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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2634

RIN 3209-AA00

Executive Branch Financial Disclosure, Qualified Trusts, and Certificates of Divestiture; Extensions of Filing Dates for Certain Confidential Financial Disclosure Report Filers

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule; amendment.

SUMMARY: The Office of Government Ethics is adopting as final a procedural rule amendment relating to extensions of filing dates for certain filers of Confidential Financial Disclosure Reports. The amendment allows agencies to extend the filing date for the submission of confidential reports for active duty members of the Armed Forces, civilian employees and others who are in a combat zone or otherwise supporting the Armed Forces or other governmental entities following a Presidential declaration of national emergency.

EFFECTIVE DATE: November 5, 2001.

FOR FURTHER INFORMATION CONTACT: Norman Smith, Senior Associate General Counsel, Office of Government Ethics; telephone: 202-208-8000; TDD: 202-208-8025; FAX: 202-208-8037.

SUPPLEMENTARY INFORMATION: On September 14, 2001, President George W. Bush declared that a national emergency has existed since September 11, 2001, by reason of the terrorist attacks at the World Trade Center, New York, New York, and the Pentagon, and the continuing and immediate threat of further attacks on the United States. See Presidential Proclamation 7463, as published at 66 FR 48199.

Members of the Armed Forces, reservists, and civilian employees are responding to the Presidential

proclamation of a national emergency. Many of these individuals who are in Federal Government service in the executive branch are required to file Confidential Financial Disclosure Reports under the disclosure system established pursuant to the Ethics in Government Act of 1978 as amended, and Executive Order 12674, as modified. The regulations governing the confidential financial disclosure reporting system are codified at subpart I of 5 CFR part 2634. The next filing date for incumbent confidential reports is October 31, 2001 (unless an extension not to exceed 90 days has been granted under agency authority).

Consequently, in order to ameliorate the filing burden on those confidential filers who are being deployed or sent to a combat zone or required to perform services away from their normal duty station in support of the Armed Forces or other governmental entities, this final rulemaking action revises paragraph (d) of § 2634.903 to provide for a discretionary extension of the filing date to last no longer than 90 days after the period of active duty service, return to the employee's normal duty station, or a resultant hospitalization.

This extension authority is intended to provide relief for persons who are in combat areas or otherwise responding to the national emergency, such as those situations where it is impractical for the confidential filer to obtain access to personal records. Our expectation is that an extension will not be granted unless the confidential filer is required to perform services outside the vicinity of her local commuting area (as defined by the agency). We note that agencies may look to existing agency policies or rules for guidance concerning what is considered to be outside the vicinity of the "local commuting area." Typically, agencies will have defined the limits of a local commuting area for such purposes as, for example, determining entitlement to transportation expenses (such as per diem) or entitlement to overtime pay for travel, or for reduction in force purposes. Finally, we note any such special extension granted is not intended to toll the running of the period of any regular extension granted by an agency under newly redesignated paragraph (d)(1) of § 2634.903.

Agencies may exercise their extension authority on a case-by-case basis or by class designation. Agencies should

appropriately document in their records the duration and circumstances of any case in which the extension is utilized, including for example the last date of service in a combat zone (if known), date of return to a permanent duty station, or the dates of any resultant hospitalization.

Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b) and (d), as Director of the Office of Government Ethics, I find good cause exists for waiving the provisions for general notice of proposed rulemaking, opportunity for public comment, and 30-day delay in effectiveness as to this amendment. These provisions are being waived because it is in the public interest that this amendment, which is being issued to assist in a national emergency and both grants authority for an exemption for, and relief of a restriction (filing burden) on, certain confidential report filers, take effect as soon as possible.

Executive Order 12866

In promulgating this final rule amendment, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Review and Planning. The amendment has not been reviewed by the Office of Management and Budget under that Executive order since it is not a significant regulatory action within the meaning of the Executive Order.

Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this final amendatory regulation in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this amendatory rule will not have a significant economic impact on a substantial number of small entities because it primarily affects Federal executive branch employees.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this amendment does not contain information collection requirements that require the approval of the Office of Management and Budget.

Congressional Review Act

The Office of Government Ethics has determined that this amendatory rulemaking is a nonmajor rule under the Congressional Review Act (5 U.S.C. chapter 8) and has provided a report thereon to the United States Senate, House of Representatives and General Accounting Office in accordance with that law.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), this rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (as adjusted for inflation).

List of Subjects in 5 CFR Part 2634

Certificates of divestiture, Conflict of interests, Confidential financial disclosure reports, Government employees, Penalties, Reporting and recordkeeping requirements, Trusts and trustees.

Approved: October 26, 2001.

Amy L. Comstock,

Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR part 2634 as follows:

**PART 2634—EXECUTIVE BRANCH
FINANCIAL DISCLOSURE, QUALIFIED
TRUSTS, AND CERTIFICATES OF
DIVESTITURE**

1. The authority citation for part 2634 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 26 U.S.C. 1043; Pub. L. 101-410, 104 Stat. 890, 28 U.S.C. 2461 **Note** (Federal Civil Penalties Inflation Adjustment Act of 1990), as amended by Sec. 31001, Pub. L. 104-134, 110 Stat. 1321 (Debt Collection Improvement Act of 1996); E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

**Subpart I—Confidential Financial
Disclosure Reports**

2. Section 2634.903 is amended by revising paragraph (d) to read as follows:

**§ 2634.903 General requirements, filing
dates, and extensions.**

* * * * *

(d) *Extensions*—(1) *Agency extensions.* The agency reviewing official may, for good cause shown, grant to any employee or class of employees a filing extension or several extensions totaling not more than 90 days.

(2) *Certain service during period of national emergency.* In the case of an active duty military officer or enlisted member of the Armed Forces, a Reserve or National Guard member on active duty under orders issued pursuant to title 10 or title 32 of the United States Code, a commissioned officer of the Uniformed Services (as defined in 10 U.S.C. 101), or any other employee, who is deployed or sent to a combat zone or required to perform services away from his permanent duty station in support of the Armed Forces or other governmental entities following a declaration by the President of a national emergency, the agency reviewing official may grant such individual a filing extension to last no longer than 90 days after the last day of:

(i) The individual's service in the combat zone or away from his permanent duty station; or

(ii) The individual's hospitalization as a result of injury received or disease contracted while serving during the national emergency.

(3) *Agency procedures.* Each agency may prescribe procedures to provide for the implementation of the extensions provided for by this paragraph.

[FR Doc. 01-27637 Filed 11-2-01; 8:45 am]

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DEPARTMENT OF AGRICULTURE

**Animal and Plant Health Inspection
Service**

9 CFR Part 94

[Docket No. 01-031-2]

**Change in Disease Status of France
and Ireland With Regard to Foot-and-
Mouth Disease**

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations governing the importation of certain animals, meat, and other animal products by adding France and Ireland to the list of regions considered to be free of rinderpest and foot-and-mouth disease (FMD) and to the list of regions

that are subject to certain import restrictions on meat and animal products because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. This final rule follows an interim rule that removed France, Ireland, and The Netherlands from those lists due to detection of FMD in those three regions. Based on the results of an evaluation of the current FMD situation in France and Ireland, we have determined that France and Ireland meet the standards of the Office International des Epizooties for being considered free of FMD. This rule relieves certain prohibitions and restrictions on the importation of ruminants and swine and fresh (chilled or frozen) meat and other products of ruminants and swine into the United States from France and Ireland. We are still evaluating the FMD situation in The Netherlands.

EFFECTIVE DATE: November 5, 2001.

FOR FURTHER INFORMATION CONTACT: Dr. Anne Goodman, Senior Staff Microbiologist, Regionalization Evaluation Services Staff, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737-1231; (301) 734-8083.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) govern the importation of certain animals and animal products into the United States in order to prevent the introduction of various animal diseases, including rinderpest, foot-and-mouth disease (FMD), African swine fever, hog cholera (also known as classical swine fever), and swine vesicular disease. These are dangerous and destructive communicable diseases of ruminants and swine. Section 94.1 of the regulations lists regions of the world that are considered free of rinderpest or free of both rinderpest and FMD. Rinderpest or FMD is considered to exist in all parts of the world not listed. Section 94.11 of the regulations lists regions of the world that APHIS has determined to be free of rinderpest and FMD, but from which importation of meat and animal products into the United States is restricted because of the regions' proximity to or trading relationships with rinderpest- or FMD-affected regions.

In an interim rule effective February 19, 2001, and published in the **Federal Register** on June 1, 2001 (66 FR 29686-29689, Docket No. 01-031-1), we amended the regulations by removing France, Ireland, and The Netherlands from the list of regions considered to be free of rinderpest and FMD. This action

was necessary because FMD had been confirmed in each of those regions. The effect of the interim rule was to prohibit or restrict the importation of any ruminant or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine into the United States from France, Ireland, and The Netherlands.

In that interim rule, we stated, "Although we are removing France, Ireland, and The Netherlands from the list of regions considered to be free of rinderpest and FMD, we recognize that the European Commission and the regions affected by this action have responded to the detection of FMD by imposing restrictions on the movement of ruminants, swine, and ruminant and swine products from FMD-affected areas; by conducting heightened surveillance activities; and by initiating measures to eradicate the disease. We intend to reassess this situation at a future date in accordance with the standards of the OIE. As part of that reassessment process, we will consider all comments received on this interim rule, as well as any additional information or data from the European Commission or individual Member States that support changing the disease status of a given region or regions. In future reassessments, we will determine whether it is necessary to continue to prohibit or restrict the importation of ruminants or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine from France, Ireland, and The Netherlands, or whether we can restore some or all of those countries to the list of regions in which FMD is not known to exist or regionalize portions of France, Ireland, and The Netherlands as FMD-free."

We solicited comments concerning the interim rule for 60 days ending July 31, 2001. We received four comments by that date. They were from U.S. businesses and trade associations and one Member State of the European Union. We have carefully considered these comments. They are discussed below by topic.

Status of France and Ireland

Two commenters suggested that we restore the FMD-free status of France and supplied information that supported such a change in status. No commenter supplied contradictory information or opinions. We agree that France and Ireland should have their FMD status restored. Our reasons follow.

According to the OIE, when FMD occurs in an FMD-free country or zone where vaccination is not practiced before the outbreak, the following

waiting periods are required to regain FMD-free status: 3 months after the last case, where stamping-out and serological surveillance are applied; or 3 months after the slaughter of the last vaccinated animal where stamping-out, serological surveillance and emergency vaccination are applied. France and Ireland did not vaccinate animals against FMD before or after the outbreaks that occurred in France on March 23, 2001, and in Ireland on March 22, 2001. Both countries immediately destroyed affected animals and conducted serological surveillance. The last case of FMD in France occurred on March 23, 2001, and the last case of FMD in Ireland occurred on March 22, 2001. We find that France as well as Ireland meet the OIE standards for regaining FMD-free status.

We have evaluated the FMD eradication efforts in France and Ireland based on information provided to us by those regions and our own site visits. Our findings and site visit reports may be viewed on the Internet at <http://www.aphis.usda.gov/vs/reg-request.html>. You may also request paper copies of these documents by calling or writing the person listed under **FOR FURTHER INFORMATION CONTACT**. Please refer to Docket No. 01-031-2 when requesting copies. These documents are also available in our reading room. (The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690-2817 before coming.)

Based on our findings and after reviewing comments submitted to us on the interim rule, we are amending the regulations by placing France and Ireland back on the list in § 94.1(a)(2) of regions that are declared free of both rinderpest and FMD. We are also placing France and Ireland back on the list in § 94.11(a) of regions that are declared free of rinderpest and FMD but that are subject to special restrictions on the importation of their meat and other animal products into the United States. The regions listed in § 94.11(a) are subject to these special restrictions because they: (1) Supplement their national meat supply by importing fresh (chilled or frozen) meat of ruminants or swine from regions that are designated in § 94.1(a) as regions where rinderpest or FMD exists; (2) have a common land border with regions where rinderpest or FMD exists; or (3) import ruminants or swine from regions where rinderpest or

FMD exists under conditions less restrictive than would be acceptable for importation into the United States.

This action relieves certain restrictions due to FMD and rinderpest on the importation into the United States of certain live animals and animal products from France and Ireland. However, because France and Ireland have certain trade practices regarding animals and animal products that are less restrictive than are acceptable for importation into the United States, the importation of meat and other products from ruminants and swine into the United States from France and Ireland continue to be subject to certain restrictions.

Status of The Netherlands

One commenter suggested that The Netherlands be recognized as FMD free, claiming that The Netherlands would be free of FMD by August 25, 2001. We are not making any changes based on this comment. We are continuing to monitor The Netherlands' progress with respect to FMD, and we are currently reevaluating the FMD status of that region. We will publish a separate document in the **Federal Register** with respect to the FMD status of The Netherlands when our evaluation is complete.

Notice and Comment Procedures

One commenter stated that APHIS should have followed the regulations in 9 CFR part 92 in its initial rulemaking to remove France, Ireland, and The Netherlands from the list of regions recognized as free of FMD, but not other European countries. The commenter noted that her organization had expressed the same concern in comments on previous interim rules that "regionalized" countries that had been recognized free of a disease and then experienced an outbreak (i.e., Docket 00-080-1, which established East Anglia, England, as a region affected with hog cholera, also known as classical swine fever, and continued to recognize the rest of Great Britain as free of hog cholera; Docket 00-104-1, which established KwaZulu-Natal, South Africa, as a region affected with FMD and continued to recognize the rest of the Republic of South Africa, with the exception of the already-established FMD control zone in Kruger National Park, as free of FMD; and Docket 00-111-1, which established Artigas, Uruguay, as a region affected with FMD and continued to recognize the rest of

Uruguay as free of FMD).¹ These comments, included as an attachment to the comment on this docket, also expressed concern about APHIS' statement in these interim rules that we intended to reassess the disease situations in these regions in accordance with the standards of the OIE to determine whether it is necessary to continue to prohibit or restrict the importation of animals and animal products from the regions identified in the interim rules. The commenter said that this statement suggests that APHIS intends at some future time to declare these regions free of the specified disease, again without following the process set forth in 9 CFR part 92.

The commenter identified several specific procedures set forth in 9 CFR part 92 that she believed we should be following. These are: (1) That APHIS will make information submitted in support of a request for regionalization available to the public prior to rulemaking; (2) that APHIS will publish a proposed rule for public comment; and (3) that during the comment period, the public will have access to the information upon which APHIS based its risk analysis, as well as to the methodology used to conduct the analysis.

The commenter stated that APHIS is currently applying these regulations only to countries that have had a foreign animal disease and now want the country or a region to be recognized by APHIS as free. The commenter objected to APHIS using a different process for countries that have been recognized as free by APHIS, then have an outbreak and want a region of the country to be recognized as free. The commenter noted that the procedure in these latter cases appears to be that APHIS administratively stops shipments of at-risk products, then follows with an interim rule that specifies which regions will be allowed to ship products to the United States. The commenter maintained that since at-risk shipments are immediately prohibited by administrative instruction, there appears to be no basis for issuing an emergency interim rule regionalizing a country without first providing an opportunity for public comment. In any case, the commenter also asserted that APHIS should make the information on which it bases its decisions for establishing regions via interim rules

available to the public for review and comment in advance of publication.

Our response is as follows. The regulations in 9 CFR part 92, "Importation of Animals and Animal Products; Procedures for Requesting Recognition of Regions," were issued in November 1997 in conjunction with APHIS' policy on regionalization (Docket 94-106-8, 62 FR 56027-56033, October 28, 1997). The regulations set out the process by which a foreign government may apply to have all or part of the country recognized as a region or for approval to export animals or animal products to the United States under new conditions based on the risk associated with animals or animal products from that region. Our intention was for these regulations to tell lower risk regions within countries or extending across national boundaries how to request approval for more favorable terms than adjoining or surrounding higher risk regions for exporting animals or animal products to the United States. We did not intend for these regulations to apply in circumstances where an outbreak of a disease, or an increased incidence of disease, in a foreign region makes it necessary for the United States to take interim measures to protect its livestock from the foreign animal disease. In these cases, APHIS must take immediate action to prohibit or restrict imports from the region of concern. Such action may include publishing an interim rule to provide an appropriate basis for enforcing prohibitions or restrictions that may initially be announced administratively. In these circumstances, APHIS has a responsibility to take whatever measures appear necessary to prevent the introduction of disease. We believe that publishing a proposed rule for comment would be contrary to the public interest because doing so would delay our taking protective actions. We also believe that making the information upon which we base our decisions for establishing a region via an interim rule available to the public for comment prior to publishing the interim rule would also be contrary to the public interest for the same reason. However, we will try to make the information available as soon as possible so that the public may understand the basis for our action.

We also believe it is appropriate for us, when the disease situation warrants it, to limit prohibitions or restrictions imposed by an interim rule to a portion of a country or other region previously recognized as free of a disease. This is because we will already have extensive information about the region, including

information on the authority, organization, and infrastructure of the veterinary services organization of the region; the extent to which movement of animals and animal products is controlled from regions of higher risk, and the level of biosecurity for such movements; livestock demographics and marketing practices in the region; the type and extent of disease surveillance conducted in the region; diagnostic laboratory capabilities in the region; and the region's policies and infrastructure for animal disease control, *i.e.*, the region's emergency response capacity. This information would have provided the basis for our previous recognition of the region as free of the disease. Our obligations under international trade agreements compel us to take no more restrictive actions than necessary to prevent the introduction of disease. Unless we determine that this information is no longer reliable, it provides a rational basis for believing that the region can effectively control an outbreak within a smaller region.

As to our statement in these interim rules that we intend to reassess the disease situations in these regions in accordance with the standards of the OIE to determine whether it is necessary to retain the prohibitions or restrictions established by the interim rules, the commenter is correct that this means we may, at some future time, declare these regions free of the specified disease without following the process set forth in 9 CFR part 92. Part 92 was not intended to apply to the situations dealt with in these interim rules. An interim rule of the type we issued in this rulemaking was intended to be just that, an "interim" or "temporary" measure which would provide the immediate protection we needed for animal health purposes. It gives APHIS an opportunity to evaluate the effectiveness of emergency response measures taken in the subject region to deal with the outbreak and to determine whether the outbreak is indeed a temporary situation or indicates a fundamental change in the region's disease status. If a region takes immediate and effective steps to control and stamp out the disease and meets the minimum OIE standards for restoration of free status, the region should be promptly returned to its previous status.

In the interim rule regarding France, Ireland, and The Netherlands, we stated:

Although we are removing France, Ireland, and The Netherlands from the list of regions considered to be free of rinderpest and FMD, we recognize that the European Commission and the regions affected by this action have responded to the detection of FMD by imposing restrictions on the movement of

¹ Docket 00-080-1 was published in the **Federal Register** on September 20, 2000, at 65 FR 56774-56775; Docket 00-104-1 was published in the **Federal Register** on November 2, 2000, at 65 FR 65728-65729; and Docket 00-111-1 was published in the **Federal Register** on December 13, 2000, at 65 FR 77771-77773.

ruminants, swine, and ruminant and swine products from FMD-affected areas; by conducting heightened surveillance activities; and by initiating measures to eradicate the disease. We intend to reassess this situation at a future date in accordance with the standards of the OIE. As part of that reassessment process, we will consider all comments received on this interim rule, as well as any additional information or data from the European Commission or individual Member States that support changing the disease status of a given region or regions. In future reassessments, we will determine whether it is necessary to continue to prohibit or restrict the importation of ruminants or swine and any fresh (chilled or frozen) meat and other products of ruminants or swine from France, Ireland, and The Netherlands, or whether we can restore some or all of those countries to the list of regions in which FMD is not known to exist or regionalize portions of France, Ireland, and The Netherlands as FMD-free.

