearned; or (2) one settlement service provider marks-up the cost of the services performed or goods provided by another settlement service provider without providing additional actual, necessary, and distinct services, goods, or facilities to justify the additional charge; or (3) one settlement service provider charges the consumer a fee where no, nominal, or duplicative work is done, or the fee is in excess of the reasonable value of goods or facilities provided or the services actually performed.

In the first situation, two settlement service providers split or share a fee charged to a consumer and at least part, if not all, of at least one provider's share of the fee is unearned. In the second situation, a settlement service provider charges a fee to a consumer for another provider's services that is higher than the actual price of such services, and keeps the difference without performing any actual, necessary, and distinct services to justify the additional charge. In the third situation, one settlement service provider charges a fee to a consumer where no work is done or the fee exceeds the reasonable value of the services performed by that provider, and for this reason the fee or any portion thereof for which services are not performed is unearned.

HUD regards all of these situations as legally indistinguishable, in that they involve payments for settlement services where all or a portion of the fees are unearned and, thus, are violative of the statute. HUD, therefore, specifically interprets Section 8(b) as not being limited to situations where at least two persons split or share an unearned fee for the provision to be violated.

As already indicated in this Statement of Policy, meaningful disclosure of all charges and fees is essential under RESPA. Such disclosures help protect consumers from paying unearned or duplicate fees. However, as noted above, in the 1999 Statement of Policy the Department reiterated ''its long-standing view that disclosure alone does not make illegal fees legal under RESPA.'' 64 FR 10087.

B. HUD's Guidance and Regulations

HUD guidance and regulations have consistently interpreted Section 8 as prohibiting all unearned fees. In 1976, HUD issued a Settlement Costs Booklet that provided that ''[i] t is also illegal to charge or accept a fee or part of a fee where no service has actually been performed.'' 41 FR 20289 (May 17, 1976). Between 1976 and 1992, HUD indicated in informal opinions that unearned fees occur where there are excessive fees charged, regardless of the number of settlement service providers involved.[3]

In the preamble to HUD's 1992 final rule revising Regulation X (57 FR 49600 (November 2, 1992)), HUD stated: ''Section 8 of RESPA (12 U.S.C. 2607) prohibits kickbacks for referral of business incident to or part of a settlement service and also prohibits the splitting of a charge for a settlement service, other than for services actually performed (i.e., no payment of unearned fees).'' 57 FR 49600 (November 2, 1992).

HUD's regulations, published on November 2, 1992, implement Section 8(b). Section 3500.14(c)[4] provides:

> No person shall give and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a settlement service in connection with a transaction involving a federally-related mortgage loan other than for services actually performed. A charge by a person for which no or nominal services are performed or for which duplicative fees are charged is an unearned fee and violates this Section. The source of the payment does not determine whether or not a service is compensable. Nor may the prohibitions of this part be avoided by creating an arrangement wherein the purchaser of services splits the fee.

24 CFR 3500.14(g)(2) states in part:

> The Department may investigate high prices to see if they are the result of a referral fee or a split of a fee. If the payment of a thing of value bears no reasonable relationship to the market value of the goods or services provided, then the excess is not for services or goods actually performed or provided. These facts may be used as evidence of a violation of Section 8 and may serve as a basis for a RESPA investigation. High prices standing alone are not proof of a RESPA violation.

24 CFR 3500.14(g)(3) provides in part:

> When a person in a position to refer settlement service business * * * receives a payment for providing additional settlement services as part of a real estate transaction, such payment must be for services that are actual, necessary and distinct from the primary services provided by such person.

[3] *See* e.g., Old Informal Opinion (6), August 16, 1976 and Old Informal Opinion (65), April 4, 1980; Barron and Berenson, *Federal Regulation of Real Estate and Mortgage Lending,* (4th Ed.1998). On November 2, 1992 (57 F.R. 49600), when HUD issued revisions to its RESPA regulations, it withdrew all of its informal counsel opinions and staff interpretations issued before that date. The 1992 rule provided, however, that courts and administrative agencies could use HUD's previous opinions to determine the validity of conduct occurring under the previous version of Regulation X. *See* 24 CFR 3500.4(c).

[4] The heading to 24 CFR 3500.14 is titled ''Prohibition against kickbacks and unearned fees.'' However, the heading of subsection (c) is titled ''split of charges,'' and the preamble to the November 1992 rule states ''[s]ection 8 of RESPA (12 U.S.C. 2607) prohibits kickbacks for referral of business incident to or part of a settlement service and also prohibits the splitting of a charge for a settlement service, other than for services actually performed (i.e., no payment of unearned fees).'' 57 FR 49600 (November 2, 1992). The rule headings and preamble text are a generalized description of Section 8 that is more developed in the actual regulation text. As discussed in Section D of this Statement of Policy, HUD believes that the actual text of the rules, as amended in 1992, makes clear that Section 8(b)'s prohibitions against unearned fees apply even when only one settlement service provider is involved.