We have now completed our reassessment of France and Ireland and find that these regions effectively controlled and stamped out FMD and now meet the standards of the OIE for regaining their former status as FMD-free regions. As noted earlier, we are assessing the status of The Netherlands separately. With respect to the other rulemakings that this commenter addressed, our reassessment of the disease situations in Artigas, Uruguay, and KwaZulu-Natal, South Africa, resulted in our removing, through subsequent interim rules, all of Uruguay and all of the rest of FMD-free region of South Africa from the list of FMD-free regions (see APHIS Dockets 00-111-2; and 00-122-1).² We have not yet taken further action with respect to East Anglia, England. We also have not yet taken further action with regard to the FMD situation in Great Britain and Northern Ireland, which we removed from the list of regions considered free of rinderpest and FMD in an interim rule published on March 14, 2001 (66 FR 14825-14826). For final rules such as this one for France and Ireland, we will make information regarding our reassessment available to the public as soon as possible, and not later than the date of the final rule. However, we do not believe that notice and opportunity for comment on the underlying information is required or appropriate in this context. We further believe that we have an obligation under our international trade agreements to restore a region previously recognized as free to the list of free regions as soon as practicable upon its meeting OIE

standards for free status. The United States would expect the same policy to be applied in the event of an outbreak of disease, and subsequent eradication of that disease, in this country.

The commenter raised one other issue, which was our statement in Docket 01-031-1 that the course of action we took with the interim rule was consistent with our obligations under the World Trade Organization in the Agreement on the Application of Sanitary and Phytosanitary Measures and the United States-European Union Veterinary Equivalency Agreement. The commenter asked whether "consistent with our obligations under [* * *] the United States-European Union Veterinary Equivalency Agreement" meant that we would allow trade to resume with European Union countries or regions that have not observed the 3 months of freedom from FMD as prescribed by the OIE. Our response is that we will not allow trade to resume with European Union countries or regions, or any other region, that does not meet the OIE standards for freedom from FMD. We will not accept less stringent measures than are provided by the OIE.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the administrative procedure provisions in 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. This rule restores France and Ireland to the list of regions considered free of FMD. Immediate action is necessary to remove restrictions on the importation of animals, meat, and other animal products that are no longer necessary. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

We are amending the regulations governing the importation of certain animals, meat, and other animal products by adding France and Ireland to the list of regions considered to be free of rinderpest and FMD and to the list of regions that are subject to certain import restrictions on meat and animal products because of their proximity to or trading relationships with rinderpest- or FMD-affected regions. This final rule

follows an interim rule that removed France, Ireland, and The Netherlands from those lists due to detection of FMD in those three regions. Based on the results of an evaluation of the current FMD situation in France and Ireland, we have determined that France and Ireland meet the standards of OIE for being considered free of FMD. This rule relieves certain prohibitions and restrictions on the importation of ruminants and swine and fresh (chilled or frozen) meat and other products of ruminants and swine into the United States from France and Ireland.

France and Ireland have not generally been major sources of U.S. imports of the products covered by the interim rule and this final rule, which include live ruminants, live swine, fresh (chilled or frozen) meat of ruminants and swine, processed ruminant and swine meat, some dairy products, animal feeds, and other ruminant and swine products such as semen, embryos, untanned hides and skins, unwashed wool, hair, bones, blood, and some other byproducts. Also, past imports of these products from France and Ireland represent a small fraction of the total U.S. imports or total U.S. production of these products. This final rule is not expected to alter these past trade patterns.

The majority of entities potentially affected by this final rule are considered small. For example, in 1997, approximately 97 percent (2,919 of 2,992) of meat and meat product wholesalers, 99 percent (1,490 of 1,503) of livestock wholesalers,³ 92 percent (79,155 of 86,022) of dairy farms, 99.3 percent (651,542 of 656,181) of cattle farms, 87 percent (40,185 of 46,353) of hog and pig farms, 99.5 percent (29,790 of 29,938) of sheep and goat farms,⁴ 98 percent (1,272 of 1,297) of slaughtering establishments, and 95 percent (1,324 of 1,393) of meat processing establishments⁵ would be considered small entities under the criteria set by the Small Business Administration. However, these entities should be little affected by this rulemaking because of the negligible effect on imports.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

³ 1997 Economic Census, Department of Commerce, Bureau of the Census.

⁴ 1997 Census of Agriculture, USDA, National Agricultural Statistics Service.

⁵ 1997 Economic Census, Department of Commerce, Bureau of the Census.

² Docket 00-111-2 was published in the **Federal Register** on July 13, 2001, at 66 FR 36695-36697; and Docket 00-122-1 was published in the **Federal Register** on February 9, 2001, at 66 FR 9641-9643.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock, Meat and meat products, Milk, Poultry and poultry products, Reporting and recordkeeping requirements.

Accordingly, we are amending 9 CFR part 94 as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), EXOTIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, HOG CHOLERA, AND BOVINE SPONGIFORM ENCEPHALOPATHY: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 continues to read as follows:

Authority: 7 U.S.C. 450, 7711, 7712, 7713, 7714, 7751, and 7754; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, 134f, 136, and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332; 7 CFR 2.22, 2.80, and 371.4.

§ 94.1 [Amended]

2. In § 94.1, paragraph (a)(2) is amended by adding, in alphabetical order, the words “France,” and “Ireland,”.

§ 94.11 [Amended]

3. In § 94.11, paragraph (a) is amended by adding, in alphabetical order, the words “France,” and “Ireland,”.

Done in Washington, DC, this 30th day of October 2001.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 01–27719 Filed 11–2–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF DEFENSE**Department of the Army****32 CFR Part 505**

[Army Reg. 340–21]

Privacy Act; Implementation

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army is revising six existing exemption rules. The exemption rules are being revised to add reasons from which information may be exempt, and to update the reasons for taking the exemptions.

EFFECTIVE DATE: October 22, 2001.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390 or Ms. Christie King at (703) 806–3711 or DSN 656–3711.

SUPPLEMENTARY INFORMATION: The proposed rules were previously published on August 9, 2001, at 66 FR 41814, and on August 21, 2001, at 66 FR 43818. No comments were received therefore; the rules are being adopted as final.

Executive Order 12866, “Regulatory Planning and Review”

The Director of Administration and Management, Office of the Secretary of Defense, hereby determines that Privacy Act rules for the Department of Defense are not significant rules. The rules do not (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 this Executive order.

Public Law 96–354, “Regulatory Flexibility Act” (5 U.S.C. Chapter 6)

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that Privacy Act rules for the Department of Defense do not have significant economic impact on a substantial number of small entities because they are concerned only with the administration of Privacy Act systems of records within the Department of Defense.

Public Law 96–511, “Paperwork Reduction Act” (44 U.S.C. Chapter 35)

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that Privacy Act rules for the Department of Defense impose no information requirements beyond the Department of Defense and that the information collected within the Department of Defense is necessary and consistent with 5 U.S.C. 552a, known as the Privacy Act of 1974. Section 202, Public Law 104–4, “Unfunded Mandates Reform Act”.

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that the Privacy Act rulemaking for the Department of Defense does not involve a Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more and that such rulemaking will not significantly or uniquely affect small governments.

Executive Order 13132, “Federalism”

The Director of Administration and Management, Office of the Secretary of Defense, hereby certifies that the Privacy Act rules for the Department of Defense do not have federalism implications. The rules do 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.

List of Subjects in 32 CFR Part 505

Privacy.

Accordingly, 32 CFR part 505 is amended as follows:

1. The authority citation for 32 CFR part 505 continues to read as follows:

Authority: Pub. L. 93–579, 88 Stat. 1896 (5 U.S.C. 552a).

2. Section 505.5 is amended by revising paragraphs (e)(1), (e)(5), (e)(6), (e)(12), (e)(19), (e)(29) introductory text, (e)(29)(i) and (ii), (e)(31), introductory text, (e)(31)(i) and (ii), and (e) (32) to read as follows:

§ 505.5 Exemptions.

* * * * *

(e) * * *

(1) *System identifier:* A0020–1a SAIG

(i) *System name:* Inspector General Investigative Files.

(ii) *Exemptions:* (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise

be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source. Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(c)(3), (d), (e)(4)(G) and (H), and (f).

(iii) *Authority:* 5 U.S.C. 552a(k)(2) and (k)(5).

(iv) *Reason:* (A) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsection (k)(2) of the Privacy Act of 1974.

(D) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(E) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Army will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Army's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the

disclosure would not otherwise impede effective law enforcement. Whenever possible, information of this nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated in this paragraph. The decisions to release information from these systems will be made on a case-by-case basis.

* * * * *

(5) *System identifier:* A0027-10a
DAJA

(i) *System name:* Prosecutorial Files.

(ii) *Exemptions:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws.

Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reason:* (A) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation the requirement that information be collected to the

greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsection (j)(2) of the Privacy Act of 1974.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(L) From subsection (g) because this system of records is compiled for law enforcement purposes and has been exempted from the access provisions of subsections (d) and (f).

(M) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Army will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Army's Privacy Regulation (this part 505), but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of this nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated in this paragraph. The decisions to release information from these systems will be made on a case-by-case basis.

(6) *System identifier:* A0027-10b DAJA

(i) *System name:* Courts-Martial Records and Reviews.

(ii) *Exemptions:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws. Therefore, portions of this system of records may be exempt pursuant to 5 U.S.C. 552a(j)(2) from the following subsection of 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reason:* (A) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection

or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsection (j)(2) of the Privacy Act of 1974.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(L) From subsection (g) because this system of records is compiled for law enforcement purposes and has been exempted from the access provisions of subsections (d) and (f).

(M) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Army will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Army's Privacy Regulation (this part 505), but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of this nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated in this paragraph. The decisions to release information from these systems will be made on a case-by-case basis.

* * * * *

(12) *System identifier:* A0190-45 DAMO

(i) *System name:* Offense Reporting System (ORS)

(ii) *Exemptions:* Parts of this system may be exempt pursuant to 5 U.S.C. 552a(j)(2) if the information is compiled and maintained by a component of the agency which performs as its principle function any activity pertaining to the enforcement of criminal laws. Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4)(G), (H) and (I), (e)(5), (e)(8), (f), and (g).

(iii) *Authority:* 5 U.S.C. 552a(j)(2).

(iv) *Reason:* (A) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the

subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (c)(4) because an exemption is being claimed for subsection (d), this subsection will not be applicable.

(C) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(D) From subsection (e)(1) because in the course of criminal investigations information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(E) From subsection (e)(2) because in a criminal investigation the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection.

(F) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information and endanger the life and physical safety of confidential informants.

(G) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsection (j)(2) of the Privacy Act of 1974.

(H) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(I) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(J) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue search authorizations and could reveal investigative techniques and procedures.

(K) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(L) From subsection (g) because this system of records is compiled for law enforcement purposes and has been exempted from the access provisions of subsections (d) and (f).

(M) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Army will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Army's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered, the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

* * * * *

(19) *System identifier:* A0340-21
TAPC

(i) *System name:* Privacy Case Files.

(ii) *Exemption:* During the processing of a Privacy Act request (which may include access requests, amendment requests, and requests for review for initial denials of such requests), exempt materials from other systems of records may in turn become part of the case record in this system. To the extent that copies of exempt records from those 'other' systems of records are entered into this system, the Department of the Army hereby claims the same exemptions for the records from those 'other' systems that are entered into this system, as claimed for the original primary system of which they are a part.

(iii) *Authority:* 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), (k)(6), and (k)(7).

(iv) Records are only exempt from pertinent provisions of 5 U.S.C. 552a to the extent such provisions have been identified and an exemption claimed for the original record and the purposes underlying the exemption for the original record still pertain to the record which is now contained in this system of records. In general, the exemptions were claimed in order to protect properly classified information relating to national defense and foreign policy, to avoid interference during the conduct of criminal, civil, or administrative actions or investigations, to ensure protective services provided the President and others are not compromised, to protect the identity of confidential sources incident to Federal employment, military service, contract, and security clearance determinations, and to preserve the confidentiality and integrity of Federal evaluation materials. The exemption rule for the original records will identify the specific reasons why the records are exempt from specific provisions of 5 U.S.C. 552a.

* * * * *

(29) *System identifier:* A0601-141
DASG.

(i) *System name:* Applications for Appointment to Army Medical Department.

(ii) *Exemption:* Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source. Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(d).

* * * * *

(31) *System identifier:* A0601-222
USMEPCOM

(i) *System name*: Armed Services Military Accession Testing

(ii) *Exemption*: Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service or military service may be exempt pursuant to 5 U.S.C. 552a(k)(6), if the disclosure would compromise the objectivity or fairness of the test or examination process. Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(d).

* * * * *

(32) *System identifier*: A0608-18 DASG.

(i) *System name*: Army Family Advocacy Program (FAP) Files

(ii) *Exemptions*: (A) Investigatory material compiled for law enforcement purposes may be exempt pursuant to 5 U.S.C. 552a(k)(2). However, if an individual is denied any right, privilege, or benefit for which he would otherwise be entitled by Federal law or for which he would otherwise be eligible, as a result of the maintenance of such information, the individual will be provided access to such information except to the extent that disclosure would reveal the identity of a confidential source.

(B) Investigative material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information may be exempt pursuant to 5 U.S.C. 552a(k)(5), but only to the extent that such material would reveal the identity of a confidential source.

(C) Therefore, portions of the system of records may be exempt pursuant to 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f).

(iii) *Authority*: 5 U.S.C. 552a(k)(2) and (k)(5).

(iv) *Reason*: (A) From subsection (c)(3) because the release of the disclosure accounting, for disclosures pursuant to the routine uses published for this system, would permit the subject of a criminal investigation or matter under investigation to obtain valuable information concerning the nature of that investigation which will present a serious impediment to law enforcement.

(B) From subsection (d) because access to the records contained in this system would inform the subject of a criminal investigation of the existence of that investigation, provide the subject of the investigation with information that might enable him to avoid detection or apprehension, and would present a serious impediment to law enforcement.

(C) From subsection (e)(1) because in the course of criminal investigations, information is often obtained concerning the violation of laws or civil obligations of others not relating to an active case or matter. In the interests of effective law enforcement, it is necessary that this valuable information be retained since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought.

(D) From subsections (e)(4)(G) and (H) because this system of records is exempt from individual access pursuant to subsections (k)(2) and (k)(5) of the Privacy Act of 1974.

(E) From subsection (e)(4)(I) because the identity of specific sources must be withheld in order to protect the confidentiality of the sources of criminal and other law enforcement information. This exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(F) From subsection (f) because this system of records has been exempted from the access provisions of subsection (d).

(G) Consistent with the legislative purpose of the Privacy Act of 1974, the Department of the Army will grant access to nonexempt material in the records being maintained. Disclosure will be governed by the Department of the Army's Privacy Regulation, but will be limited to the extent that the identity of confidential sources will not be compromised; subjects of an investigation of an actual or potential criminal violation will not be alerted to the investigation; the physical safety of witnesses, informants and law enforcement personnel will not be endangered; the privacy of third parties will not be violated; and that the disclosure would not otherwise impede effective law enforcement. Whenever possible, information of the above nature will be deleted from the requested documents and the balance made available. The controlling principle behind this limited access is to allow disclosures except those indicated above. The decisions to release information from these systems will be made on a case-by-case basis.

* * * * *

October 30, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01-27689 Filed 11-2-01; 8:45 am]

BILLING CODE 5001-08-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA-4155; FRL-7090-3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_x RACT Determinations for Eight Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania (Pennsylvania). The revisions impose reasonably available control technology (RACT) on eight major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO_x) located in the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA or the Act).

EFFECTIVE DATE: This final rule is effective on November 20, 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, PO 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 April 18, 2000, EPA published a direct final rule approving RACT determinations submitted by the Pennsylvania Department of Environmental Protection (PADEP) for twenty-six major sources of NO_x and/or volatile organic compounds (VOC) and a companion notice of proposed rulemaking (65 FR 20788). We received adverse comments on the direct final rule and a request for an extension of the comment period. We had indicated

in our April 18, 2000 direct final rulemaking that if we received adverse comments, we would withdraw the direct final rule and address all public comments in a subsequent final rule based on the proposed rule (65 FR 20788). On June 19, 2000 (65 FR 38168), EPA published a withdrawal notice in the **Federal Register** informing the public that the direct final rule did not take effect. On June 19, 2000 (65 FR 38169), we also published a notice providing an extension of the comment period and making corrections to our original proposed rule.

This final rule pertains to eight of the twenty-six sources which were included in the April 18, 2000 rulemaking. The remaining twenty-four sources have been or will be the subject of separate rulemakings.

II. Summary of the SIP Revisions

On November 4, 1997, July 24 1998, October 2, 1998, March 3, 1999, April 9, 1999, and April 20, 1999, the PADEP submitted NO_x and/or VOC RACT determinations for eight sources located in the Philadelphia area, namely Stoney Creek Technologies, LLC.; Supercap, Inc.; Transit America Inc.; American Bank Note Co.; Atlas Roofing Corporation; Beckett; Klearfold; and National Label Company. On April 18, 2000 (65 FR 20788), EPA proposed to approve these SIP revisions. Detailed descriptions of the RACT determination for these eight sources were provided in EPA's Technical Support Documents (TSDs) prepared in support of its April 18, 2000 rulemaking as well as in the SIP submissions made by PADEP, and shall not be restated here. Copies of those materials are in the administrative record for this final rule.

On April 18, 2000 EPA proposed to approve these RACT determinations (65 FR 20788) because the PADEP and the Philadelphia Air Management Services (AMS) established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The PADEP and the AMS have also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

III. Summary of Public Comments Received and EPA's Responses

EPA received comments on its April 18, 2000 proposal to approve Pennsylvania's RACT SIP submittals for twenty six-six sources from Citizens for Pennsylvania's Future (PennFuture), and from a concerned citizen. Only the comments submitted by PennFuture are

germane to the RACT determinations for Stoney Creek Technologies, LLC.; Supercap, Inc.; Transit America Inc.; American Bank Note Co.; Atlas Roofing Corporation; Beckett; Klearfold; and National Label Company. Those comments and EPA's responses are as follows:

Comments: PennFuture comments that EPA should require that each RACT submittal include "effective and enforceable numerical emission limits" as a condition for approval. Additionally, PennFuture requests that EPA only approve limits that are no higher than the best emission rate actually achieved after the application of RACT, adjusted only to reflect legally and technically valid averaging times and deviations. PennFuture contends that such an approach will ensure maximum environmental benefits and minimize the opportunity for sources to generate spurious emission reduction credits (ERCs) against limits that exceed emission levels actually achieved following the application of RACT. Lastly PennFuture comments that EPA should describe the RACT determinations in its rulemaking notices published in the **Federal Register** rather than simply citing to technical support documents and other materials available in docket of the rulemaking.

Response: 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. (See <http://www.epa.gov/ttn/catc/dir1/ctg.txt>).

In EPA's proposed conditional limited approval of the Commonwealth's RACT regulations (62 FR 43134, August 12, 1997) and in EPA's final conditional limited approval of those regulations (63 FR 13789, March 23, 1998), EPA addressed the issue of what types of RACT provisions would be acceptable. In the proposed rule EPA noted that

while it defines RACT as "the lowest emission limitation that a source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility," the definition of emission limitation did not necessarily require the establishment of a numerical emission limitation. EPA further noted that "(s)ection 302 of the Act in turn defines 'emission limitation' 'requirement * * * which limits the quantity, rate or concentration of air pollutants on a continuous basis,* * *, and any design, equipment, work practice or operational standard promulgated under this chapter.' " Furthermore, in the March 23, 1998 final rule EPA stated that, "it is possible that RACT for certain sources and source categories could consist of requirements that do not specifically include emission limitations, but instead have other limitations."

With regard to the criteria EPA uses to determine whether to approve or disapprove RACT SIP revisions submitted by PADEP pursuant to 25 PA Code Chapter 129.91–129.95, we look to the provisions of those SIP-approved regulations and to the requirements of the Clean Air Act and relevant EPA guidance. As previously stated, 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."

EPA reviews 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 first reviews a SIP submission to ensure that the source and the Commonwealth followed the SIP-approved generic rule when applying for and imposing RACT, respectively. 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 we may add additional EPA-generated analyses to the record. Thus, EPA does not believe it would be appropriate to only approve limits that are no higher than the best emission rate actually achieved after the application of RACT, adjusted only to reflect legally and technically valid averaging times and deviations.

EPA does note that an approved RACT emission limitation alone does not constitute the baseline against which ERCs may be generated. There are many other factors that must be considered in the calculation of eligible ERCs under Pennsylvania's approved SIP regulations governing the creation ERCs. Moreover, the scenario posed in PennFuture's comment would not create eligible ERC's under the Commonwealth approved SIP regulations. Under the Commonwealth's regulations pertaining to ERCs, found at 25 PA. Code Chapter 127, sections 127.206 through 127.210

(approved by the EPA at 62 FR 64722 on December 9, 1997), sources cannot obtain ERCs if they find that their RACT controls result in lower emissions than allowed by their specified RACT limits.

EPA believes that Federal rulemaking procedures allow for the format used in April 18, 2000 rulemaking (65 FR 20788). EPA believes that anyone interested in the specific requirements of the individual RACT determinations did have the opportunity to obtain that information, as in the preamble of the April 18, 2000 **Federal Register** notice, EPA offered to send anyone, upon request, a copy of the TSDs prepared in support of the action. Copies of those TSDs are included in the administrative record of this final rule.

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 Stoney Creek Technologies, LLC.; Supercap, Inc.; Transit America Inc.; American Bank Note Co.; Atlas Roofing Corporation; Beckett; Klearfold; and National Label Company. EPA is approving these RACT SIP submittals because PADEP and AMS established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The PADEP and AMS have also imposed recordkeeping, 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 (Pub. L. 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 eight 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 January 4, 2002. 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 revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and/or NO_x RACT for eight sources located in the Philadelphia 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: October 15, 2001.

James W. Newsom,

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)(187) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(187) Revisions to the Pennsylvania Regulations, Chapter 129.91 pertaining to NO_x RACT, submitted on November 4, 1997, July 24 1998, October 2, 1998,

March 3, 1999, April 9, 1999, and April 20, 1999.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific NO_x RACT determinations in the form of plan approvals or operating permits on November 4, 1997, July 24, 1998, October 2, 1998, March 3, 1999, April 9, 1999, and April 20, 1999.

(B) Plan approvals (PA), and Operating permits (OP) for the following sources:

(1) Stoney Creek Technologies, L.L.C., PA-23-0002, effective February 24, 1999, except for the expiration date.

(2) Superpac, Inc., OP-09-0003, effective March 25, 1999, except for the expiration date.

(3) Transit America Inc., PA-1563 for PLID 1563, effective June 11, 1997, except for Condition 4 and Condition 5.

(4) American Bank Note Company, OP-46-0075, effective May 19, 1997, as revised August 10, 1998, except for the expiration date.

(5) Atlas Roofing Corporation, OP-09-0039, effective March 10, 1999, except for the expiration date.

(6) Beckett Corporation, OP-15-0040, effective July 8, 1997, except for the expiration date.

(7) Klearfold, Inc., OP-09-0012, effective April 15, 1999, except for the expiration date.

(8) National Label Company, OP-46-0040, effective July 28, 1997.

(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)(187)(i)(B) of this section.

[FR Doc. 01-27579 Filed 11-2-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 70 and 71

[FRL-7096-4]

RIN 2060-AJ04

State and Federal Operating Permits Programs: Amendments to the Compliance Certification Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct Final Rule, removal of amendments.

SUMMARY: We, EPA, received adverse comment, on the direct final action

published on March 1, 2001 (66 FR 12872) to amend the State Operating Permits Program and the Federal Operating Permits Program. We had stated in that direct final action that, if we received adverse comment by April 2, 2001, we would publish a timely withdrawal in the **Federal Register**. We, however, did not publish the withdrawal prior to the April 30, 2001, effective date of the direct final rule. In this action, we are removing the amendments that were published in the March 1, 2001 direct final rule. We will address the adverse comment in a subsequent final action based on the parallel proposal also published on March 1, 2001 (66 FR 12916). We have determined that there is good cause for making this rule final without notice and comment procedures because under the terms of the March 1, 2001 direct final action, no amendment to the State and Federal Operating Permits Programs should have occurred. Thus, notice and comment are contrary to the public interest and unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B) and 553(d).

DATES: This action is effective November 5, 2001.

ADDRESSES: Docket No. A-91-52, containing information relevant to the direct final action being withdrawn, is available for public inspection between 8 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: Air and Radiation Docket and Information Center (6102), U.S. Environmental Protection Agency, 401 M Street, SW., Room 1500, Washington, DC 20460 or by phoning the Air Docket Office at (202) 260-7548. Refer to Docket No. A-91-52. The Docket Office may charge a reasonable fee for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Peter Westlin, Environmental Protection Agency, Office Air Quality Planning and Standards, at 919/541-1058, e-mail: westlin.peter@epa.gov, facsimile 919/541-1039.

SUPPLEMENTARY INFORMATION: On October 22, 1997 (62 FR 54900), we published the final part 64, Compliance Assurance Monitoring (CAM) rule, and revisions to parts 70 and 71, the State and Federal Operating Permits Programs. Part 64 included procedures, design specifications, and performance criteria intended to satisfy, in part, the enhanced monitoring requirements of the Clean Air Act ("the Act"). The revisions to parts 70 and 71 included language to Secs. 70.6(c)(5)(iii)(B) and 71.6(c)(5)(iii)(B) specifying the minimum information necessary for the compliance certification required of

responsible officials. Subsequent to that publication, the Natural Resources Defense Council, Inc. (NRDC) and the Appalachian Power Company et al. (industry) filed petitions with the United States Court of Appeals for the District of Columbia Circuit (Court) challenging several aspects of the CAM rule. In particular, the NRDC argued that the parts 70 and 71 revisions were inconsistent with the Act's explicit requirement that compliance certifications indicate whether compliance is continuous or intermittent. On October 29, 1999, the Court issued its decision (see docket A-91-52, item VIII-A-1) *Natural Resources Defense Council v. EPA*, 194 F.3d 130 (D.C. Cir. 1999) and agreed with NRDC that EPA's removal from parts 70 and 71 of the explicit requirement that compliance certifications address whether compliance is continuous or intermittent revisions ran contrary to the statutory requirement that each source must certify "whether compliance is continuous or intermittent * * *"

On March 1, 2001, we published a direct final action (66 FR 12872) and a parallel proposal (66 FR 12916) to amend the State Operating Permits Program and the Federal Operating Permits Program to effect the direction expressed in the remand. We stated in the direct final action that if we received adverse comment by April 2, 2001, we would publish a withdrawal in the **Federal Register** informing you that this direct final rule will not take effect. We received several adverse comments and, therefore, took steps to withdraw the direct final action. The withdrawal action, however, was not published prior to April 30, 2001, the date upon which the direct final rule amending Parts 70 and 71 took effect.

Because we received several adverse comments on the amendments to the State and Federal Operating Permits Programs, the direct final rule effecting those amendments, by its terms, should not have become effective. We, therefore, are hereby removing those amendments in today's action.

This removal action is simply a ministerial correction of the prior direct final rulemaking, which by its terms should not have become effective because several parties commented adversely on the amendments to the State and Federal Operating Permits Programs. Therefore, we are invoking the good cause exception under the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B) because we believe that notice-and-comment rulemaking of this removal action is contrary to the

public interest and unnecessary. This removal action merely restores the regulatory text that existed prior to the direct final rule. We stated in the March 1, 2001 direct final action that should adverse comment be received, the rule would not take effect. The rule took effect because we did not publish a timely withdrawal in the **Federal Register** prior to the rule's effective date. It would be contrary to the public interest to keep that final rule in effect when it should not have taken effect since adverse comment was received. Additionally, further notice-and-comment on this action is unnecessary because we are merely restoring the regulatory text that existed prior to the final rule. For the same reasons, we believe there is good cause for this removal to become effective upon publication. We will address all public comments in a subsequent final action on the parallel proposed rule amendment.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments does not apply to this action. Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. This rule is not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use because it is not a significant regulatory action under Executive Order 12866. This notice does not have any federalism implications under Executive Order 13132. The Paper Reduction Act, the Unfunded Mandates Reform Act, and the National Technology Transfer and Advancement Act do not apply here. 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 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of November 5, 2001. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Dated: October 25, 2001.

Christine Todd Whitman,
Administrator.

For the reasons stated in the preamble, we amend title 40, chapter I, parts 70 and 71 of the Code of Federal Regulations to read as follows:

PART 70—STATE OPERATING PERMIT PROGRAMS

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

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

2. Section 70.6 is amended by revising paragraph (c)(5)(iii)(C) to read as follows:

§ 70.6 Permit content.

* * * * *

(c) * * *

(5) * * *

(iii) * * *

(C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the method or means designated in paragraph (c)(5)(iii)(B) of this section. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under part 64 of this chapter occurred; and

* * * * *

PART 71—FEDERAL OPERATING PERMITS PROGRAMS

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

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

2. Section 71.6 is amended by revising paragraph (c)(5)(iii)(C) to read as follows:

§ 71.6 Permit content.

* * * * *

(c) * * *

(5) * * *

(iii) * * *

(C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the method or means designated in paragraph (c)(5)(iii)(B) of this section. The certification shall identify each deviation and take it into account in the compliance certification; and

* * * * *

[FR Doc. 01-27595 Filed 11-2-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 80**

[AMS-FRL-7096-5]

RIN-2060-AJ69

Revisions to the Requirements on Variability in the Composition of Additives Certified Under the Gasoline Deposit Control Program; Direct Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Deposits that form in gasoline-fueled motor vehicle engines and fuel supply systems have been shown to increase emissions of harmful air pollutants. All gasoline used in the U.S. must contain additives that have been certified with EPA as effective in limiting the formation of such deposits. During certification, additive manufacturers must provide EPA with information on additive composition. To ensure that in-use additives meet

EPA requirements, manufacturers are required to limit variation in the composition of additive production batches from that reported during certification.

Today's action makes revisions to the information that must be provided on additive composition by the manufacturer at the time of certification and clarifies the requirements associated with limiting variability in additive production batches. These changes address additive manufacturer concerns that compliance with the existing requirements would be burdensome and difficult, while maintaining the emissions control benefits of the gasoline deposit control program.

We are making these regulatory changes by direct final rule without prior proposal because we view these changes as noncontroversial revisions and anticipate no adverse comment. The "Proposed Rules" section of this **Federal Register**, contains a proposed rule in which we propose the regulatory changes in this direct final rule. If we receive no adverse comment, we will not take further action on the proposed rule. If we receive adverse comment, we will withdraw the portions of the direct final rule receiving such comment and those portions will not take effect. Any adverse comments received on this notice will be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. We are not planning to hold a public hearing regarding this action.

DATES: This rule is effective on February 4, 2002 without further notice, unless EPA receives adverse comment by January 4, 2002. If we receive adverse comment, we will withdraw an amendment, paragraph, or section of the direct final rule receiving such comment and those amendments, paragraphs, or sections will not take effect. Any distinct amendment, paragraph, or section of today's rulemaking for which we do not receive adverse comment will become effective on the date set out above, notwithstanding any adverse comment on any other distinct amendment, paragraph, or section of today's rule.

ADDRESSES: Interested parties may submit written comments in response to this notice (in duplicate if possible) to Public Docket No. A-2001-15, at: Air Docket Section, U.S. Environmental Protection Agency, Attention: Docket No. A-2001-15, First Floor, Waterside Mall, Room M-1500, 401 M Street SW., Washington, DC 20460 (Telephone 202-260-7548; Fax 202-260-4400). We also request that a copy of the comments be sent to Jeff Herzog by mail at, U.S. EPA, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, MI 48105-2498, or by E-Mail at herzog.jeff@epa.gov

This direct final rule and the associated proposed rule are available electronically on the day of publication from the Office of the Federal Register internet Web site listed below. Electronic copies of these notices are also available from the EPA Office of Transportation and Air Quality Web site listed below. This service is free of charge, except for any cost that you already incur for internet connectivity.

Federal Register Web Site:

<http://www.epa.gov/docs/fedrgstr/EPA-AIR/> (Either select desired date or use Search feature.)

Office of Transportation and Air Quality Web Site:

<http://www.epa.gov/otaq/> (Look in "What's New" or under the specific rulemaking topic.)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

FOR FURTHER INFORMATION CONTACT: Jeff Herzog, U.S. Environmental Protection Agency, Assessment and Standards Division, 2000 Traverwood, Ann Arbor, MI, 48105-2498. Telephone (734) 214-4227; Fax (734) 214-4051; e-mail herzog.jeff@epa.gov

SUPPLEMENTARY INFORMATION:**Regulated Entities**

Entities potentially regulated by this action are those that manufacture gasoline deposit control (detergent) additives. Regulated categories and entities include:

Category	NAICS code	SIC code	Example of regulated entities
Industry	325998	2899	Gasoline deposit control additive manufacturers.

a. North American Industry Classification System (NAICS).

b. Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be 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 the table could also be regulated. To determine whether your organization is regulated by this action, you should carefully examine the applicability requirements in § 80.161(a), the detergent certification requirements in § 80.161(b), the program controls and prohibitions in § 80.168, and other related program requirements in Subpart G, title 40, of the Code of Federal Regulations (CFR). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

I. Overview of Action

The accumulation of deposits in the engine and fuel supply systems of gasoline motor vehicles can significantly increase emissions of nitrous oxides (NO_x), hydrocarbons (HC), and carbon monoxide (CO). Pursuant to the requirements of Section 211(l) of the Clean Air Act (CAA), EPA set forth a gasoline deposit control program which requires that all gasoline sold for use in motor vehicles in the United States (U.S.) contain additives that are effective in limiting the formation of such deposits (40 CFR Part 80). Specifically, EPA requires that deposit control additives be certified for their ability to control fuel injector and intake valve deposits in EPA-specified test procedures. The final requirements of EPA's gasoline deposit control program were published on July 5, 1996, and became effective August 1, 1997 (61 FR 35309).

Variation in the composition of gasoline deposit control additives (DC additives) from one production batch to the next could have a substantial impact on their ability to control deposits, and on the emissions benefits of EPA's deposit control program. To ensure that the in-use performance of gasoline deposit control additives matches that demonstrated in the certification testing, EPA set forth requirements limiting the variability in the composition of additive production batches (from the composition reported in the additive's certification).

The Chemical Manufacturers Association (CMA, which is now the American Chemistry Council) notified EPA that certain aspects of the requirements to limit variability in DC additive composition would be

burdensome and difficult for additive manufacturers to comply with. CMA also stated that other related provisions needed to be clarified. Accordingly, CMA filed a petition for review of these requirements.¹ CMA then entered into a process with EPA to evaluate alternatives to EPA's current requirements. Through this process, changes to EPA's current requirements were developed that resolve CMA's concerns while meeting EPA's goal of preserving the emissions benefits of the gasoline deposit control program by effectively limiting variability in additive composition. Today's Final Rule makes the changes which CMA and EPA agreed upon in the settlement agreement to resolve CMA's petition for review.

EPA is publishing this rule without prior proposal because we view these provisions as non-controversial amendments and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to make these regulatory revisions if adverse comments are filed. This rule will be effective on February 4, 2002 without further notice unless we receive adverse comment by January 4, 2002.

If EPA receives adverse comment on one or more distinct provisions, paragraphs, or sections of this rulemaking, we will publish a timely withdrawal in the **Federal Register** indicating which provisions, will become effective and which provisions are being withdrawn due to adverse comment. Any distinct amendment, paragraph, or section of today's rulemaking for which we do not receive adverse comment will become effective on the date set out above, notwithstanding any adverse comment on any other distinct amendment, paragraph, or section of today's rule. We will address any adverse comments received on this notice in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

II. What Revisions Does This Rule Make to the Requirements on Deposit Control Additives?

The current requirements on DC additives that CMA requested be reviewed are contained in 40 CFR

80.162(a)(3) on DC additive composition variability, 40 CFR 80.162(d) on the test method to evaluate the composition of DC additives, and 40 CFR 80.169(c)(4) on detergent (deposit control additive) manufacturer presumptive liability affirmative defense. Following is a discussion of the requirements CMA requested be reviewed, EPA's reasons for establishing them in their current form, and the changes to these requirements made by today's notice.

A. Revisions to the Requirements on Variability in Additive Composition

Revisions to 40 CFR 80.162(a)(3)(i)(B)

The current regulatory requirements in 40 CFR 80.162(a)(3)(i)(B) state that:

(i) The composition of a detergent additive reported in a single additive registration (and the detergent additive product sold under a single additive registration) may not:

* * * * *

(B) Include a range of concentration for any detergent-active component such that, if the component were present in the detergent additive package at the lower bound of the reported range, the deposit control effectiveness of the additive package would be reduced as compared with the level of effectiveness demonstrated during certification testing.

EPA's goal in establishing this requirement in its current form was to ensure that each component of a deposit control (detergent) additive is present in additive production batches at no less the concentration needed to meet EPA's deposit control performance requirements.

CMA requested that the requirements of 40 CFR 80.162(a)(3)(i)(B) be revised by adding to the end: "Subject to the foregoing constraint, a detergent additive product sold under a particular additive registration may contain a higher concentration of a detergent-active component(s) than the concentration(s) of such component(s) reported in the registration for the additive." CMA requested these revisions to make it clear that an additive manufacturer has the flexibility to increase the concentration of a detergent-active component of a deposit control additive provided that this does not result in a decrease in the concentration of other detergent-active components in the additive package.