In Appendix B to the HUD RESPA regulations, HUD provides illustrations of the requirements of RESPA. Comment 3 states in part:

> The payment of a commission or portion of the * * * premium * * * or receipt of a portion of the payment * * * where no substantial services are being performed * * * is a violation of Section 8 of RESPA. It makes no difference whether the payment comes from [the settlement service provider] or the purchaser. The amount of the payment must bear a reasonable relationship to the services rendered. Here [the real estate broker in the example] is being compensated for a referral of business to [the title company].

In 1996, in the preamble to the final rule on the Withdrawal of Employer/Employee and Computer Loan Origination Systems Exemptions [5] (61 FR 29238 (June 7, 1996)), HUD reiterated its interpretation of Section 8(b) of RESPA as follows:

> HUD believes that Section 8(b) of the statute and the legislative history make clear that no person is allowed to receive 'any portion' of charges for settlement services, except for services actually performed. The provisions of Section 8(b) could apply in a number of situations: (1) where one settlement service provider receives an unearned fee from another provider; (2) where one settlement service provider charges the consumer for third-party services and retains an unearned fee from the payment received; or (3) where one settlement service provider accepts a portion of a charge (including 100% of the charge) for other than services actually performed. The interpretation urged [by the commenters to the proposed rule published on July 21, 1994], that a single settlement service provider can charge unearned or excessive fees so long as the fees are not shared with another, is an unnecessarily restrictive interpretation of a statute designed to reduce unnecessary costs to consumers. The Secretary, charged by statute with interpreting RESPA, interprets Section 8(b) to mean that two persons are not required for the provision to be violated. 61 FR 29249.

The latest revision to the Settlement Costs Booklet for consumers, issued in 1997, also provides ''[i]t is also illegal for anyone to accept a fee or part of a fee for services if that person has not actually performed settlement services for the fee.'' 62 FR 31998 (June 11, 1997).

Further, HUD has provided information to the public and the mortgage industry in the ''Frequently Asked Questions'' section of its RESPA Web site, located at <*http://www.hud.gov/fha/sfh/res/resindus.html*>. Question 25 states:

> Can a lender collect from the borrower an appraisal fee of $200, listing the fee as such on the HUD–1, yet pay an independent appraiser $175 and collect the $25 difference?

The answer reads:

> No, the lender may only collect $175 as the actual charge. It is a violation of Section 8(b) for any person to accept a split of a fee where services are not performed.

In 1999, by letter submitted at the request of the Superior Court of California, Los Angeles County, in the case of *Brown* v. *Washington Mutual Bank* (Case No. BC192874), HUD provided the following response to a specific question posed by the court on lender ''markups'' of another settlement service provider's fees:

> A lender that purchases third party vendor services for purposes of closing a federally related mortgage loan may not, under RESPA, mark up the third party vendor fees for purposes of making a profit. HUD has consistently advised that where lenders or others charge consumers marked-up prices for services performed by the third party providers without performing additional services, such charges constitute ''splits of fees'' or ''unearned fees'' in violation of Section 8(b) of RESPA.

HUD noted in its letter to the court that the response reflected the Department's long-standing position.

C. Recent Cases

Notwithstanding HUD's regulations and other guidance, the Court of Appeals for the Seventh Circuit held, in *Echevarria* v. *Chicago Title and Trust Co.*, 256 F.3d 623 (7th Cir. 2001), that Section 8(b) was not violated where a title company, without performing any additional services, charged the plaintiffs more money than was required by the recorder's office to record a deed and the title company then retained the difference. The court reasoned that plaintiffs ''failed to plead facts tending to show that Chicago Title illegally shared fees with the Cook County Recorder. The Cook County Recorder received no more than its regular recording fees and it did not give to or arrange for Chicago Title to receive an unearned portion of these fees. The County Recorder has not engaged in the third party involvement necessary to state a claim under [RESPA § 8(b)].'' Id. at 626. The court in essence concluded that unearned fees must be passed from one settlement provider to another in order for such fees to violate Section 8(b).