EPA agrees that the suggested revision would appropriately clarify that an additive manufacturer has the flexibility to increase the concentration of a detergent-active component. The suggested revision would not adversely affect the environmental benefits of the

¹ Petition for review under the Clean Air Act's judicial review provisions, *Chemical Manufacturers Association v. U.S. EPA*, No. 96-1297, August 26, 1996.

program, since the requirement would remain that each detergent-active component in the additive package must be present at least at the minimum concentration indicated in the additive's certification. Consequently, EPA is making the suggested revision to 40 CFR 80.162(a)(3)(i)(B).

Revisions to 40 CFR 80.162(a)(3)(ii):

The current requirements in 40 CFR 80.162(a)(3)(ii) state that:

(ii) The identity or concentration of non-detergent-active components of the detergent additive package may vary under a single registration, provided that the range of such variation is specified in the registration and that such variability does not reduce the deposit control effectiveness of the additive package as compared with the level of effectiveness demonstrated during certification testing.

EPA's goal in establishing this requirement in its current form was to ensure that the effectiveness of deposit control additives is not adversely affected by variability in the composition of non-detergent-active components.

CMA requested that 40 CFR 80.162(a)(3)(ii) be revised by deleting: "the range of such variation is specified in the registration and that." CMA stated that there is no need to report the range of variation in the identity or concentration of non-detergent-active components since such variation does not affect the efficacy of the deposit control additive package. CMA further stated that additive manufacturers commonly switch the nondetergent-active components they use depending on market conditions. CMA stated that restricting this flexibility would increase manufacturing costs, and potentially cause supply problems.

EPA agrees that maximizing additive manufacturer flexibility in the choice of non-detergent-active components would reduce the burden of compliance on additive manufacturers and would not jeopardize the emissions benefits of the gasoline deposit control additive program. Differences in the composition and concentration of non-detergent-additive components would have no impact on the efficacy of the deposit control additive package provided that such differences do not affect the concentration of detergent-active components in the package. There would continue to be adequate regulatory requirements to prevent such an occurrence. Thus, the change would not affect the environmental benefits of the gasoline deposit control program. Consequently, EPA is making the

suggested revision to 40 CFR 80.162(a)(3)(ii).

B. Revisions to the Requirements on the Additive Composition Test Results

Revisions to 40 CFR 80.162(d):

The current requirements in 40 CFR 80.162 state that:

§ 80.162 Additive compositional data.

For a detergent additive product to be eligible for use by detergent blenders in complying with the gasoline detergency requirements of this subpart, the compositional data to be supplied to EPA by the additive manufacturer for the purpose of registering a detergent additive package under § 79.21(a) of this chapter must include* * *.

* * * * *

(d) Description of an FTIR-based method appropriate for identifying the detergent additive package and its detergent-active components (polymers, carrier oils, and others) both qualitatively and quantitatively, together with the actual infrared spectra of the detergent additive package and each detergent-active component obtained by this test method.

EPA's goal in establishing this requirement in its current form was to ensure that the test method supplied by the additive manufacturer to evaluate the composition of a deposit control additive is sufficiently detailed to enable EPA to determine whether the appropriate detergent-active components are present at a concentration no less than the minimum concentration reported in the additive's certification.

CMA requested that 40 CFR 80.162(d) be revised by adding to the end: "The FTIR infrared spectra submitted in connection with the registration of a detergent additive package must reflect the results of a test conducted on a sample of the additive containing the detergent-active component(s) at a concentration no lower than the concentration(s) (or the lower bound of a range of concentration) reported in the registration pursuant to paragraph (a)(3)(i)(B) of this section." CMA stated that this addition would help to clarify the criteria EPA would use in evaluating the validity of the additive composition test data supplied at certification by explicitly stating the focus is identifying the detergent-active components in the deposit control additive package. CMA stated that this change is consistent with the change discussed in the previous section which would eliminate reporting requirements regarding variability in the composition and concentration of non-detergent-active

components in the deposit control additive package.

EPA agrees that this change would serve to clarify the regulatory requirements and is consistent with the change discussed in the previous section regarding reporting requirements related to the nondetergent-active components of the deposit control additive package. Consequently, EPA is making the suggested revision to 40 CFR 80.162(d).

C. Revisions to the Requirements on Detergent Manufacturer Presumptive Liability Affirmative Defense

Revisions to 40 CFR 80.169(c)(4)(i)(C)(2)

The current requirements in 40 CFR 80.169(c)(4)(i)(C)(2) state that:

(2) To establish that, when it left the manufacturer's control, the detergent component of the noncomplying product was in conformity with the chemical composition and concentration specifications reported pursuant to § 80.161(b), the FTIR test results for the detergent batch used in the noncomplying product must, in EPA's judgment, be consistent with the FTIR results submitted at the time of registration pursuant to § 80.162(d).

EPA's goal in establishing this requirement in its current form was to ensure that the in-use composition of the detergent-active components in a deposit control additive package is consistent with the composition reported in the additive's certification.

CMA requested that 40 CFR 80.169(c)(4)(i)(C)(2) be revised by deleting: "in EPA's judgment." CMA stated that this phrase inappropriately suggests that EPA's evaluation of the additive composition test data could be based on subjective criteria not open to public review. EPA agrees that the evaluation of additive composition test data must be based on objective scientific and engineering criteria that are open to public evaluation. Therefore, EPA is making the suggested revision to 40 CFR 80.169(c)(4)(i)(C)(2) to eliminate the potential misunderstanding.

III. What Are the Economic and Environmental Impacts?

The revisions made by today's notice will reduce the burden of compliance with the gasoline deposit control additive program while not impacting the environmental benefits of the program.

IV. Administrative Requirements

A. Administrative Designation

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency

must determine whether this regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or 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.

EPA has determined that this rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Regulatory Flexibility

EPA determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. Today's final rule will not have a significant impact on a substantial number of small entities. Today's rule simplifies the requirements for additive manufacturers under the gasoline deposit control program and does not impose any significant new requirements. The regulatory changes in today's rule will reduce the burden of compliance for all affected parties.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement to accompany any proposed and final rule that includes a federal mandate that may result in expenditures by state, local, and tribal governments in the aggregate, or by the private sector, of \$100 million or more for any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost

effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments. The rule imposes no enforceable duties on any of these governmental entities. Nothing in the regulatory provisions in this direct final rule would significantly or uniquely affect small governments. EPA has determined that this rule does not contain a federal mandate that may result in expenditures of \$100 million or more in any one year for State, local, and tribal governments in the aggregate, or the private sector in any one year. The amendments contained in this final rule simplify the requirements under the gasoline deposit control program, and do not impose any significant new requirements.

D. Compliance With the Paperwork Reduction Act

Today's direct final rule does not impose any new information collection burden. No new information collection requirements would result from the implementation of the provisions which are the subject of this action.

The Office of Management and Budget (OMB) has previously approved the information collection requirements of the EPA's Gasoline Deposit Control Additive Program contained in 40 CFR Part 80 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2060-0275 (EPA ICR No. 1655.04). Today's rule does not result in a change in the requirements contained in this ICR.

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.

Copies of the ICR documents may be obtained from Sandy Farmer, Information Policy Branch; EPA; 401 M St., SW. (mail code 2136); Washington, DC 20460 or by calling (202) 260-2740. Include the ICR and/or OMB number in any correspondence.

E. Compliance With Executive Order 13045

This direct final rule is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

F. Consultation and Coordination With Indian Tribal Governments

On January 1, 2001, Executive Order 13084 was superseded by DO 13175. However this rule was developed during the period when Executive Order 13084 was still in force, and so tribal considerations were addressed under Executive Order 13084. In the "Proposed Rules" section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to make these regulatory revisions if adverse comments are filed. This proposed rule was also developed during the period when Executive Order 13084 was still in force, and so tribal considerations were addressed under Executive Order 13084. In the event that adverse comments are received on this proposal, we will address any such comments received in a subsequent final rule based on the proposed rule. Development of such a subsequent final rule will address tribal considerations under Executive Order 13175.

Under Executive Order 13084, EPA may not issue a regulation that is not

required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

This rule does not significantly or uniquely affect the communities of Indian tribal governments. As noted above, this direct final rule makes minor technical changes to federal regulations that will be implemented at the federal level and affects only obligations on private industry. Accordingly, the requirements of Executive Order 13084 do not apply to this rule.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 ("NTTAA"), Public Law 104-113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or would be 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. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This direct final rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

H. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides

that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective February 4, 2002.

I. 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.

J. 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. Section 211(d)(4)(A) of the CAA prohibits States from prescribing or attempting to enforce controls or prohibitions respecting any fuel characteristic or component if EPA has prescribed a control or prohibition applicable to such fuel characteristic or component under Section 211(c)(1) of the Act. This rule merely modifies existing EPA detergent additive standards and therefore will merely continue an existing preemption of State and local law. Thus, Executive Order 13132 does not apply to this rule.

VI. Statutory Authority

The promulgation of these regulations is authorized by sections 114, 211 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7414, 7545, and 7601(a)).

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline deposit control (detergent) additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: October 24, 2001.

Christine Todd Whitman,
Administrator.

For the reasons set forth in the preamble, part 80 of title 40 of the Code of Federal Regulations is to be amended as follows:

PART 80—[AMENDED]

1. The authority citation for part 80 continues to read as follows:

Authority: 42 U.S.C. 7414, 7545, and 7601(a).

2. Section 80.162 is amended:

- a. By revising paragraph (a)(3)(i)(B).
- b. By revising paragraph (a)(3)(ii).
- c. By revising paragraph (d).

The revisions to § 80.162 read as follows:

§ 80.162 Additive compositional data.

* * * * *

- (a) * * *
- (3) * * *
- (i) * * *

(B) Include a range of concentration for any detergent-active component such that, if the component were present in the detergent additive package at the lower bound of the reported range, the deposit control effectiveness of the additive package would be reduced as compared with the level of effectiveness demonstrated during certification testing. Subject to the foregoing constraint, a detergent additive product sold under a particular additive registration may contain a higher concentration of the detergent-active component(s) than the concentration(s) of such component(s) reported in the registration for the additive.

(ii) The identity or concentration of non-detergent-active components of the detergent additive package may vary under a single registration provided that such variability does not reduce the deposit control effectiveness of the additive package as compared with the level of effectiveness demonstrated during certification testing.

- (b) * * *
- (c) * * *

(d) Description of an FTIR-based method appropriate for identifying the

detergent additive package and its detergent-active components (polymers, carrier oils, and others) both qualitatively and quantitatively, together with the actual infrared spectra of the detergent additive package and each detergent-active component obtained by this test method. The FTIR infrared spectra submitted in connection with the registration of a detergent additive package must reflect the results of a test conducted on a sample of the additive containing the detergent-active component(s) at a concentration no lower than the concentration(s) (or the lower bound of a range of concentration) reported in the registration pursuant to paragraph (a)(3)(i)(B) of this section.

* * * * *

3. Section 80.169 is amended by revising paragraph (c)(4)(i)(C)(2) to read as follows:

§ 80.169 Liability for violations of the detergent certification program controls and prohibitions.

* * * * *

- (c) * * *
- (4) * * *
- (i) * * *
- (C) * * *

(2) To establish that, when it left the manufacturer's control, the detergent component of the noncomplying product was in conformity with the chemical composition and concentration specifications reported pursuant to § 80.161(b), the FTIR test results for the detergent batch used in the noncomplying product must be consistent with the FTIR results submitted at the time of registration pursuant to § 80.162(d).

* * * * *

[FR Doc. 01-27588 Filed 11-2-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-7097-3]

National Oil and Hazardous Substances Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final notice of deletion of a portion of the Sangamo Weston/ Twelve Mile Creek/Lake Hartwell (Sangamo) Superfund Site from the National Priorities List (NPL).

SUMMARY: The United States Environmental Protection Agency (US

EPA), Region 4, is publishing this direct final notice of deletion of a portion of the Sangamo Superfund Site (Site), located in Pickens, South Carolina, from the National Priorities List (NPL). The proposed partial deletion is for the Dodgens remote property which is located within a few miles of the main plant property. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final notice of deletion is being published by EPA, with the concurrence of the South Carolina Department of Health and Environmental Control. EPA has determined that all appropriate response actions under CERCLA have been completed for the Dodgens remote property, and therefore, further action pursuant to CERCLA is not appropriate.

DATES: This direct final deletion will be effective January 4, 2002 unless EPA receives adverse comments by December 5, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Sheri Cresswell, Remedial Project Manager, US EPA, Region 4, 61 Forsyth St., WD-NSMB, SW., Atlanta, GA 30303.

Information Repositories: Repositories have been established to provide detailed information concerning this Site at the following addresses: U.S. EPA, Region 4 Superfund Records Center, 61 Forsyth St., SW., Atlanta, GA 30303, attn: Ms. Debbie Jourdan, (404) 562-8862; R.M. Cooper Library, Clemson University, South Palmetto Boulevard., Clemson, SC, (864) 656-5174; Pickens County Public Library, Easley Branch, 110 West First Avenue, Easley, SC, (864) 850-7077; and Hart County Library, 150 Benson Street, Hartwell, GA, (706) 376-4655.

FOR FURTHER INFORMATION CONTACT: Please contact either Sheri Cresswell (Remedial Project Manager) at 803-896-4171 or Tiki Whitfield (Community Relations Coordinator) at 1-800-435-9233 or 404-562-8530.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Site Deletion

V. Deletion Action

I. Introduction

EPA Region 4 is publishing this direct final notice of deletion of a portion of the Sangamo Site from the NPL.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. Sites on the NPL qualify for remedial responses financed by the Hazardous Substances Response Trust Fund (Fund). As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective January 4, 2002 unless EPA receives adverse comments by December 5, 2001. If adverse comments are received within the 30-day public comment period on this notice or the notice of intent to delete, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Sangamo Superfund Site and demonstrates how the portion that is being deleted meets the deletion criteria. Section V discusses EPA's actions to delete the portion of the Site from the NPL unless adverse comments are received during the comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with § 300.425(e) of the NCP, sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with the State, considers whether the site or portion of the site has met any of the following criteria for site deletion:

- (i) Responsible or other parties have implemented all appropriate response actions required;
- (ii) All appropriate response actions under CERCLA have been implemented

and no further response actions are deemed necessary; or

(iii) The remedial investigation has determined that the release poses no significant threat to public health or the environment and, therefore, no remedial action is appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA section 121(c), 42 U.S.C. 9621(c), requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without the application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the portion of the Site:

(1) EPA Region 4 consulted with South Carolina on the deletion of the portion of the Site from the NPL prior to developing this direct final notice of deletion.

(2) The State concurs with the decision to delete a portion of the Sangamo Site.

(3) Concurrently with the publication of this direct final notice of deletion, the notice of intent to delete is published today in the "Proposed Rules" section of the **Federal Register** and the availability of this notice is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties. The newspaper notice announces the 30-day public comment period concerning the notice of intent to delete a portion of the site from the NPL.

(4) The EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this notice of intent to delete also published in today's **Federal Register**, EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the

notice of intent to delete and the comments already received.

Partial deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for information purposes and to assist EPA management. As mentioned earlier, § 300.425(e)(30) of the NCP states that deletion of a site from the NPL does not preclude eligibility of the site for future Fund-financed response actions, should future conditions warrant further actions.

IV. Basis for Partial Site Deletion

The following Site summary provides EPA's rationale for the partial deletion of this Site from the NPL.

The Sangamo site (Site) is located in Pickens County, South Carolina. Sangamo Weston, Inc. owned and operated a capacitor manufacturing plant in Pickens, South Carolina from 1955 to 1987. In its manufacturing processes, Sangamo used dielectric fluids which contained several varieties of polychlorinated biphenyls (PCBs). PCBs reportedly enhanced the performance and durability of the fluids. Waste disposal practices from the Sangamo Plant included land-burial of off-specification capacitors and wastewater treatment sludges on the plant site and six satellite (remote) disposal areas within a 3-mile radius of the plant. The Dodgens property proposed for deletion is one of these areas. PCBs were also discharged with the effluent directly into Town Creek, which is a tributary of Twelvemile Creek. Twelvemile Creek is a major tributary of the 56,000 acre Lake Hartwell. As part of its overall strategy in addressing the Sangamo site, EPA split the site into two Operable Units. Operable Unit One (OU1) consists of the land-based source areas including the plant site and the six satellite disposal areas. OU2 addresses the sediment and biological impacts downstream of the land-based source areas.

The specific area associated with this partial delisting includes only a portion of the soils for OU1. The area proposed for delisting, the Dodgens property, has been the subject of previous investigations, and a clean-up action which removed contaminated soils from the property. The majority of the investigatory and remedial actions taken within the area targeted for partial delisting was performed under a Consent Decree, dated April 15, 1992.

A remedial investigation/feasibility study (RI/FS) was initiated by the

potentially responsible party (currently Schlumberger Resource Management Services, Inc. (Schlumberger)) in 1988, which showed soils to be primarily contaminated with PCBs, though VOCs and metals were also detected. The Record of Decision (ROD) was signed in December 1990 which stated that the contaminated soils would be treated by thermal desorption. The groundwater at the Dodgens remote property showed very low levels of contamination at the time of the remedial investigation. However, since 1993, sampling data has not shown any groundwater contamination. Therefore, the property does not pose a risk to human health or the environment and remedial action is not warranted for the groundwater.

Under a Consent Decree with Schlumberger signed in April 1992, the contaminated soils were excavated from all six of the remote properties between November 1993 and July 1994. The ROD stated that soils were to be excavated to 10 parts per million (ppm) PCBs for the remote properties (except for the ravine parts of the Nix and Welborn properties, which were to be excavated to 1 ppm), and to 25 ppm on the plant property. Sampling to confirm the effectiveness of the waste removal efforts showed that the performance standards were achieved for the Plant site. Sampling also showed that all the remote properties were actually cleaned up to less than 1 ppm. The excavated areas were then backfilled with clean soil. Treatment of all contaminated soils (from the six remote properties, including the Dodgens property, and the plant property) by thermal desorption began in December 1995, and was completed in May 1997. Approximately 60,000 tons (40,000 cubic yards) of contaminated soils were treated to 2 ppm, and used as back fill on the Plant property. The cleanup level was confirmed through sampling of treated soils.

The remedial activities associated with removing contaminated soil within the area targeted for partial delisting at the Sangamo Site is considered a permanent remedy. No additional treatment of soils within this area will be necessary. As such, no operation and maintenance activities are necessary for this area. Because no hazardous substances, pollutants, or contaminants remain in the soils within the area targeted for partial delisting, no Five Year Review will be performed on this area.

V. Deletion Action

EPA, in concurrence with the State of South Carolina Department of Health and Environmental Control, has

determined that all appropriate responses under CERCLA for the soils within the area targeted for this partial deletion have been completed and that no further activities by responsible parties are appropriate. Therefore, EPA is deleting the Dodgens portion of the site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective January 4, 2002 unless EPA receives adverse comments by December 5, 2001. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective

date of the deletion and the deletion will not take effect. EPA will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Hazardous waste.

Dated: September 28, 2001.

A. Stanley Meiburg,
Acting Regional Administrator, Region 4.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of appendix B to part 300 is amended by revising the entry for “Sangamo Weston/Twelve-Mile/Hartwell/PCB, Pickens, South Carolina” to read as follows:

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes (a)
SC	Sangamo Weston	Pickens	P

(a) Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be $\leq$ 28.50).
P = Sites within partial deletion (s).