Earlier, in *Willis* v. *Quality Mortgage USA, Inc.*, 5 F. Supp. 2d 1306 (M.D. Ala. 1998), cited by the Seventh Circuit in support of its conclusion, the district court concluded that 24 CFR 3500.14(c), ''[w]hen read as a whole,'' prohibits payments for which no services are performed ''only if those payments are split with another party.'' Id. at 1309. The *Willis* court held that there must be a split of a charge between a settlement service provider and a third party to establish a violation Section 8(b). The court also concluded that 24 CFR 3500.14(g)(3) only applied when there was a payment from a lender to a broker, or vice versa. The payment from a borrower to a mortgage lender could not be the basis for a violation of 24 CFR 3500.14(g)(3) and Section 8(b).

HUD was not a party to the cases and disagrees with these judicial interpretations of Section 8(b) which it regards as inconsistent with HUD's regulations and HUD's long-standing interpretations of Section 8(b).

D. Unearned Fees Under Section 8(b)

This Statement of Policy reaffirms HUD's existing, long-standing interpretation of Section 8(b) of RESPA. Sections 8(a) and (b) of RESPA contain distinct prohibitions. Section 8(a) prohibits the giving or acceptance of any payment pursuant to an agreement or understanding for the referral of settlement service business involving a federally related mortgage loan; it is intended to eliminate kickbacks or compensated referral arrangements among settlement service providers. Section 8(b) prohibits the giving or accepting of any portion, split, or percentage of any charge other than for goods or facilities provided or services performed; it is intended to eliminate unearned fees. Such fees are contrary to the Congressional finding when enacting RESPA that consumers need protection from unnecessarily high settlement charges. 12 U.S.C. 2601(a).

It is HUD's position that Section 8(b) proscribes the acceptance of any portion or part of a charge other than for services actually performed. Inasmuch as Section 8(b)'s proscription against ''any portion, split, or percentage'' of an unearned charge for settlement services is written in the disjunctive, the prohibition is not limited to a split. In HUD's view, Section 8(b) forbids the paying or accepting of any portion or percentage of a settlement service—including up to 100%—that is unearned, whether the entire charge is divided or split among more than one person or entity or is retained by a single person. Simply put, given that Section 8(b) proscribes unearned portions or percentages as well as splits, HUD does not regard the provision as restricting only fee splitting among settlement service providers. Further, since Section 8(b) on its face prohibits

[5] This final rule was delayed by legislation, but the Department implemented portions of the final rule that were not affected by the legislative delay on November 15, 1996. 61 FR 58472 (November 15, 1996).

the giving or accepting of an unearned fee by any person, and 24 CFR 3500.14(c) speaks of a charge by ''a person,'' it is also incorrect to conclude that the Section 8(b) proscription covers only payments or charges among settlement service providers.[6]

A settlement service provider may not levy an additional charge upon a borrower for another settlement service provider's services without providing additional services that are bona fide and justify the increased charge. Accordingly, a settlement service provider may not mark-up the cost of another provider's services without providing additional settlement services; such payment must be for services that are actual, necessary and distinct services provided to justify the charge. 24 CFR 3500.14(g)(3).[7] The HUD regulation implementing Section 8(b) states: ''[a] charge by a person for which no or nominal services are performed or for which duplicative fees are charged is an unearned fee and violates this Section.'' 24 CFR 3500.14 (c).

The regulations also make clear that a charge by a single service provider where little or no services are performed is an unearned fee that is prohibited by the statute. 24 CFR 3000.14(c). A single service provider is also prohibited from charging a duplicative fee. Further, a single service provider cannot serve in two capacities, e.g., a title agent and closing attorney, and be paid twice for the same service. The fee the service provider would be receiving in this case is duplicative under 24 CFR 3000.14(c) and not necessary and distinct under 24 CFR 3000.14(g)(3). Clearly, in all of these instances, the source of the payment—whether from consumers, other settlement service providers, or other third parties—is not relevant in determining whether the fee is earned or unearned because ultimately, all settlement payments come directly or indirectly from the consumer. See 24 CFR 3500.14(c). Therefore, a single settlement service provider violates Section 8(b) whenever it receives an unearned fee.

A single service provider also may be liable under Section 8(b) when it charges a fee that exceeds the reasonable value of goods, facilities, or services provided. HUD's regulations as noted state: ''If the payment of a thing of value bears no relationship to the goods or services provided, then the excess is not for services or goods actually performed or provided.'' 24 CFR 3500.14(g)(2). Section 8(c)(2) only allows ''the payment to any person of a bona fide salary or compensation or other payment for goods or facilities actually furnished or services actually performed,'' i.e., permitting only that compensation which is reasonably related to the goods or facilities provided or services performed. Compensation that is unreasonable is unearned under Section 8(b) and is not bona fide under Section 8(c)(2).