[FR Doc. 01–27463 Filed 11–2–01; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–166, MM Docket No. 01–166, RM–10182]

Digital Television Broadcast Service; Calumet, MI

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Scanlan Television, Inc., licensee of station WBKP-TV, NTSC channel 5, Calumet, Michigan, substitutes DTV channel 11 for DTV channel 18 at Calumet, Michigan. See 66 FR 40959, August 6, 2001. DTV channel 11 can be allotted to Calumet, Michigan, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (46–26–17 N. and 88–02–58 W.) with a power of 96.2, HAAT of 388 meters and with a DTV service population of 182 thousand. In addition, since the community of Calumet is located within 400 kilometers of the U.S.-Canadian border, concurrence by the Canadian

government has been obtained for this allotment.

With this action, this proceeding is terminated.

DATES: Effective December 13, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission’s Report and Order, MM Docket No. 01–166, adopted October 26, 2001, and released October 29, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC. This document may also be purchased from the Commission’s duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail qualexint@aol.com.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Michigan, is amended by removing DTV channel 18 and adding DTV channel 11 at Calumet.

Federal Communications Commission.

Barbara A. Kreisman,
Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–27638 Filed 11–2–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2478, MM Docket No. 01–164, RM–10135]

Digital Television Broadcast Service; New Orleans, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of LeSEA Broadcasting Corporation, licensee of station

WHNO(TV), NTSC channel 20, New Orleans, Louisiana, substitutes DTV channel 21c for DTV channel 14 at New Orleans. *See* 66 FR 40958, August 6, 2001. DTV channel 21c can be allotted to New Orleans, Louisiana, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (29–55–11 N. and 90–01–29 W.) with a power of 300, HAAT of 254 meters and with a DTV service population of 1532 thousand.

With this action, this proceeding is terminated.

DATES: Effective December 13, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–164, adopted October 26, 2001, and released October 29, 2001. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, S.W., Room CY-A257, Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, CY-B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail qualexint@aol.com.

List of Subjects in 47 CFR Part 73

Television, Digital television broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Louisiana, is amended by removing DTV channel 14 and adding DTV channel 21c at New Orleans.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–27640 Filed 11–2–01; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 01–2476, MM Docket No. 01–171, RM–10158]

Television Broadcast Service; Destin, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Kaleidoscope Partners, six mutually-exclusive applicants for vacant NTSC channel 64, Destin, Florida, substitutes channel 48 for channel 64 at Destin. *See* 66 FR 40960, August 6, 2001. TV channel 48 can be allotted to Destin, Florida, with a zero offset in compliance with the minimum distance separation requirements of Sections 73.610 and 73.698 of the Commission's Rules. The coordinates for channel 48 at Destin are 30–30–52 N. and 86–13–12 W.

With is action, this proceeding is terminated.

DATES: Effective December 13, 2001.

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 01–171, adopted October 26, 2001, and released October 29, 2001. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Television broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of Television Allotments under Florida, is amended by removing TV channel 64 and adding TV channel 48 at Destin.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 01–27639 Filed 11–2–01; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register

Vol. 66, No. 214

Monday, November 5, 2001

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-CE-03-AD]

RIN 2120-AA64

Airworthiness Directives; Eagle Aircraft Pty. Ltd. Model 150B Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Eagle Aircraft Pty. Ltd. (Eagle) Model 150B airplanes. This proposed AD would require you to modify the attachment of the port and starboard throttle arms, and the starboard bushing of the throttle torque tube. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Australia. The actions specified by this proposed AD are intended to prevent failure of the throttle control assembly caused by wrong sized rivets. Such failure could lead to reduced control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before December 3, 2001.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001-CE-03-AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may get service information that applies to this proposed AD from Eagle Aircraft Pty. Ltd., Lot 700 Cockburn Road, Henderson WA 6166 Australia; telephone: (08) 9410 1077; facsimile: (08) 9410 2430. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT:

Fredrick A. Guerin, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627-5232; facsimile: (562) 627-5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on this proposed AD? The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date. We may amend this proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of this proposed AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of this proposed AD I should pay attention to? The FAA specifically invites comments on the overall regulatory, economic, environmental, and energy aspects of this proposed rule that might suggest a need to modify the rule. You may view all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each contact we have with the public that concerns the substantive parts of this proposed AD.

How can I be sure FAA receives my comment? If you want FAA to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the postcard, write "Comments to Docket No. 2001-CE-03-AD." We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The Civil Aviation Safety Authority (CASA), which is the airworthiness authority for Australia, notified FAA that an unsafe condition may exist on certain Eagle Model 150B airplanes. The CASA reports that Eagle manufactured certain Model 150B airplanes with wrong sized rivets on the throttle control assembly. Installed

rivets that are not the right size have resulted in reduced structural integrity of the throttle control assembly.

What are the consequences if the condition is not corrected? If this condition is not corrected, failure of the throttle control assembly could result. Such failure could lead to reduced control of the airplane.

Is there service information that applies to this subject? Eagle has issued Service Bulletin 1067, Revision 1, dated October 21, 1999.

What are the provisions of this service information? The service bulletin includes procedures to:

- Replace existing $\frac{3}{32}$ -inch rivets, which attach the throttle torque tubes to the port and starboard throttle arms, with $\frac{1}{8}$ -inch solid-head rivets; and
- Replace the $\frac{1}{8}$ -inch rivet in the starboard bushing of the throttle torque tube with a $\frac{5}{32}$ -inch screw.

What action did the CAA take? The CASA classified this service bulletin as mandatory and issued Australian AD Number X-TS/4, effective July 6, 2000, in order to ensure the continued airworthiness of these airplanes in Australia.

Was this in accordance with the bilateral airworthiness agreement? This airplane model is manufactured in Australia and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, the CASA has kept FAA informed of the situation described above.

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

What has FAA decided? The FAA has examined the findings of the CASA; reviewed all available information, including the service information referenced above; and determined that:

- The unsafe condition referenced in this document exists or could develop on other Eagle Model 150B of the same type design that are on the U.S. registry;
- The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What would this proposed AD require? This proposed AD would require you to incorporate the actions in the previously-referenced service bulletin.

Cost Impact

How many airplanes would this proposed AD impact? We estimate that this proposed AD affects 5 airplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish the proposed modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
2 workhours × \$60 = \$120	\$50	\$170	\$170 × 5 = \$850.

Regulatory Impact

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

Would this proposed AD involve a significant rule or regulatory action? For the reasons discussed above, I certify that this proposed action (1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption ADDRESSES.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Eagle Aircraft Pty. Ltd.: Docket No. 2001–CE–03–AD.

(a) *What airplanes are affected by this AD?* This AD affects Model 150B airplanes, serial numbers 001 through 021, that are certificated in any category.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent failure of the throttle control assembly. Such failure could lead to reduced control of the airplane.

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

Actions	Compliance	Procedures
Replace the existing 3/32-inch rivets, which attach the throttle torque tubes to the port and starboard throttle arms, with 1/8-inch solid-head rivets, and replace the 1/8-inch rivet in the starboard bushing of the throttle torque tube with a 5/32-inch screw.	Within the next 100 hours time-in-service (TIS) after the effective date of this AD.	In accordance with Eagle Service Bulletin 1067, Revision 1, date October 21, 1999.

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

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

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

Note 1: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of

compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Fredrick A. Guerin, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone: (562) 627–5232; facsimile: (562) 627–5210.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and

21.199) to operate your airplane to a location where you can accomplish the requirements of this AD.

(h) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Eagle Aircraft Pty. Ltd., Lot 700 Cockburn Road, Henderson WA 6166 Australia; telephone: (08) 9410 1077; facsimile: (08) 9410 2430. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note 2: The subject of this AD is addressed in Australian AD Number X–TS/4, effective July 6, 2000.

Issued in Kansas City, Missouri, on October 26, 2001.

Michael K. Dahl,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-27654 Filed 11-2-01; 8:45 am]

BILLING CODE 4910-13-U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001-NM-128-AD]

RIN 2120-AA64

Airworthiness Directives; Fokker Model F.28 Mark 0070 and 0100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) this is applicable to certain Fokker Model F.28 Mark 0070 and 0100 series airplanes. This proposal would require repetitive operational tests for discrepancies of the heating system of pitot tube #1, and replacement of the pitot tube, if necessary. This proposal also would require eventual modification of the alternating current sensing circuit for pitot tube #1, which would terminate the repetitive operational test requirement. This action is necessary to prevent failure of the heating system of pitot tube #1 due to a short circuit, which may go undetected and lead to the pilot receiving erroneous airspeed indications, resulting in reduced control of the airplane. The action is intended to address the identified unsafe condition.

DATES: Comments must be received by December 5, 2001.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-128-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227-1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain "Docket No. 2001-NM-128-AD" in the

subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Fokker Services, V.V., P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (425) 227-1137; fax (425) 227-1149.

SUPPLEMENTARY INFORMATION

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 2001-NM-128-AD."

The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA Transport Airplane Directorate, ANM-114, Attention: Rules Docket No. 2001-NM-128-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The FAA has received reports that the captain's airspeed indicator failed during flight in icing conditions on certain Fokker Model F.28 Mark 0070 and 0100 series airplanes. Another report advises that an operator reported snow on the pitot tube while the pitot tube's heating element was switched on. Investigation has revealed that these conditions are caused by a short circuit in the pitot tube's heating element, which can remain undetected because of the placement of the alternating current (AC) sensing circuit for pitot tube #1. Undetected failure of the pitot tube heating system can lead to pitot tube #1 being blocked by ice. This condition, if not corrected, could lead to the pilot receiving erroneous airspeed indications, resulting in reduced control of the airplane.

Explanation of Relevant Service Information

Fokker Services B.V. has issued Fokker Service Bulletin SBF100-30-025, Revision 1, dated March 14, 2001, which describes procedures for repetitive operational tests for discrepancies of the heating system of pitot tube #1, and replacement of the pitot tube, if necessary. The operational tests are intended to ensure that the heaters of the pitot tube and mast are functioning. The service bulletin also describes procedures for modification of the AC sensing circuit for pitot tube #1. The modification involves removing the supply current wire from the AC current sensor for the pitot tube, removing the wire that grounds the heating system of pitot tube #1, installing the supply current wire to the inverter, installing the return current wire from from pitot tube #1 to the AC current sensor, and grounding the AC current sensor. Accomplishment of this modification will ensure that the flight crew will be able to detect a short circuit in the heating system of pitot tube #1, should such a short circuit occur. Therefore, such modification eliminates the need for the repetitive operational tests. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

U.S. Type Certification of the Airplane

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously. The proposed AD also would require that operators report results of inspection findings to the airplane manufacturer.

Cost Impact

The FAA estimates that 129 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed operational test, at the average labor rate of \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$7,740, or \$60 per airplane, per test cycle.

It would take approximately 34 work hours per airplane to accomplish the proposed modification, at the average labor rate of \$60 per work hour. Required parts would cost approximately \$350 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$308,310, or \$2,390 per airplane.

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

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of

power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Fokker Services B.V.: Docket 2001–NM–128–AD.

Applicability: Model F.28 Mark 0070 and 0100 series airplanes, serial numbers 11244 through 11585 inclusive, on which Fokker Service Bulletin SBF100–30–019 or SBF100–30–020 has been accomplished, certificated in any category.

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

been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the heating system of pitot tube #1 due to a short circuit, which may go undetected and lead to the pilot receiving erroneous airspeed indications, resulting in reduced control of the airplane, accomplish the following:

Operational Test

(a) Within 3 months after the effective date of this AD, do an operational test for discrepancies (i.e., correct functioning) of the heating system of pitot tube #1, according to Fokker Service Bulletin SBF100–30–025, Revision 1, dated March 14, 2001. Repeat the operational test every 12 months, until paragraph (d) of this AD has been done.

Replacement of Pitot Tube

(b) If any discrepancy is found during the operational test required by paragraph (a) of this AD: Before further flight, replace pitot tube #1 with a new pitot tube, according to Fokker Service Bulletin SBF100–30–025, Revision 1, dated March 14, 2001.

Reporting Requirement

(c) At the applicable time specified in paragraph (c)(1) or (c)(2) of this AD: Use page 38 of Fokker Service Bulletin SBF100–30–025, Revision 1, dated March 14, 2001, to submit a report of findings from each operational test (both positive and negative) to Fokker Services B.V., Attn: Manager Airline Support, P.O. Box 231, 2150 AE Nieuw-Vennep, the Netherlands. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the operational test is accomplished after the effective date of this AD: Submit the report within 5 days after performing the test required by paragraph (a) of this AD.

(2) For airplanes on which the operational test is accomplished before the effective date of this AD: Submit the report within 5 days after the effective date of this AD.

Modification

(d) Within 36 months after the effective date of this AD, modify the alternating current (AC) sensing circuit for pitot tube #1 (including removing the supply current wire from the AC current sensor for the pitot tube, removing the wire that grounds the heating system of pitot tube #1, installing the supply current wire to the inverter, installing the return current wire from pitot tube #1 to the AC current sensor, and grounding the AC current sensor), according to Fokker Service Bulletin SBF100–30–025, Revision 1, dated March 14, 2001. Such modification terminates the repetitive operational tests required by paragraph (a) of this AD.

Alternative Methods of Compliance

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

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM-116.

Special Flight Permits

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

Dated: Issued in Renton, Washington, on October 30, 2001.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-27666 Filed 11-2-01; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000-CE-32-AD]

RIN 2120-AA64

Airworthiness Directives; Rockwell Collins TDR-94 and TDR-94D Mode S Transponders

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to certain Rockwell Collins TDR-94 and TDR-94D Mode S transponders that derive altitude information from a Gillham (gray code) encoded pressure altitude source and are installed on airplanes. The proposed AD would require you to have the unit modified to prevent erroneous altitude reporting. The proposed AD is the result of reports that erroneous altitude resolutions could occur when the affected transponders are utilized in areas with other airplanes equipped with certain aircraft collision avoidance system (ACAS) or traffic alert and collision avoidance system (TCAS) configurations. The actions specified by the proposed AD are intended to prevent these erroneous altitude resolutions from causing a reduction in the intended ACAS or TCAS Change 7 separation margins. Such a condition could result in air traffic control or the

pilot making flight decisions that put the airplane in unsafe flight conditions.

DATES: The Federal Aviation Administration (FAA) must receive any comments on the rule on or before January 11, 2002.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2000-CE-32-AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

You may obtain service information that applies to this proposed AD from Rockwell Collins Inc., Business and Regional Systems, 400 Collins Road Northeast, Cedar Rapids, Iowa 52498. You may also view this information at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946-4134; facsimile: (316) 946-4407; e-mail: roger.souter@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

How do I comment on the proposed AD? The FAA invites comments on this proposed rule. You may submit whatever written data, views, or arguments you choose. You need to include the rule's docket number and submit your comments in triplicate to the address specified under the caption **ADDRESSES**. We will consider all comments received on or before the closing date. We may amend the proposed rule in light of comments received. Factual information that supports your ideas and suggestions is extremely helpful in evaluating the effectiveness of the proposed AD action and determining whether we need to take additional rulemaking action.

Are there any specific portions of the proposed AD I should pay attention to? We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed rule that might suggest a need to modify the rule. You may examine all comments we receive before and after the closing date of the rule in the Rules Docket. We will file a report in the Rules Docket that summarizes each FAA contact with the public that concerns the substantive parts of the proposed AD.

How can I be sure FAA receives my comment? If you want us to acknowledge the receipt of your comments, you must include a self-addressed, stamped postcard. On the

postcard, write "Comments to Docket No. 2000-CE-32-AD." We will date stamp and mail the postcard back to you.

Discussion

What events have caused this AD?

The FAA has received information that erroneous altitude resolutions could occur on certain Rockwell Collins TDR-94 and TDR-94D Mode S transponders installed in airplanes with Gillham (gray code) encoded sources. This information indicates that these transponders are utilized in areas with other airplanes equipped with certain aircraft collision avoidance system (ACAS) or traffic alert and collision avoidance system (TCAS) configurations. In these situations, the transponders could receive incorrect TCAS resolution advisories. This could result in a reduction in the intended ACAS or TCAS Change 7 minimum separation margins.

Gillham altitude sources have a 100-foot resolution. The affected transponder will set the altitude resolution status to indicate a 25-foot resolution when connected to a Gillham altitude source. For those units that have digital sources of altitude information, the altitude resolution status is set correctly.

These Rockwell Collins TDR-94 and TDR-94D Mode S transponders could be installed on, but not limited to, the following airplanes:

- Aerospatiale ATR42 series airplanes;
- deHavilland DHC-7 and DHC-8 series airplanes; and
- Short Brothers Models SD3-60 and SD3-60 SHERPA airplanes.

What are the consequences if the condition is not corrected? As described above, such erroneous altitude resolutions could cause a reduction in the intended ACAS or TCAS Change 7 separation margins and result in air traffic control or the pilot making flight decisions that put the airplane in unsafe flight conditions.

Relevant Service Information

Is there service information that applies to this subject? Rockwell Collins has issued Service Bulletin No. 17 (TDR-94/94D-34-17), dated February 8, 1999.

What are the provisions of this service bulletin? The service bulletin includes information on how to have the TDR-94 and TDR-94D Mode S transponders modified to prevent erroneous altitude reportings. This consists of:

- Converting the TDR-94 transponder from Collins part number (CPN) 622-9352-004 to CPN 622-9352-005; and

—Converting the TDR 94D transponder from CPN 622–9210–004 to CPN 622–9210–005.

Collins Product Information Letter No. 71, dated January 1999, references the service bulletin.

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

What has FAA decided? After examining the circumstances and reviewing all available information related to the incidents described above, we have determined that:

- The unsafe condition referenced in this document exists or could develop on type design airplanes that incorporate Rockwell Collins TDR–94 (CPN 622–9352–004) and TDR–94D (CPN 622–9210–004) Mode S transponders and derive altitude information from a Gillham (gray code) encoded pressure altitude source;
- The actions specified in the previously-referenced service information should be accomplished on these airplanes with these Mode S transponders; and
- AD action should be taken in order to correct this unsafe condition.

What would the proposed AD require? This proposed AD would require you to have the actions of Rockwell Collins Service Bulletin No. 17 (TDR–94/94D–34–17), dated February 8, 1999, incorporated on any affected Mode S transponder that is installed on a type-certificated airplane where Gillham pressure altitude encoding sources are used.

Why is the proposed compliance time presented in calendar time instead of hours time-in-service (TIS)? The compliance of the proposed AD is presented in calendar time instead of hours TIS because the condition exists regardless of airplane operation. The erroneous altitude indications could occur regardless of the number of times and hours the airplane was operated or the age of the Mode S transponder. For these reasons, FAA has determined that a compliance based on calendar time should be utilized in the proposed AD in order to ensure that the unsafe

condition is addressed in a reasonable time period on all airplanes that have an affected Rockwell Collins TDR–94 and TDR–94D Mode S transponder installed, and where Gillham pressure altitude encoding sources are used.