The Secretary, therefore, interprets Section 8(b) of RESPA to prohibit all unearned fees, including, but not limited to, cases where: (1) Two or more persons split a fee for settlement services, any portion of which is unearned; or (2) one settlement service provider marks-up the cost of the services performed or goods provided by another settlement service provider without providing additional actual, necessary, and distinct services, goods, or facilities to justify the additional charge; or (3) one service provider charges the consumer a fee where no, nominal, or duplicative work is done, or the fee is in excess of the reasonable value of goods or facilities provided or the services actually performed.

V. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has reviewed this Statement of Policy in accordance with Executive Order 12866, (captioned ''Regulatory Planning and Review''). OMB determined that this Statement of Policy is a ''significant regulatory action'' as defined in Section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes to the Statement of Policy resulting from this review are available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk.

Dated: October 15, 2001.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

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BILLING CODE 4210–27–P

[6] HUD is, of course, unlikely to direct any enforcement actions against consumers for the payment of unearned fees, because a consumer's intent is to make payment for services, not an unearned fee.

[7] HUD notes that some lenders have charged an additional fee merely for ''reviewing'' another settlement service provider's services. HUD does not regard such ''review'' as constituting an actual, necessary, or distinct additional service permissible under HUD's regulations.

Federal Register

Thursday,
October 18, 2001

Part VI

The President

Executive Order 13231—Critical Infrastructure Protection in the Information Age

Federal Register
Vol. 66, No. 202
Thursday, October 18, 2001

Presidential Documents

Title 3—

The President

Executive Order 13231 of October 16, 2001

Critical Infrastructure Protection in the Information Age

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to ensure protection of information systems for critical infrastructure, including emergency preparedness communications, and the physical assets that support such systems, in the information age, it is hereby ordered as follows:

Section 1. *Policy.*

(a) The information technology revolution has changed the way business is transacted, government operates, and national defense is conducted. Those three functions now depend on an interdependent network of critical information infrastructures. The protection program authorized by this order shall consist of continuous efforts to secure information systems for critical infrastructure, including emergency preparedness communications, and the physical assets that support such systems. Protection of these systems is essential to the telecommunications, energy, financial services, manufacturing, water, transportation, health care, and emergency services sectors.

(b) It is the policy of the United States to protect against disruption of the operation of information systems for critical infrastructure and thereby help to protect the people, economy, essential human and government services, and national security of the United States, and to ensure that any disruptions that occur are infrequent, of minimal duration, and manageable, and cause the least damage possible. The implementation of this policy shall include a voluntary public-private partnership, involving corporate and nongovernmental organizations.

Sec. 2. *Scope.* To achieve this policy, there shall be a senior executive branch board to coordinate and have cognizance of Federal efforts and programs that relate to protection of information systems and involve:

(a) cooperation with and protection of private sector critical infrastructure, State and local governments' critical infrastructure, and supporting programs in corporate and academic organizations;

(b) protection of Federal departments' and agencies' critical infrastructure; and

(c) related national security programs.

Sec. 3. *Establishment.* I hereby establish the ''President's Critical Infrastructure Protection Board'' (the ''Board'').

Sec. 4. *Continuing Authorities.* This order does not alter the existing authorities or roles of United States Government departments and agencies. Authorities set forth in 44 U.S.C. Chapter 35, and other applicable law, provide senior officials with responsibility for the security of Federal Government information systems.

(a) *Executive Branch Information Systems Security.* The Director of the Office of Management and Budget (OMB) has the responsibility to develop and oversee the implementation of government-wide policies, principles, standards, and guidelines for the security of information systems that support the executive branch departments and agencies, except those noted in section 4(b) of this order. The Director of OMB shall advise the President and the appropriate department or agency head when there is a critical deficiency in the security practices within the purview of this section in an executive branch department or agency. The Board shall assist and support the Director

of OMB in this function and shall be reasonably cognizant of programs related to security of department and agency information systems.

(b) *National Security Information Systems.* The Secretary of Defense and the Director of Central Intelligence (DCI) shall have responsibility to oversee, develop, and ensure implementation of policies, principles, standards, and guidelines for the security of information systems that support the operations under their respective control. In consultation with the Assistant to the President for National Security Affairs and the affected departments and agencies, the Secretary of Defense and the DCI shall develop policies, principles, standards, and guidelines for the security of national security information systems that support the operations of other executive branch departments and agencies with national security information.

(i) Policies, principles, standards, and guidelines developed under this subsection may require more stringent protection than those developed in accordance with subsection 4(a) of this order.

(ii) The Assistant to the President for National Security Affairs shall advise the President and the appropriate department or agency head when there is a critical deficiency in the security practices of a department or agency within the purview of this section. The Board, or one of its standing or ad hoc committees, shall be reasonably cognizant of programs to provide security and continuity to national security information systems.