Cost Impact

How many airplanes would the proposed AD impact? We estimate that 1,400 affected Rockwell Collins TDR–94 and TDR–94D Mode S transponders could be installed on airplanes in the U.S. registry.

What would be the cost impact of the proposed AD on owners/operators of the affected airplanes? Rockwell Collins will cover all workhours and parts costs associated with this modification under warranty. The proposed AD would not impose any cost impact upon the owners/operators of any airplane incorporating one of the affected TDR–94 and TDR–94D Mode S transponders.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new airworthiness directive (AD) to read as follows:

Rockwell Collins, Inc.: Docket No. 2000–CE–32–AD.

(a) *What products are affected by this AD?* This AD applies to TDR–94 Mode S transponders (Collins part number (CPN) 622–9352–004) and TDR–94D Mode S transponders (CPN 622–9210–004) that derive altitude information from a Gillham (gray code) encoded pressure altitude source and are installed on, but not limited to, the following airplanes that are certificated in any category:

- (1) Aerospatiale ATR42 series airplanes;
- (2) deHavilland DHC–7 and DHC–8 series airplanes; and
- (3) Short Brothers Models SD3–60 and SD3–60 SHERPA airplanes.

(b) *Who must comply with this AD?*

Anyone who wishes to operate any airplane with one of the affected TDR–94 or TDR–94D Mode S Transponders units installed must comply with this AD.

(c) *What problem does this AD address?*

The actions specified by this AD are intended to prevent erroneous altitude resolutions from causing a reduction in the intended aircraft collision avoidance system (ACAS) or traffic alert and collision avoidance system (TCAS) Change 7 minimum separation margins. Such a condition could result in air traffic control or the pilot making flight decisions that put the airplane in unsafe flight conditions.

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

Action	Compliance time	Procedures
(1) Determine whether the altitude information from any TDR–94 Mode S transponder (CPN 622–9352–004) or TDR–94D Mode S transponder (CPN 622–9210–004) is derived from a digital air data source or a Gillham (gray code) encoded source.	Within the next 3 months after the effective date of this AD.	As specified in Rockwell Collins Service Bulletin No. 17 (TDR–94/94D–34–17), dated February 8, 1999. Collins Product Information Letter No. 71, dated January 1999, references the service bulletin.

Action	Compliance time	Procedures
(2) If the altitude information is derived from a Gillham (gray code) encoded source, have the unit modified to prevent erroneous altitude reporting. The modification encompasses converting the TDR-94 transponder from Collins part number (CPN) 622-9352-004 to CPN 622-9352-005; and converting the TDR 94D transponder from CPN 622-9210-004 to CPN 622-9210-005.	At the next transponder check required by 14 CFR 91.413 that occurs 3 months after the effective date of this AD or within the next 9 months after the effective date of this AD, whichever occurs first.	In accordance with Rockwell Collins Service Bulletin No. 17 (TDR-94/94D-34-17), dated February 8, 1999. Collins Product Information Letter No. 71, dated January 1999, references the service bulletin.
(3) If the altitude information from all affected transponders is derived from a digital air data source, no modification action is required by this AD.	Not applicable	Not applicable.
(4) Do not install any TDR-94 Mode S transponder (CPN 622-9352-004) or TDR-94D Mode S transponder (CPN 622-9210-004) on any airplane if the altitude information is derived from a Gillham (gray code) encoded source, unless the modification required by paragraph (d)(2) of this AD is incorporated.	As of the effective date of this AD	Accomplish the modification in accordance with Rockwell Collins Service Bulletin No. 17 (TDR-94/94D-34-17), dated February 8, 1999. Collins Product Information Letter No. 71, dated January 1999, references the service bulletin.

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

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

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

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

(f) *Where can I get information about any already-approved alternative methods of compliance?* You can contact Roger A. Souter, FAA, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946-4134; facsimile: (316) 946-4407; e-mail: roger.souter@faa.gov.

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

(h) *How do I get copies of the documents referenced in this AD?* You may obtain copies of the documents referenced in this AD from Rockwell Collins Inc., Business and Regional Systems, 400 Collins Road Northeast, Cedar Rapids, Iowa 52498. You may view this

information at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on October 30, 2001.

Brian A. Hancock,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01-27665 Filed 11-2-01; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37, 161, 250, 284, and 358

[Docket No. RM01-10-000]

Standards of Conduct for Transmission Providers; Notice of Extension of Time

October 26, 2001.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of extension of time.

SUMMARY: On September 27, 2001, the Commission issued notice of proposed rulemaking addressing new standards of conduct for transmission providers (66 FR 50919, October 5, 2001). The date for filing comments is being extended at the request of the American Gas Association, the Edison Electric Institute and the Interstate Natural Gas Association of America..

DATES: Comments should be filed on or before December 20, 2001.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

David P. Boergers, Secretary 888 First Street, NE., Washington, DC 20426, (202) 208-0400.

SUPPLEMENTARY INFORMATION: On

October 24, 2001, the American Gas Association, the Edison Electric Institute, and the Interstate Natural Gas Association of America (collectively, Movants) filed a joint motion for an extension of time to file comments on the Notice of Proposed Rulemaking (NOPR) issued September 27, 2001, in the above-docketed proceeding. In their motion, Movants state that the proposed rule is broad in nature and has the potential to dramatically impact the business operations of electric and gas companies in the United States and that additional time is requested to effectively gather evidence on the costs and benefits of various proposals contained in the NOPR. The motion also states that the American Public Gas Association, the Independent Petroleum Association of America, the Natural Gas Supply Association, the Process Gas Consumers Group, the American Public Power Association, and the National Rural Electric Cooperative Association have been contacted by Movants and that none of the trade associations contacted objects to the request for additional time.¹

Upon consideration, notice is hereby given that an extension of time for the filing of comments in response to the Commission's Notice of Proposed Rulemaking issued September 27, 2001,

¹ The Natural Gas Supply Association agreed to an extension of time to file comments only through December 15, 2001.

is granted to and including December 20, 2001.

David P. Boergers,
Secretary.

[FR Doc. 01-27674 Filed 11-2-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 104

[CIV 104P; AG Order No. 2531-2001]

RIN 1105-AA79

September 11th Victim Compensation Fund of 2001

AGENCY: Civil Division, Justice.

ACTION: Notice of inquiry and advance notice of rulemaking.

SUMMARY: Shortly after the September 11, 2001 terrorist attack, the President signed legislation authorizing compensation to any individual (or the personal representative of a deceased individual) who was physically injured or killed as a result of the terrorist-related aircraft crashes on that day. This Notice of Inquiry and Advance Notice of Rulemaking seeks public comment on a range of matters critical to implementing a program that will carry out the intent of the legislation of providing compensation to victims.

DATES: Comments in response to this document are due by November 26, 2001.

ADDRESSES: Comments should be submitted by e-mail to: victimcomp.comments@usdoj.gov, or by telefax to 301-519-5956. Telefaxes should be limited to 15 pages. Comments may also be mailed to Kenneth L. Zwick, Director, Office of Management Programs, Civil Division, U.S. Department of Justice, Main Building, Room 3140, 950 Pennsylvania Avenue NW., Washington, DC 20530. However, in view of the short time period for comments and the current delays in the delivery of mail, it is strongly recommended that comments be submitted by e-mail or telefax. Comments received are public records. The name and address of the commenter should be included with all submissions. The text of comments, along with the name and address of the commenter, will be available on the Victim Compensation Fund web site, www.usdoj.gov/victimcompensation. Comments will also be available for public inspection at a reading room in Washington, DC. Arrangements to visit

the reading room must be made in advance by calling 888-714-3385 (TDD: 888-560-0844).

FOR FURTHER INFORMATION CONTACT:

Kenneth L. Zwick, Director, Office of Management Programs, Civil Division, U.S. Department of Justice, Main Building, Room 3140, 950 Pennsylvania Avenue NW., Washington, DC 20530, telephone 888-714-3385 (TDD 888-560-0844).

SUPPLEMENTARY INFORMATION:

Background

The President signed the "September 11 Victim Compensation Fund of 2001" (the "Fund") into law on September 22, 2001, as Title IV of Public Law 107-42, 115 Stat. 230 ("Air Transportation Safety and System Stabilization Act") (the "Act"). The purpose of the Fund is to provide compensation to eligible individuals who were physically injured as a result of the terrorist-related aircraft crashes of September 11, 2001, and compensation through a "personal representative" for those who were killed as a result of the crashes. Generally, eligibility extends to those who suffered physical harm or death as a result of the September 11 air crashes, which would include individuals on the planes at the time of the crashes (other than the terrorists) and individuals present at the World Trade Center, the Pentagon, or the site of the crash in Pennsylvania at the time of the crashes, as well as those present in the immediate aftermath of the crashes.

The Attorney General, acting through a Special Master appointed by the Attorney General, is responsible for the administration of the Fund. By law, regulations addressing certain administrative matters must be issued within 90 days of enactment (i.e. by December 21, 2001). Section 407 of the Act provides that the Attorney General, in consultation with the Special Master, promulgate regulations on four matters by December 21, 2001:

- (1) Forms to be used in submitting claims;
- (2) The information to be included in such forms;
- (3) Procedures for hearing and the presentation of evidence; and
- (4) Procedures to assist an individual in filing and pursuing claims.

In addition, section 407 authorizes the Attorney General to issue additional rules to implement the program.

After determining whether an individual is an eligible claimant under the Act and applicable regulations, the Special Master is to determine the extent of harm to the claimant and determine the amount of compensation

to be awarded based on "the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant." Section 405(b)(1)(B)(i). The law also provides that the Special Master is to make a final determination on any claim within 120 days of its receipt and, if an award is made, to authorize payment within 20 days thereafter. Sections 405(b)(3), 406(a). The determinations of the Special Master are final and are not subject to judicial review. Section 405(b)(3).

The Fund is designed to provide a no-fault alternative to tort litigation for individuals who were physically injured or killed as a result of the aircraft hijackings and crashes on September 11, 2001. Individuals who may have suffered other kinds of losses as a result of those events (e.g., those without identifiable physical injuries but who lost employment) are not included in this special program. However, the Act provides that a claimant who files for compensation must, at the time of filing, waive any right to file a civil action (or to be a party to an action) in any federal or state court for damages sustained as a result of the terrorist-related aircraft crashes of September 11, 2001.

Claims with the Fund must be filed within two years after the initial regulations are promulgated. Payments from the Fund are made by the United States government, which in turn obtains the right of subrogation to each award.

General Approach to Regulations That Must Be Promulgated by December 21, 2001

(a) The purpose of this notice.

As noted above, the Act requires that the Attorney General promulgate regulations in consultation with the Special Master. The Department is currently considering potential candidates for the Special Master position. In addition, the Department is in the process of seeking information from state and local agencies, as well as many other sources, that may be useful in crafting proposed regulations. In the meantime, however, the Department believes that it is very important, to the extent feasible within the time frames involved, to involve the public in the development of any rules established under the program "including, but not limited to, potential beneficiaries of the program, their employers, the legal community, and all those who have come forward to help those impacted. For this reason, the Department has decided to issue this notice to obtain as much public comment as feasible before issuing the rules that it is required to

promulgate by December 21, 2001. This notice describes the issues involved, identifies possible courses of action, and invites comment on a number of points. At various points the Department solicits views on interpretations or applications of the Act. Although the Department welcomes comments, it is ultimately the Department's responsibility to interpret and apply the Act.

(b) The Department's plan to issue implementing regulations by December 21, 2001 as "interim final" rules.

Although the Attorney General, in consultation with the Special Master, is to issue certain implementing rules by December 21, 2001, the law does not specifically define how such rules must be issued. The Department welcomes comments on these procedural issues.

The Department is considering promulgating the initial rules on December 21, 2001 as "interim final" rules. "Interim final" rules are "final" rules that can be relied upon (and challenged) under the law, but that also become the subject of a new round of immediate comment and review—essentially, asking the public for comment on whether the newly-adopted rules should be amended. The Department wishes to begin processing claims as soon as possible. This procedural methodology should permit the program to commence operations as soon as practicable.

(c) How to comment in response to this notice.

There are a number of issues presented in this notice, and 21 days are provided for comment. The Department has only a limited time to evaluate the information received in response to this notice. Accordingly, the Department would appreciate comments that are transmitted as soon as possible and in a form that is as succinct as possible. As indicated at the beginning of this notice, we encourage commenters to use e-mail and telefax for this purpose.

Although the Department will endeavor to review every submission it receives in response to this notice, from handwritten letters to copies of scholarly articles and books, it reserves the right under the circumstances to set aside any information that it lacks the time to consider before the Department must make its determination, even if that information is received before the end of the comment period. The Department urges commenters to submit materials as early within the comment period as possible.

If the Department cannot fully consider all the comments it receives before it must act, the comments will be retained by the Department for

subsequent consideration as appropriate. As discussed above, the Department contemplates providing another opportunity for notice and comment after the initial rules are issued in December; any information submitted to the Department in response to this notice that cannot be reviewed before the December rules are issued will be considered during the subsequent review. Similarly, to the extent that any issues addressed in the comments are not addressed in this initial regulatory action, those comments will be retained by the Special Master for appropriate consideration as the program is implemented.

(d) Will there also be meetings and hearings to gather information before December 21, 2001?

The Department has received many requests for meetings from individuals and groups who wish to provide input on these rules. And it is likely that the Department will wish to initiate such meetings on its own as well. The Department will endeavor to accommodate any such requests as best it can be given the available time and any applicable legal requirements.

As a matter of general policy, the Department has declined to take a position prohibiting so-called "ex parte communications" in informal rulemaking proceedings. 28 CFR 50.17. Such a prohibition would inhibit the ability of the Department to obtain valuable information, and would be inconsistent with the nature of informal rulemaking under 5 U.S.C. 553 (as contrasted with so-called "formal" rulemaking under 5 U.S.C. 554, which is handled in a quasi-judicial manner). Consistent with the policy set forth in 28 CFR 50.17, the Department will endeavor to make notes on any relevant meetings or other communications part of the public record.

(e) The effective date of the rules to be promulgated on December 21, 2001.

The law generally provides that rules not go into effect for at least 30 days after promulgation absent "good cause" to waive this requirement. 5 U.S.C. 553(d). The Department is seeking comment on an appropriate effective date for these rules, including whether "good cause" exists under 5 U.S.C. 553(d) to waive the 30-day requirement. In ideal circumstances, the Department would prefer not to waive the APA's requirements for at least a 30-day delay in the effective date for rules. Given the circumstances here, however, it seems likely that there may be good cause for taking such action. The Department welcomes comments on this issue and on other alternatives. For example, a 30-

day effective date delay might not significantly hinder implementation of the program and would provide time for some initial counseling and other information dissemination prior to the filing of any claims.

(f) Issues relating to the rules to be promulgated by December 21, 2001.

The Department welcomes comment on whether the rules that must be issued by December 21, 2001, should, pursuant to section 407(5), cover matters in addition to those specifically identified in section 407(1)–(4) of the Act. One reason for making the set of regulations to be published in December as comprehensive as possible is the possibility that there are some potential claimants who have already filed or will soon be filing civil actions seeking damages arising out of the September 11 incidents. Section 405(c)(3)(B)(ii) of the Act provides that, if an individual is already a party to a civil action when the regulations enumerated in section 407 are promulgated, the individual cannot submit a compensation claim under this federal program unless he or she withdraws from the legal action within 90 days from the date the rules are promulgated. Without having information about how the compensation program works, such individuals might not be able to assess whether the compensation program is a viable alternative to continuing their litigation.

The Department believes that the number of individuals who already have filed a civil claim, or who have irrevocably committed to doing so in the next few months, may well be very small. The Department would welcome information on this point. The Department also would welcome comment as to whether the statutory requirement that a claimant "withdraw[]" from such action by 90 days after the date the initial rules are promulgated was intended to preclude such a claimant from refiling or rejoining a civil action: (a) should the claimant ultimately elect not to file a compensation claim under the federal program; or (b) if the claimant is determined by the Special Master not to be eligible to file a claim.

In short, potential claimants have an interest in knowing as soon as possible how the program is likely to operate in their circumstances. Litigation to obtain damages, particularly in a mass tort context, can be a lengthy, uncertain, and complex process, filled with substantial risk and expense. The purpose of this compensation program is to offer all potential claimants a more expeditious, predictable, and less complex alternative to that process. The

Department recognizes that unless and until it can provide some certainty as to how the compensation award program will work, some claimants may be reluctant to commit themselves to the Fund as an alternative to tort awards.

We now turn to a set of specific topics on which comment is solicited. The first four topics concern the Department's obligations under section 407(1)–(4) of the Act. The remainder discuss key issues that may also be the subject of regulatory action.

Topics #1 & 2: The Forms To Be Used in Submitting Claims Under This Program and the Information To Be Included on the Claims Form

Section 405(a) of the statute establishes some specific requirements with respect to the claims form and the information to be included. The law requires the Special Master to develop a claims form to use in filing claims for compensation under this program. The Special Master is to ensure that the form can be filed electronically if practicable.

The form must include a statement of the factual bases for eligibility and for the amount of compensation sought. In addition, the form is to request information from the claimant as to: (1) The physical harm suffered by a victim, or information confirming the death of the victim, of the terrorist-related aircraft crashes of September 11, 2001; (2) any possible economic and noneconomic losses that the claimant suffered as a result of the crashes; and (3) any collateral sources of compensation the claimant has received or is entitled to receive as a result of such crashes.

It would appear that these requirements, combined with the statutory time frame for the Special Master to reach a decision once a claim is filed, contemplate a detailed form and filing, including submission by the claimant of supporting documents and relevant medical records. Accordingly, the Department invites comment on whether the Special Master should determine that a claim has not been "filed" in those circumstances in which the Special Master determines that there is insufficient information submitted to permit a reasonably informed determination to be made. Along similar lines, the Department invites comments on whether there are actions the Special Master should be required to take before he or she can accept a claim, or deem a claim "filed."

The Department welcomes comment on the design and content of the claims forms in light of the statutory requirements. Specific comments on making the form and its instructions

readable and readily available are welcome.

Topic #3: Procedures for Hearing and the Presentation of Evidence

Section 405(b)(4) provides that a claimant has the right, after the filing of the claim, to present evidence to the office of the Special Master. The statute specifically provides that the claimant has the right to present witness statements and documents, the right to be represented by an attorney, and such other due process rights as are determined to be appropriate by the Special Master.

The Department solicits comments on the procedures to be used in taking and evaluating such evidence. In formulating comments, commenters should keep in mind that the Act gives the Special Master a very limited time to evaluate such evidence before making a decision: Section 405(b)(3) of the statute provides that the Special Master must make final decisions on claims within 120 days of the date of filing. Comments as to whether the statute permits the Special Master to temporarily halt or toll the running of this clock, at the initiative of the claimant or otherwise, are welcomed. In addition, the Department invites comment on whether the Special Master should be permitted to dismiss a claim as not properly filed for lack of adequate supporting information and, if so, whether an individual should thereafter be permitted to refile the claim.

Among other matters, the Department welcomes comment on whether every claimant should be granted an oral hearing or whether paper hearings may be sufficient, and comments on what types of oral hearing may be practicable, consistent with the statutory deadlines. If oral hearings are provided, should the Special Master always use "hearing officers" to hear witnesses and review written evidence? What qualifications and training should those who perform such tasks have? In addition, the Department welcomes comment on whether there are other specific duties and powers that should be delegated to hearing officers (e.g., to ask questions of the claimant or witnesses, to request submissions of such further information as the hearing officer may deem valuable in reaching a decision, and/or to prepare recommended decisions for the consideration of the Special Master).

The Department welcomes comment on whether claimants should have the opportunity to appeal directly to the Special Master specific "rulings" or "working decisions" of a hearing officer on questions that arise in the course of his or her evaluation of the claim. The

Department also seeks comment on whether it is authorized to enforce requests made by the hearing officer to third parties for evidence that is necessary to a proceeding—e.g., evidence that might bear on whether all aspects of the claim file on which the decision will be based are accurate and complete. The Department also welcomes comment on whether such proceedings should be recorded, whether such proceedings must be held in a location convenient to the claimant and how to deal with scheduling conflicts, and whether the opportunity for a hearing can be waived by a claimant through inaction or unwarranted delay.

The Department particularly welcomes comments that reference the practices or experience of existing compensation programs with respect to the hearing of evidence.

Topic #4: Procedures to Assist an Individual in Filing and Pursuing Claims Under This Title

The statute does not provide guidance on what actions the Special Master is to take to assist claimants in filing and pursuing claims. However, the Department believes that it is important that claimants be able to proceed without economic experts. Accordingly, the Department welcomes any and all suggestions as to how it can assist claimants, including suggestions for office locations, toll-free phone lines, outreach meetings, and newsletters.

In addition, the Department welcomes comments on whether the Special Master has the authority to limit the types and amounts of fees that can be charged by legal counsel, accountants, experts or others who are retained by claimants to assist them in filing and pursuing compensation claims, and whether such fees can and should be paid by the Special Master directly out of compensation awards. The Department welcomes information about practices in this regard with respect to other federal compensation programs, and welcomes specific suggestions on any appropriate fee schedule or policy. The Department also welcomes comments on what limitations, if any, the rules should impose on non-attorney, non-claimant representatives' participation in filing claims and in subsequent proceedings.

The Department is also interested in comments as to whether it needs to take any actions to ensure that individuals who have the option of filing a compensation claim with this program are not improperly solicited or influenced by those with an interest in having them make such an election.

Topic #5: Claimant Eligibility

Section 405(b) of the statute requires the Special Master to determine whether a claimant is an "eligible individual" under section 405(c). "Eligibility," in turn, is defined to include: (i) victims (other than the terrorists) aboard American Airlines flights 11 and 77 and United Airlines flights 93 and 175; or (ii) victims who were "present at" the World Trade Center, the Pentagon, or the site of the aircraft crash at Shanksville, Pennsylvania at the time or in the immediate aftermath of the crashes, and who suffered physical harm or death as a result of such an air crash. The Department seeks comment on whether a Departmental regulation or a statement of policy by the Special Master would be appropriate to clarify these criteria and, if so, what those criteria should be.

Public commentators have suggested differing interpretations of the statutory terms "present at," "physical harm," and "immediate aftermath." The Department invites comment on the appropriate scope of each of those terms. In particular, how should "present at" be interpreted? Should the term "physical harm" be limited to serious injuries, as it is under some other no-fault compensation schemes (see, e.g., N.Y. Insurance Law § 5102 (d) (McKinney 2000)), or should it be construed more broadly? Further, should "physical harm" be limited to currently identifiable injuries? Can and should the program address latent, but not yet evident, harm? What documentation or other evidence should be required by the Special Master as to the claimant's presence at the World Trade Center or physical harm resulting from the air crash? Moreover, what documentation or other evidence should the Special Master seek to verify the identity of those lost for whom claims are filed? Finally, what duration of time is intended by the statutory phrase "immediate aftermath"?

Section 405(c)(2)(C) provides that the "personal representative" of an eligible decedent is the appropriate person to file a claim on a decedent's behalf. The Department seeks comment on whether a Departmental regulation or a statement of policy by the Special Master would be appropriate to clarify questions concerning personal representatives, for example:

- Whether the Special Master should require that all those who consider themselves to be survivors of someone lost in the crashes be notified of a claim by a "personal representative";
- Whether the Special Master should require that the "personal

representative" identify all those who consider themselves to be survivors of someone lost in the crashes and obtain from each a signed statement waiving the right to litigation prior to the acceptance of a claim;

- Whether the Special Master can, within the brief statutory period identified by the statute, determine who among different claimants is the appropriate "personal representative";
- Whether the Special Master should, in any matter involving a dispute as to the identity of the "personal representative," require prior adjudication and judgment by a state court of competent jurisdiction; and
- Whether the Special Master should make determinations of compensation for claimants and escrow payment until disputes regarding the identity of the "personal representative" can be resolved by a court of competent jurisdiction.

Topic #6: Nature and Amount of Compensation

Section 405(b) of the statute indicates that the Special Master shall determine the amount of compensation based on "the harm to the claimant, the facts of the claim, and the individual circumstances of the claimant." Yet each of the perhaps thousands of determinations must be made in a very short period of time. Moreover, such determinations should be founded on consistent and clear principles that treat each claimant fairly. The Department invites comments that identify the practical means to achieve these results all within the very short time period that Congress has permitted. Among other topics, the Department would welcome comment on whether and how schedules or statistical methodologies should be developed and used in reaching a determination for each claimant within the mandated time period. In addition, comments are welcomed on whether publication of such schedules or hypothetical or presumptive awards for classes of individuals would assist potential claimants in determining whether to file.

Economic Loss: As indicated above, the Department is of the view that the Special Master should not require that any claimant employ any experts on economic or other theories of losses. It may therefore be appropriate for regulations to draw on available information from appropriate specialists in relevant fields to analyze economic losses. The Department invites comment regarding the necessary qualifications for such specialists, the data that should be utilized, the methodologies that

should be employed in analyzing economic losses, the documentation that should be required for every claimant, and how state law should bear upon such determinations. In addition, the Department invites comments on how to address the economic losses of individuals whose lost future income streams would have been highly contingent, variable, or unpredictable.

Noneconomic Losses: Section 402(7) lists several types of noneconomic losses that should be considered. The Department invites comments regarding whether, and in what manner, the Special Master can or should draw meaningful distinctions between individuals who died in different locations and, similarly, whether the Special Master can or should draw meaningful distinctions between individuals who suffered similar injuries. The Department also invites comments on whether the Department should issue regulations determining the amount of noneconomic loss for classes of similarly situated individuals or whether, instead, the Special Master should determine all noneconomic loss on a detailed claim-by-claim basis. Further, what facts and circumstances should be considered in determining noneconomic losses for each individual, and what standards should be employed?

Collateral Sources: Section 405(b)(6) provides that the Special Master *shall* reduce the amount of compensation by the amount of the collateral source compensation the claimant has received or is entitled to receive as a result of the terrorist-related aircraft crashes of September 11, 2001. The Department invites comments on how to determine what constitutes a "collateral source" for purposes of this provision, and other related issues. For example, the Department appreciates the strong policy reasons for excluding charitable contributions from the definition of "collateral sources" and invites comment regarding whether the Act indeed permits the Department to exclude such contributions from the definition. Similarly, the Department invites comments on whether "in kind" and/or material contributions could or should be considered collateral sources. Finally, the Department invites comments on how to determine whether potential future collateral source payments are ones that individuals are "entitled to receive" for purposes of Section 405(b)(6).

Fraud Prevention Measures

The Department is committed to preventing and prosecuting any fraudulent attempts to collect from the

Fund. The Department therefore invites comments regarding any measures that the Department should take to prevent and detect fraud.

Other Topics for Comment

The Department reiterates that it welcomes public comments on any and all aspects of the administration of the fund.

Application of Various Laws and Executive Orders to This Rulemaking

There are a number of laws and Executive Orders whose provisions may have implications for this rulemaking process. Due to the preliminary nature of this notice, it does not address these requirements. Nonetheless, the Department welcomes comments that will help it address the applicability of any laws or Executive Orders to future rulemaking under the Act.

Dated: November 1, 2001.

John Ashcroft,

Attorney General.

[FR Doc. 01-27821 Filed 11-1-01; 2:54 pm]

BILLING CODE 4410-12-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS-FRL-7096-6]

RIN 2060-AJ69

Revision to the Requirements on Variability in the Composition of Additives Certified Under the Gasoline Deposit Control Program; Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Deposits that form in gasoline-fueled motor vehicle engines and fuel supply systems have been shown to increase emissions of harmful air pollutants. All gasoline used in the U.S. must contain additives that have been certified with EPA as effective in limiting the formation of such deposits. During certification, additive manufacturers must provide EPA with information on additive composition. To ensure that in-use additives meet EPA requirements, manufacturers are required to limit variation in the composition of additive production batches from that reported during certification.

Today's action proposes changes to the information that must be provided on additive composition by the manufacturer at the time of certification.

We are also proposing clarifications to the requirements associated with limiting variability in additive production batches. These changes would address additive manufacturer concerns that compliance with the existing requirements would be burdensome and difficult, while maintaining the emissions control benefits of the gasoline deposit control program.

In the "Rules and Regulations" section of this **Federal Register**, we are making these regulatory changes as a direct final rule without a prior proposal because we view these changes as noncontroversial revisions and anticipate no adverse comment. We have explained our reasons for these revisions in the preamble to the direct final rule. If we receive no adverse comment, we will not take further action on this proposed rule. If we receive adverse comment, we will withdraw the amendments, paragraphs, or sections of the direct final rule receiving such comment and those amendments, paragraphs, or sections will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. We are not planning to hold a public hearing regarding this action.

DATES: Written comments must be received by January 4, 2002.

ADDRESSES: Interested parties may submit written comments in response to this notice (in duplicate if possible) to Public Docket No. A-2001-15, at: Air Docket Section, U.S. Environmental Protection Agency, Attention: Docket No. A-2001-15, First Floor, Waterside Mall, Room M-1500, 401 M Street SW., Washington, DC 20460 (Telephone 202-260-7548; Fax 202-260-4400). We also request that a copy of the comments be sent to Jeff Herzog by mail at, U.S. EPA, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, MI 48105-2498, or by E-Mail at herzog.jeff@epa.gov

This proposed rule and the accompanying direct final rule are available electronically on the day of publication from the EPA **Federal Register** internet Web site listed below. Prepublication electronic copies of these notices are also available from the EPA Office of Transportation and Air Quality Web site listed below. This service is free of charge, except for any cost that you already incur for internet connectivity.

Federal Register Web Site:

<http://www.epa.gov/docs/fedrgstr/EPA-AIR/> (Either select desired date or use Search feature.)

Office of Transportation and Air Quality Web Site:

<http://www.epa.gov/otaq/> (Look in "What's New" or under the specific rulemaking topic.)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

FOR FURTHER INFORMATION CONTACT: Jeff Herzog, U.S. Environmental Protection Agency, Assessment and Standards Division, 2000 Traverwood, Ann Arbor, MI, 48105-2498. Telephone (734) 214-4227; Fax (734) 214-4816; E-Mail herzog.jeff@epa.gov

SUPPLEMENTARY INFORMATION: This document concerns proposes changes to the requirements on variability in the composition of additives certified under the gasoline deposit control additive program. For further information, including the rationale, administrative requirements, statutory authority, and regulatory text for these technical amendments, please see the information provided in the direct final action that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Administrative Requirements

A. Administrative Designation

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether this regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
 - (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
 - (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or 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.
- EPA has determined that this rule is not a "significant regulatory action"

under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Regulatory Flexibility

EPA determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this rule. Today's proposed rule would not have a significant impact on a substantial number of small entities. Today's rule would simplify the requirements for additive manufacturers under the gasoline deposit control program and would not impose any significant new requirements. The regulatory changes in today's rule would reduce the burden of compliance for all affected parties.

C. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement to accompany any proposed and final rule that includes a federal mandate that may result in expenditures by state, local, and tribal governments in the aggregate, or by the private sector, of \$100 million or more for any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant federal intergovernmental mandates, and informing, educating, and advising

small governments on compliance with the regulatory requirements.

Today's rule contains no federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments. This proposed rule would impose no enforceable duties on any of these governmental entities. Nothing in the regulatory provisions in this proposed rule would significantly or uniquely affect small governments. EPA has determined that this rule does not contain a federal mandate that may result in expenditures of \$100 million or more in any one year for State, local, and tribal governments in the aggregate, or the private sector in any one year. The amendments contained in this proposed rule would simplify the requirements under the gasoline deposit control program, and do not impose any significant new requirements.

D. Compliance With the Paperwork Reduction Act

Today's proposed rule would not impose any new information collection burden. No new information collection requirements would result from the implementation of the provisions which are the subject of this action.

The Office of Management and Budget (OMB) has previously approved the information collection requirements of the EPA's Gasoline Deposit Control Additive Program contained in 40 CFR Part 80 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2060-0275 (EPA ICR No. 1655.04). Today's proposed rule would not result in a change in the requirements contained in this ICR.

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.

Copies of the ICR documents may be obtained from Sandy Farmer, Information Policy Branch; EPA; 401 M St., SW. (mail code 2136); Washington, DC 20460 or by calling (202) 260-2740.

Include the ICR and/or OMB number in any correspondence.

E. Compliance With Executive Order 13045

This proposed rule is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

F. 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.

G. Consultation and Coordination With Indian Tribal Governments

On January 1, 2001, Executive Order 13084 was superseded by Executive Order 13175. However, this proposed rule was developed during the period when Executive Order 13084 was still in force, and so tribal considerations were addressed under Executive Order 13084. In the event that adverse comments are received on this proposal, we will address any such comments received in a subsequent final rule based on the proposed rule. Development of such a subsequent final rule will address tribal considerations under Executive Order 13175.

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that

significantly or uniquely affect their communities.”

This proposed rule would not significantly or uniquely affect the communities of Indian tribal governments. As noted above, this proposed rule would make minor technical changes to federal regulations that would be implemented at the federal level and affects only obligations on private industry. Accordingly, the requirements of Executive Order 13084 do not apply to this rule.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, Section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or would be 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. NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed rule does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

I. Executive Order 13132 (Federalism)

Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure “meaningful and timely input by State and local officials in the development of regulatory policies that have federalism 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 proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Section 211(d)(4)(A) of the CAA prohibits States from prescribing or attempting to enforce controls or prohibitions

respecting any fuel characteristic or component if EPA has prescribed a control or prohibition applicable to such fuel characteristic or component under Section 211(c)(1) of the Act. This rule merely modifies existing EPA detergent additive standards and therefore will merely continue an existing preemption of State and local law. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

List of Subjects in 40 CFR Part 80

Environmental protection, Fuel additives, Gasoline deposit control (detergent) additives, Gasoline, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: October 24, 2001.

Christine Todd Whitman,
Administrator.

[FR Doc. 01–27589 Filed 11–2–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7097–2]

National Oil and Hazardous Substances Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete a portion of the Sangamo Weston/Twelve Mile Creek/Lake Hartwell (Sangamo) Superfund Site from the National Priorities List (NPL).

SUMMARY: The United States Environmental Protection Agency (US EPA), Region 4, announces its intent to partially delete a portion of the Sangamo Superfund Site, located in Pickens, South Carolina, from the National Priorities List (NPL) and is only requesting adverse public comment(s) on this notice. The proposed partial deletion is for the Dodgens remote property which is located within a few miles of the main plant property. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan.

The EPA and the State of South Carolina Department of Health and Environmental Control have determined that all appropriate response actions under CERCLA have been completed for the Dodgens remote property. However, this deletion does not preclude future actions under CERCLA. In the “Rules and Regulations” section of today’s **Federal Register**, we are publishing a direct final notice of deletion of the Dodgens portion of the Sangamo Superfund Site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comments. We have explained our reasons for this deletion in the preamble to the direct final notice of deletion. If we receive no adverse comment(s), we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the “Rules and Regulations” section of this **Federal Register**.

DATES: Comments concerning this notice of intent to partially delete a portion of the Sangamo Site must be received by January 4, 2002.

ADDRESSES: Written comments may be mailed to: Sheri Cresswell, US EPA, Region 4, 61 Forsyth St., WD–NSMB, SW, Atlanta, GA, 30303.

FOR FURTHER INFORMATION CONTACT: Please contact either Sheri Cresswell (Remedial Project Manager) at 803–896–4171 or Tiki Whitfield (Community Relations Coordinator) at 1–800–435–9233 or 404–562–8530.

SUPPLEMENTARY INFORMATION: For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

Information Repositories

Repositories have been established to provide detailed information concerning this decision at the following addresses: U.S. EPA, Region 4 Superfund Records Center, 61 Forsyth St., SW., Atlanta, GA, 30303, attn: Ms. Debbie Jourdan, (404) 562–8862; R.M. Cooper Library, Clemson University, South Palmetto Boulevard., Clemson, SC, (864) 656–5174; Pickens County Public Library, Easley Branch, 110 West First Avenue,

Easley, SC (864) 850-7077; and Hart County Library, 150 Benson Street, Hartwell, GA (706) 376-4655.

List of Subjects in 40 CFR Part 300

Environmental protection, Hazardous waste.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580; 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: September 28, 2001.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 01-27464 Filed 11-2-01; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

42 CFR Part 100

RIN 0906-AA55

National Vaccine Injury Compensation Program: Revisions and Additions to the Vaccine Injury Table

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Proposed rule; notice of public hearing.

SUMMARY: This document announces a public hearing to receive information and views on the Notice of Proposed Rulemaking (NPRM) entitled "National Vaccine Injury Compensation Program: Revisions and Additions to the Vaccine Injury Table."

DATES: The public hearing will be held on December 6, 2001, from 10 a.m. to 12 p.m.

ADDRESSES: The public hearing will be held in Conference Room C in the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas E. Balbier, Jr., Director, Division of Vaccine Injury Compensation, at (301) 443-6593.

SUPPLEMENTARY INFORMATION: The Secretary has made findings as to a condition that can reasonably be determined in some circumstances to be caused by vaccines containing live, oral, rhesus-based rotavirus. Based on these findings, the Secretary proposes to amend the Vaccine Injury Table (Table) by adding to the Table vaccines containing live, oral, rhesus-based rotavirus as a distinct category, with intussusception listed as a covered Table injury. This proposal is based

upon the recommendation by the Centers for Disease Control and Prevention (CDC) that Rotashield, the only U.S.-licensed rotavirus vaccine, no longer be administered to infants in the United States based on review of data indicating a strong association between Rotashield and intussusception in the 1 to 2 weeks following vaccination.

The Secretary further proposes the following amendments: (1) Removing residual seizure disorder from the Table's Qualifications and Aids to Interpretation; (2) removing hemophilus influenzae type b polysaccharide (unconjugated) vaccines from the Table; (3) removing early onset Hib disease from the Table's Qualifications and Aids to Interpretation; and (4) adding pneumococcal conjugate vaccines to the Table with no condition specified. This latter item is based upon the CDC's recent recommendation of this vaccine for routine administration to children, as well as the enactment of the excise tax for this category of vaccines.

These proposed changes would have effect only for petitions for compensation under the National Vaccine Injury Compensation Program (VICP) filed after the amendments to the existing regulations become effective.