(c) *Additional Responsibilities: The Heads of Executive Branch Departments and Agencies.* The heads of executive branch departments and agencies are responsible and accountable for providing and maintaining adequate levels of security for information systems, including emergency preparedness communications systems, for programs under their control. Heads of such departments and agencies shall ensure the development and, within available appropriations, funding of programs that adequately address these mission areas. Cost-effective security shall be built into and made an integral part of government information systems, especially those critical systems that support the national security and other essential government programs. Additionally, security should enable, and not unnecessarily impede, department and agency business operations.

Sec. 5. *Board Responsibilities.* Consistent with the responsibilities noted in section 4 of this order, the Board shall recommend policies and coordinate programs for protecting information systems for critical infrastructure, including emergency preparedness communications, and the physical assets that support such systems. Among its activities to implement these responsibilities, the Board shall:

(a) *Outreach to the Private Sector and State and Local Governments.* In consultation with affected executive branch departments and agencies, coordinate outreach to and consultation with the private sector, including corporations that own, operate, develop, and equip information, telecommunications, transportation, energy, water, health care, and financial services, on protection of information systems for critical infrastructure, including emergency preparedness communications, and the physical assets that support such systems; and coordinate outreach to State and local governments, as well as communities and representatives from academia and other relevant elements of society.

(i) When requested to do so, assist in the development of voluntary standards and best practices in a manner consistent with 15 U.S.C. Chapter 7;

(ii) Consult with potentially affected communities, including the legal, auditing, financial, and insurance communities, to the extent permitted by law, to determine areas of mutual concern; and

(iii) Coordinate the activities of senior liaison officers appointed by the Attorney General, the Secretaries of Energy, Commerce, Transportation, the Treasury, and Health and Human Services, and the Director of the Federal Emergency Management Agency for outreach on critical infrastructure protection issues with private sector organizations within the areas of concern to these departments and agencies. In these and other related functions, the Board shall work in coordination with the Critical Infrastructure Assurance Office (CIAO) and the National Institute of Standards and Technology of the Department of Commerce, the National Infrastructure Protection Center (NIPC), and the National Communications System (NCS).

(b) *Information Sharing.* Work with industry, State and local governments, and nongovernmental organizations to ensure that systems are created and well managed to share threat warning, analysis, and recovery information among government network operation centers, information sharing and analysis centers established on a voluntary basis by industry, and other related operations centers. In this and other related functions, the Board shall work in coordination with the NCS, the Federal Computer Incident Response Center, the NIPC, and other departments and agencies, as appropriate.

(c) *Incident Coordination and Crisis Response.* Coordinate programs and policies for responding to information systems security incidents that threaten information systems for critical infrastructure, including emergency preparedness communications, and the physical assets that support such systems. In this function, the Department of Justice, through the NIPC and the Manager of the NCS and other departments and agencies, as appropriate, shall work in coordination with the Board.

(d) *Recruitment, Retention, and Training Executive Branch Security Professionals.* In consultation with executive branch departments and agencies, coordinate programs to ensure that government employees with responsibilities for protecting information systems for critical infrastructure, including emergency preparedness communications, and the physical assets that support such systems, are adequately trained and evaluated. In this function, the Office of Personnel Management shall work in coordination with the Board, as appropriate.

(e) *Research and Development.* Coordinate with the Director of the Office of Science and Technology Policy (OSTP) on a program of Federal Government research and development for protection of information systems for critical infrastructure, including emergency preparedness communications, and the physical assets that support such systems, and ensure coordination of government activities in this field with corporations, universities, Federally funded research centers, and national laboratories. In this function, the Board shall work in coordination with the National Science Foundation, the Defense Advanced Research Projects Agency, and with other departments and agencies, as appropriate.

(f) *Law Enforcement Coordination with National Security Components.* Promote programs against cyber crime and assist Federal law enforcement agencies in gaining necessary cooperation from executive branch departments and agencies. Support Federal law enforcement agencies' investigation of illegal activities involving information systems for critical infrastructure, including emergency preparedness communications, and the physical assets that support such systems, and support coordination by these agencies with other departments and agencies with responsibilities to defend the Nation's security. In this function, the Board shall work in coordination with the Department of Justice, through the NIPC, and the Department of the Treasury, through the Secret Service, and with other departments and agencies, as appropriate.

(g) *International Information Infrastructure Protection.* Support the Department of State's coordination of United States Government programs for international cooperation covering international information infrastructure protection issues.

(h) *Legislation.* In accordance with OMB circular A–19, advise departments and agencies, the Director of OMB, and the Assistant to the President for Legislative Affairs on legislation relating to protection of information systems for critical infrastructure, including emergency preparedness communications, and the physical assets that support such systems.

(i) *Coordination with Office of Homeland Security.* Carry out those functions relating to protection of and recovery from attacks against information systems for critical infrastructure, including emergency preparedness communications, that were assigned to the Office of Homeland Security by Executive Order 13228 of October 8, 2001. The Assistant to the President for Homeland Security, in coordination with the Assistant to the President for National Security Affairs, shall be responsible for defining the responsibilities of the Board in coordinating efforts to protect physical assets that support information systems.

Sec. 6. *Membership.* (a) Members of the Board shall be drawn from the executive branch departments, agencies, and offices listed below; in addition, concerned Federal departments and agencies may participate in the activities of appropriate committees of the Board. The Board shall be led by a Chair and Vice Chair, designated by the President. Its other members shall be the following senior officials or their designees:

(i) Secretary of State;

(ii) Secretary of the Treasury;

(iii) Secretary of Defense;

(iv) Attorney General;

(v) Secretary of Commerce;

(vi) Secretary of Health and Human Services;

(vii) Secretary of Transportation;

(viii) Secretary of Energy;

(ix) Director of Central Intelligence;

(x) Chairman of the Joint Chiefs of Staff;

(xi) Director of the Federal Emergency Management Agency;

(xii) Administrator of General Services;

(xiii) Director of the Office of Management and Budget;

(xiv) Director of the Office of Science and Technology Policy;

(xv) Chief of Staff to the Vice President;

(xvi) Director of the National Economic Council;

(xvii) Assistant to the President for National Security Affairs;

(xviii) Assistant to the President for Homeland Security;

(xix) Chief of Staff to the President; and

(xx) Such other executive branch officials as the President may designate.

Members of the Board and their designees shall be full-time or permanent part-time officers or employees of the Federal Government.

(b) In addition, the following officials shall serve as members of the Board and shall form the Board's Coordination Committee:

(i) Director, Critical Infrastructure Assurance Office, Department of Commerce;
(ii) Manager, National Communications System;
(iii) Vice Chair, Chief Information Officers' (CIO) Council;
(iv) Information Assurance Director, National Security Agency;
(v) Deputy Director of Central Intelligence for Community Management; and
(vi) Director, National Infrastructure Protection Center, Federal Bureau of Investigation, Department of Justice.

(c) The Chairman of the Federal Communications Commission may appoint a representative to the Board.

Sec. 7. *Chair.* (a) The Chair also shall be the Special Advisor to the President for Cyberspace Security. Executive branch departments and agencies shall make all reasonable efforts to keep the Chair fully informed in a timely manner, and to the greatest extent permitted by law, of all programs and issues within the purview of the Board. The Chair, in consultation with the Board, shall call and preside at meetings of the Board and set the agenda for the Board. The Chair, in consultation with the Board, may propose policies and programs to appropriate officials to ensure the protection of the Nation's information systems for critical infrastructure, including emergency preparedness communications, and the physical assets that support such systems. To ensure full coordination between the responsibilities of the National Security Council (NSC) and the Office of Homeland Security, the Chair shall report to both the Assistant to the President for National Security Affairs and to the Assistant to the President for Homeland Security. The Chair shall coordinate with the Assistant to the President for Economic Policy on issues relating to private sector systems and economic effects and with the Director of OMB on issues relating to budgets and the security of computer networks addressed in subsection 4(a) of this order.

(b) The Chair shall be assisted by an appropriately sized staff within the White House Office. In addition, heads of executive branch departments and agencies are authorized, to the extent permitted by law, to detail or assign personnel of such departments and agencies to the Board's staff upon request of the Chair, subject to the approval of the Chief of Staff to the President. Members of the Board's staff with responsibilities relating to national security information systems, communications, and information warfare may, with respect to those responsibilities, also work at the direction of the Assistant to the President for National Security Affairs.

Sec. 8. *Standing Committees.* (a) The Board may establish standing and ad hoc committees as appropriate. Representation on standing committees shall not be limited to those departments and agencies on the Board, but may include representatives of other concerned executive branch departments and agencies.

(b) Chairs of standing and ad hoc committees shall report fully and regularly on the activities of the committees to the Board, which shall ensure that the committees are well coordinated with each other.

(c) There are established the following standing committees:

(i) *Private Sector and State and Local Government Outreach*, chaired by the designee of the Secretary of Commerce, to work in coordination with the designee of the Chairman of the National Economic Council.

(ii) *Executive Branch Information Systems Security*, chaired by the designee of the Director of OMB. The committee shall assist OMB in fulfilling its responsibilities under 44 U.S.C. Chapter 35 and other applicable law.

(iii) *National Security Systems.* The National Security Telecommunications and Information Systems Security Committee, as established by and consistent with NSD–42 and chaired by the Department of Defense, shall serve as a Board standing committee, and be redesignated the Committee on National Security Systems.

(iv) *Incident Response Coordination*, co-chaired by the designees of the Attorney General and the Secretary of Defense.

(v) *Research and Development*, chaired by a designee of the Director of OSTP.

(vi) *National Security and Emergency Preparedness Communications.* The NCS Committee of Principals is renamed the Board's Committee for National Security and Emergency Preparedness Communications. The reporting functions established above for standing committees are in addition to the functions set forth in Executive Order 12472 of April 3, 1984, and do not alter any function or role set forth therein.

(vii) *Physical Security*, co-chaired by the designees of the Secretary of Defense and the Attorney General, to coordinate programs to ensure the physical security of information systems for critical infrastructure, including emergency preparedness communications, and the physical assets that support such systems. The standing committee shall coordinate its work with the Office of Homeland Security and shall work closely with the Physical Security Working Group of the Records Access and Information Security Policy Coordinating Committee to ensure coordination of efforts.

(viii) *Infrastructure Interdependencies*, co-chaired by the designees of the Secretaries of Transportation and Energy, to coordinate programs to assess the unique risks, threats, and vulnerabilities associated with the interdependency of information systems for critical infrastructures, including the development of effective models, simulations, and other analytic tools and cost-effective technologies in this area.

(ix) *International Affairs*, chaired by a designee of the Secretary of State, to support Department of State coordination of United States Government programs for international cooperation covering international information infrastructure issues.

(x) *Financial and Banking Information Infrastructure*, chaired by a designee of the Secretary of the Treasury and including representatives of the banking and financial institution regulatory agencies.

(xi) *Other Committees*. Such other standing committees as may be established by the Board.

(d) *Subcommittees.* The chair of each standing committee may form necessary subcommittees with organizational representation as determined by the Chair.

(e) *Streamlining.* The Board shall develop procedures that specify the manner in which it or a subordinate committee will perform the responsibilities previously assigned to the Policy Coordinating Committee. The Board, in coordination with the Director of OSTP, shall review the functions of the Joint Telecommunications Resources Board, established under Executive Order 12472, and make recommendations about its future role.

Sec. 9. *Planning and Budget.* (a) The Board, on a periodic basis, shall propose a National Plan or plans for subjects within its purview. The Board, in coordination with the Office of Homeland Security, also shall make recommendations to OMB on those portions of executive branch department and agency budgets that fall within the Board's purview, after review of relevant program requirements and resources.

(b) The Office of Administration within the Executive Office of the President shall provide the Board 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. Only those funds that are available for the Office of Homeland Security, established by Executive Order 13228, shall be available for such purposes. To the extent permitted by law and as appropriate, agencies represented on the Board also may provide administrative support for the Board. The National Security Agency shall ensure that the Board's information and communications systems are appropriately secured.

(c) The Board may annually request the National Science Foundation, Department of Energy, Department of Transportation, Environmental Protection Agency, Department of Commerce, Department of Defense, and the Intelligence Community, as that term is defined in Executive Order 12333

of December 4, 1981, to include in their budget requests to OMB funding for demonstration projects and research to support the Board's activities.

Sec. 10. *Presidential Advisory Panels.* The Chair shall work closely with panels of senior experts from outside of the government that advise the President, in particular: the President's National Security Telecommunications Advisory Committee (NSTAC) created by Executive Order 12382 of September 13, 1982, as amended, and the National Infrastructure Advisory Council (NIAC or Council) created by this Executive Order. The Chair and Vice Chair of these two panels also may meet with the Board, as appropriate and to the extent permitted by law, to provide a private sector perspective.

(a) *NSTAC.* The NSTAC provides the President advice on the security and continuity of communications systems essential for national security and emergency preparedness.

(b) *NIAC.* There is hereby established the National Infrastructure Advisory Council, which shall provide the President advice on the security of information systems for critical infrastructure supporting other sectors of the economy: banking and finance, transportation, energy, manufacturing, and emergency government services. The NIAC shall be composed of not more than 30 members appointed by the President. The members of the NIAC shall be selected from the private sector, academia, and State and local government. Members of the NIAC shall have expertise relevant to the functions of the NIAC and generally shall be selected from industry Chief Executive Officers (and equivalently ranked leaders in other organizations) with responsibilities for the security of information infrastructure supporting the critical sectors of the economy, including banking and finance, transportation, energy, communications, and emergency government services. Members shall not be full-time officials or employees of the executive branch of the Federal Government.

(i) The President shall designate a Chair and Vice Chair from among the members of the NIAC.

(ii) The Chair of the Board established by this order will serve as the Executive Director of the NIAC.

(c) *NIAC Functions.* The NIAC will meet periodically to:

(i) enhance the partnership of the public and private sectors in protecting information systems for critical infrastructures and provide reports on this issue to the President, as appropriate;

(ii) propose and develop ways to encourage private industry to perform periodic risk assessments of critical information and telecommunications systems;

(iii) monitor the development of private sector Information Sharing and Analysis Centers (ISACs) and provide recommendations to the Board on how these organizations can best foster improved cooperation among the ISACs, the NIPC, and other Federal Government entities;

(iv) report to the President through the Board, which shall ensure appropriate coordination with the Assistant to the President for Economic Policy under the terms of this order; and

(v) advise lead agencies with critical infrastructure responsibilities, sector coordinators, the NIPC, the ISACs, and the Board.

(d) *Administration of the NIAC.*

(i) The NIAC may hold hearings, conduct inquiries, and establish subcommittees, as appropriate.

(ii) Upon the request of the Chair, and to the extent permitted by law, the heads of the executive branch departments and agencies shall provide the Council with information and advice relating to its functions.

(iii) Senior Federal Government officials may participate in the meetings of the NIAC, as appropriate.

(iv) Members shall serve without compensation for their work on the Council. However, members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Federal Government service (5 U.S.C. 5701–5707).

(v) To the extent permitted by law, and subject to the availability of appropriations, the Department of Commerce, through the CIAO, shall provide the NIAC with administrative services, staff, and other support services and such funds as may be necessary for the performance of the NIAC's functions.

(e) *General Provisions.*

(i) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.), may apply to the NIAC, the functions of the President under that Act, except that of reporting to the Congress, shall be performed by the Department of Commerce in accordance with the guidelines and procedures established by the Administrator of General Services.

(ii) The Council shall terminate 2 years from the date of this order, unless extended by the President prior to that date.

(iii) Executive Order 13130 of July 14, 1999, is hereby revoked.

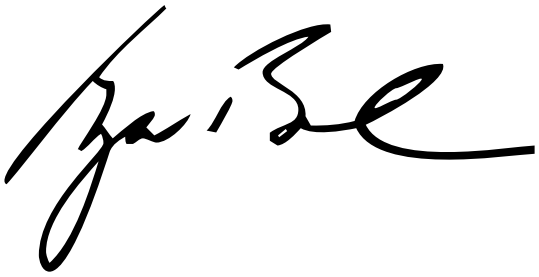
Sec. 11. *National Communications System.* Changes in technology are causing the convergence of much of telephony, data relay, and internet communications networks into an interconnected network of networks. The NCS and its National Coordinating Center shall support use of telephony, converged information, voice networks, and next generation networks for emergency preparedness and national security communications functions assigned to them in Executive Order 12472. All authorities and assignments of responsibilities to departments and agencies in that order, including the role of the Manager of NCS, remain unchanged except as explicitly modified by this order.

Sec. 12. *Counter-intelligence.* The Board shall coordinate its activities with those of the Office of the Counter-intelligence Executive to address the threat to programs within the Board's purview from hostile foreign intelligence services.

Sec. 13. *Classification Authority.* I hereby delegate to the Chair the authority to classify information originally as Top Secret, in accordance with Executive Order 12958 of April 17, 1995, as amended, or any successor Executive Order.

Sec. 14. *General Provisions.* (a) Nothing in this order shall supersede any requirement made by or under law.

(b) This order does not create any right or benefit, substantive or procedural, enforceable at law or equity, against the United States, its departments, agencies or other entities, its officers or employees, or any other person.



THE WHITE HOUSE,
October 16, 2001.

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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.

RULES GOING INTO EFFECT OCTOBER 18, 2001

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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.

H.R. 1583/P.L. 107–49

To designate the Federal building and United States courthouse located at 121 West Spring Street in New Albany, Indiana, as the "Lee H. Hamilton Federal Building and United States Courthouse". (Oct. 15, 2001; 115 Stat. 262)

H.R. 1860/P.L. 107–50

Small Business Technology Transfer Program Reauthorization Act of 2001 (Oct. 15, 2001; 115 Stat. 263)

H.J. Res. 42/P.L. 107–51

Memorializing fallen firefighters by lowering the American flag to half-staff in honor of the National Fallen Firefighters Memorial Service in Emmitsburg, Maryland. (Oct. 16, 2001; 115 Stat. 267)

H.J. Res. 51/P.L. 107–52

Approving the extension of nondiscriminatory treatment with respect to the products of the Socialist Republic of Vietnam. (Oct. 16, 2001; 115 Stat. 268)

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