The NPRM was published in the **Federal Register**, July 13, 2001: Vol. 66, No. 135, Pages 36735-36739. The public comment period closes January 9, 2002.

A public hearing will be held during the 180-day public comment period. This hearing is to provide an open forum for the presentation of information and views concerning all aspects of the NPRM by interested persons.

In preparing a final regulation, the Secretary will consider the administrative record of this hearing along with all other written comments received during the comment period specified in the NPRM. Individuals or representatives of interested organizations are invited to participate in the public hearing in accord with the schedule and procedures set forth below.

The hearing will be held on December 6, 2001, beginning at 10 a.m., in Conference Room C in the Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, 20857. Upon entering the Parklawn Building, persons who wish to attend the hearing will be required to call Ms. Emma Boyd at (301) 443-6593 to be escorted to Conference Room C.

The presiding officer representing the Secretary, HHS will be Mr. Thomas E. Balbier, Jr., Director, Division of Vaccine Injury Compensation, Office of Special Programs (OSP), Health Resources and Services Administration.

Persons who wish to participate are requested to file a notice of participation with the Department of Health and Human Services (HHS) on or before November 16, 2001. The notice should be mailed to Division of Vaccine Injury, OPS, Rm 8A-46, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland, 20857. To ensure timely handling any outer envelope should be clearly marked "NPRM Hearing." The notice of participation should contain the interested person's name, address, telephone number, any business or organizational affiliation of the person desiring to make a presentation, a brief summary of the presentation, and the approximate time requested for the presentation. Groups that have similar interests should consolidate their comments as part of one presentation. Time available for the hearing will be allocated among the persons who properly file notices of participation. If time permits, interested parties attending the hearing who did not submit a notice participation in advance will be allowed to make an oral presentation at the conclusion of the hearing.

Persons who find that there is insufficient time to submit the required information in writing may give oral notice of participation by calling Mr. Thomas E. Balbier, Jr., Director, Division of Vaccine Injury Compensation, at (301) 443-6593 no later than November 16, 2001. Those persons who give oral notice of participation should also submit written notice containing the information described above to HHS by the close of business November 19, 2001.

After reviewing the notices of participation and accompanying information, HHS will schedule each appearance and notify each participant by mail or telephone of the time allotted to the person(s) and the approximate time the person's oral presentation is scheduled to begin.

Written comments and transcript of the hearing will be made available for public inspection as soon as they have been prepared, on weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m. at the Division of Vaccine Injury Compensation, Room 8A-46, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: October 29, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01-27645 Filed 11-2-01; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 011011247-1247-01; I.D. 082701E]

RIN 0648-AP62

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches from the Kodiak Launch Complex, Kodiak Island, AK

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

ACTION: Notice of receipt of a petition for regulations and an application for a small take exemption; request for comment and information.

SUMMARY: NMFS has received a request from the Alaska Aerospace Development Corporation (AADC) for a Letter of Authorization (LOA) to take small numbers of marine mammals incidental to rocket launches from the Kodiak Launch Complex (KLC), Kodiak Island, AK. In order to issue an LOA, regulations must first be established. As a result of that request, NMFS is considering whether to propose regulations that would authorize the incidental taking of a small number of marine mammals. In order to issue such regulations, NMFS must determine that these takings will have a negligible impact on the affected species and stocks of marine mammals and will not have an unmitigable adverse impact on the availability of marine mammal species or stocks for subsistence uses. NMFS invites comments and suggestions on the content of the regulations.

DATES: Comments and information must be received no later than December 5, 2001.

ADDRESSES: Comments should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3225. Comments will not be accepted if submitted via e-mail or Internet. A copy of the application may be obtained by writing to this address or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Simona P. Roberts, (301) 713-2322, ext 106 or Brad Smith, (907) 271-3023.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review and comment.

Permission may be granted if NMFS finds that the taking will have no more than a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses and that the permissible methods of taking and requirements pertaining to the monitoring and reporting of such taking are set forth. NMFS has defined "negligible impact" in 50 CFR 216.103 as "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival." As new information is developed, through monitoring, reporting, or research, the regulations may be modified, in whole or in part, after notice and opportunity for public review.

Summary of Request

On July 26, 2001, NMFS received a request from AADC for an LOA to take, by harassment, small numbers of marine mammals, specifically Steller sea lions (*Eumetopias jubatus*), incidental to the launch of rockets from KLC on Kodiak Island, Alaska.

Specified Activities and Geographic Area

KLC is a commercial rocket launch complex owned and operated by the State of Alaska through AADC. It occupies 43 acres (174 kilometers, km²) within a 3,100 acre (12,545 km²) parcel of state-owned lands on the eastern side of Kodiak Island on the Narrow Cape peninsula. KLC was designed to accommodate a variety of small, solid rocket motors including such vehicles as the Minuteman II, Taurus, Conestoga, and Athena (Lockheed Martin Launch Vehicle). The largest vehicle that can be launched from KLC is the Athena-2 (Lockheed Martin Vehicle-2).

To date, three rockets have been launched from KLC. The first two launches (November 1998 and September 1999) were part of the U.S. Air Force (USAF) atmospheric interceptor technology (ait) program and the third (March 2001) was part of the USAF Quick Reaction Launch Vehicle (QRLV) program. All three launches were done in support of suborbital Department of Defense (DoD) missions and involved very small vehicles composed of motors from decommissioned USAF Minuteman I or II launch vehicles and a Castor IV motor.

The facility is licensed to launch up to nine rockets per year, and has two more scheduled launches in 2001. The first 2001 launch will be an orbital commercial space launch of an Athena I and the second 2001 launch will be a DoD Strategic Target System (STARS) launch under the auspices of the U.S. Army Space and Missile Defense Command. STARS vehicles will include first- and second-stage Polaris A3 boosters and a third-stage Orbus-1 booster. Three launches are anticipated in 2002, one in the USAF's QRLV program and two in the U.S. Army STARS program.

Launch operations at KLC are authorized under license from the Federal Aviation Administration, Office of Associate Administrator for Commercial Space Transportation (AST) in accordance with the facility's Environmental Assessment (EA) and stipulations in the EA's Finding of No Significant Impact (FONSI, 61 FR 32884, June 25, 1996). These stipulations included a requirement to develop a Natural Resource Management Plan to address monitoring and mitigation activities for protected species in the area. This plan was developed in coordination with NMFS utilizing comparison of anticipated sound pressure levels from rocket motors to be launched from KLC with documented marine mammal disturbance responses to such noise.

Anticipated Impacts on Marine Mammals and Their Habitat

Launch operations are a major source of noise. The operation of launch vehicle engines produces significant sound levels. Generally, four types of noise occur during a launch. They are: (1) combustion noise from launch vehicle chambers; (2) jet noise generated by the interaction of the exhaust jet and the atmosphere; (3) combustion noise from the post-burning of combustion products; and (4) sonic booms.

The Natural Resource Management Plan includes an Environmental

Monitoring Plan that requires monitoring of Steller sea lions be done at the seasonally occupied (during late June to early October only), non-breeding haul-out on Ugak Island. Specifically, the Monitoring Plan requires that AADC conduct pre- and post-launch aerial surveys, as well as real-time video monitoring and rocket motor noise measurements on the Ugak Island Steller sea lion haul-out. The Ugak haul-out is located approximately 2 miles (3.2 km) from Narrow Cape and about 3.5 miles (5.6 km) from the launch pad on a narrow sand spit on the north side of the Island facing the KLC. This is the only haul-out site within the Narrow Cape region that has the potential to be impacted by the sights and sounds of rocket launches from KLC.

Harbor seals (*Phoca vitulina*) haul out on the southeast side of Ugak Island, but this area is sheltered from direct sight of KLC by a 300 foot (9.1 meter, m) tall island cliff and receives heavy surf that creates a lot of background ambient noise. Because of the ambient noise levels at this site, the heavy surf often interferes with the ability of an animal to detect a sound even when that sound is above its absolute hearing threshold (Richardson et al., 1995). Therefore, it seems unlikely that harbor seals, because of the location of their haul-out, would hear noise associated with rocket launches from KLC.

During the September 1999 *ait* launch, Steller sea lions were observed on the Ugak Island haul-out pre-launch. Post-launch, the sea lions were observed in the water immediately offshore approximately 1 hour after the rocket was launched. Video documentation was made of the haul-out area pre-launch but failed during the launch, so no direct stimulus-response data tying sea lion behavior to rocket noise could be made. However, the pre-launch video showed a stampede off the haul-out approximately 4.5 hours before the launch that could not be correlated with any documented disturbance near the haul-out, and it is possible that the sea lions may have remained in the water until the post-launch survey.

AADC recognizes in their application that despite the lack of direct stimulus-response data tying sea lion behavior to rocket launches from KLC, the unusual, high-intensity stimuli resulting from launch-related sights and sounds means that evacuation of the Ugak haul-out site by sea lions could reasonably be expected.

Solid rocket boosters from KLC launches will fall into the ocean away from any known or potential haul-out sites and do not pose any threat to Ugak

Island. Therefore, the anticipated impacts on marine mammals would be infrequent and unintentional incidental harassment resulting from the sights and sounds generated by rocket launches. Launch noises may cause a startle response and flight to water for those Steller sea lions hauled-out on northern Ugak Island. Launch noise is expected to occur over the coastal habitats of Narrow Cape and Ugak Island during every launch, while sonic booms will occur approximately 40 nautical miles (74 km) downrange, beyond the outer continental shelf over open ocean and pose no threat to hauled-out pinnipeds.

Because the sights and sounds of rocket launches have the potential to result in harassment of pinnipeds, an MMPA authorization under section 101(a)(5)(A) or (D) is required in order to exempt the applicant from the penalties of the MMPA for taking by harassment.

Regulations, if issued, would authorize NMFS to issue a LOA for the taking of small numbers of Steller sea lions incidental to rocket launches associated with the ait, QRLV, STARS, and other commercial space launch programs from Kodiak Launch Complex on Kodiak Island, Alaska.

Dated: October 26, 2001.

William T. Hogarth,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

[FR Doc. 01-27734 Filed 11-2-01; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 101901E]

Caribbean Fishery Management Council; Public Hearings

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

ACTION: Notice of intent to prepare a draft supplemental environmental impact statement (DSEIS); request for comments; notice of public hearings.

SUMMARY: The Caribbean Fishery Management Council (Council) intends to prepare a DSEIS to assess the impacts on the natural and human environment of the management measure proposed in its draft Amendment 2 to the Fishery Management Plan for the Queen Conch Resources of Puerto Rico and the U.S. Virgin Islands (FMP). The purpose of

this document is to solicit public comments on the scope of the issues to be addressed in the DSEIS and to provide information on the Council's intended schedule for hearings for completing the DSEIS and submitting it to NMFS for filing with the Environmental Protection Agency for publication of a notice-of-availability for public comment.

DATES: The two public hearings will be held on Monday, November 26, 2001; see **SUPPLEMENTARY INFORMATION**. Written comments on the scope of issues to be addressed in the DSEIS will be accepted through November 26, 2001.

ADDRESSES: Written comments should be sent to Miguel A. Rolón, Executive Director, Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918-1920, telephone: 787-766-5926; fax: 787-766-6239; or you can send comments by e-mail to: Miguel.A.Rolon@noaa.gov or Graciela.Garcia-Moliner@noaa.gov. Copies of the draft Amendment 2 and the preliminary DSEIS may be obtained by contacting the Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918-2577, phone: 787-766-5926. Public hearings will meet at Puerto Rico, and St. Thomas, VI; for specific locations, see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Muñoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918-2577, phone: 787-766-5926, or Dr. Peter J. Eldridge, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, phone: 727-570-5305; fax: 727-570-5583; e-mail: Peter.Eldridge@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

The FMP was prepared by the Council and approved and implemented by NMFS under procedures of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The FMP's management measures for queen conch apply in the Exclusive Economic Zone (EEZ) in the U.S. Caribbean. For the purposes of the FMP and its implementing regulations, the U.S. Caribbean consists of the Federal waters beyond the 9 nautical mile boundary in Puerto Rico, and beyond the 3 nautical mile boundary in St. Thomas, St. John and St. Croix, U.S. Virgin Islands. The FMP currently establishes the following

management measures for queen conch: (1) A 9-inch overall minimum size limit, or a 3/8-inch shell-lip thickness limitation on the possession of queen conch; (2) a requirement that all species in the management unit be landed in the shell, and that the sale of undersized queen conch and queen conch shells be prohibited; (3) a bag limit of three queen conch/day for recreational fishers, not to exceed 12 per boat, and 150 queen conch/day for licensed commercial fishers; (4) the closure of the harvest season from July 1 through September 30 of each consecutive year; and (5) the prohibition of harvesting queen conch by HOOKAH gear in the EEZ.

The Council is preparing draft FMP Amendment 2. The objectives of Amendment 2 are to address NMFS' determination that queen conch is overfished and is undergoing overfishing. Amendment 2, in addressing these issues, proposes to prohibit the harvest and possession of queen conch in the Caribbean EEZ. The Council is preparing a DSEIS as an integrated part of Amendment 2. The DSEIS will describe the amendment's proposed management measure and reasonable alternatives and will assess the environmental impacts of the proposed and alternative measures. The Council is requesting written comments on the scope of the issues to be addressed in the DSEIS. Based on input received during eight public hearings held previously in July 2000 (see notice of these hearings at 65 FR 40600), the Council intends to revise draft Amendment 2, as appropriate, and to finalize the DSEIS. At the July 2000 hearings, the Council changed the number of the Amendment from Amendment 1 to Amendment 2. The proposed management measure has not

been included in a previous FMP amendment.

The Council intends that the public hearings scheduled for November 26, 2001, supplement, for scoping purposes, the eight public hearings that the Council conducted from July 10, 2000, through July 26, 2000, on a preliminary draft of Amendment 2 and associated preliminary DSEIS. The Council also invites the public to comment on the scope of the issues to be addressed by Amendment 2 and its DSEIS and on the types of environmental impacts associated with alternative management measures, including the proposed measure discussed above.

Once the Council completes the DSEIS, it will submit it to NMFS for filing with the Environmental Protection Agency (EPA). EPA will publish in the **Federal Register** a notice of availability of the DSEIS for public comment. This procedure is pursuant to regulations issued by the Council on Environmental Quality (CEQ) for implementing the procedural provisions of the National Environmental Policy Act (NEPA) (40 CFR parts 1500-1508) and to NOAA's Administrative Order 216-6 regarding NOAA's compliance with NEPA and the CEQ regulations.

The Council intends to consider public comments received on the DSEIS before adopting final management measures for a final Amendment 2 and to prepare a final supplemental environmental impact statement (FSEIS) in support of its final Amendment 2. The Council would then submit the final Amendment 2 and supporting FSEIS to NMFS for Secretarial review, approval, and implementation under the Magnuson-Stevens Act. NMFS will announce availability of Amendment 2 for public review during the Secretarial review period though notice published in the **Federal Register**. During

Secretarial review, NMFS will also file the FSEIS with EPA for a final public comment period on the FSEIS. This comment period will be concurrent with the Secretarial review period and will end prior to final agency action to approve, disapprove, or partially approve Amendment 2. All public comment periods on Amendment 2, its proposed implementing regulations, and its associated FSEIS will be announced through notice published in the **Federal Register**. NMFS will consider all public comments received during the Secretarial review period for Amendment 2 (60-day period), whether they are on the amendment, the FSEIS, or the proposed regulations, prior to final agency action.

Time and Location for Public Hearings

Both hearings are scheduled on, Monday, November 26, 2001, at the following times and locations.

1. Puerto Rico, Pierre Hotel, De Diego Avenue, Condado, Puerto Rico, from 2 p.m. to 5 p.m.

2. US Virgin Islands, Windward Passage Holiday Inn Hotel, Veterans Drive, Charlotte Amalie, St. Thomas, VI, from 7 p.m. to 10 p.m.. Written comments will be accepted through November 26, 2001.

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by November 16, 2001.

Dated: October 30, 2001.

Bruce Morehead,

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

[FR Doc. 01-27723 Filed 10-31-01; 4:27 pm]

BILLING CODE 3510-22-S

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

Food Safety and Inspection Service

[Docket No. 00-023N]

Availability of and Request for Comment on FSIS Draft Risk Assessment for *Escherichia coli* O157:H7 in Ground Beef

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing the availability of, and requesting public comment on, its draft risk assessment for *Escherichia coli* (*E. coli*) O157:H7 in ground beef. Meanwhile, the Agency is seeking scientific peer review of the draft risk assessment from the National Academies of Science. The document will be revised with comments from that review. FSIS conducted this assessment to assist in reviewing and refining its integrated risk reduction strategy for *E. coli* O157:H7 in beef.

DATES: Comments are due January 4, 2002.

ADDRESSES: Submit one original and two copies of written comments to: FSIS Docket Room, Docket #00-023N, Room 102 Cotton Annex, 300 12th Street, SW., Washington, DC 20250-3700. All comments received in response to this notice will be considered part of the public record and will be available for viewing in the FSIS Docket Room between 8:30 a.m. and 4:30 p.m., Monday through Friday. As discussed below, the Centers for Disease Control and Prevention (CDC) submitted comments on the risk assessment in response to an earlier review of the document. These and other comments will also be available in the FSIS Docket Room.

FOR FURTHER INFORMATION CONTACT: For a copy of the draft risk assessment contact: Annette Reid at 202-690-6409.

The report is also available on the FSIS homepage at www.fsis.usda.gov. For technical questions and for a copy of the model contact Dr. Eric Ebel at 970-490-7954.

SUPPLEMENTARY INFORMATION:

Background

On August 18, 1998, FSIS announced plans to conduct a farm-to-table risk assessment for *E. coli* O157:H7 in beef with a focus on ground beef (63 FR 44232). A team comprised of Federal scientists, visiting scientists, and consultants contributed to the assessment. The overall goals of the assessment were to:

- Quantitatively model, with attendant uncertainty, human illnesses caused by *E. coli* O157:H7 in ground beef in the United States
- Identify the occurrence and levels of the pathogen at points along the farm-to-table continuum
- Identify future research needs
- Document risk assessment methods and evidence for future assessments
- Effectively communicate the results to all interested parties—government, consumer groups, industry, the scientific community, and the general public.

FSIS held a public meeting on October 28, 1998, to solicit comment and input at an early stage of the project regarding the scope of the risk assessment, the analytical framework to be used in conducting the risk assessment, the scientific evidence acquired by the risk assessment team, and the existing data gaps identified. At that meeting, the Agency released a draft report "Preliminary Pathways and Data for Risk Assessment of *E. coli* O157:H7 in Beef."

The risk assessment team then evaluated comments and additional data received at the public meeting and in response to the comment period announced in the August 18, 1998 **Federal Register** notice. The risk assessment team also received peer input during the development phase of the risk assessment through presentations at the 1998 Annual Meeting of the Society for Risk Analysis (SRA) and at the 1999 Annual Meeting of the International Association of Milk Food and Environmental Sanitarians (now renamed the International Association for Food Protection). While developing the assessment, the team

convened a week-long interagency workshop on microbial pathogens in food and water in April 1999 that involved microbial risk assessment practitioners from FSIS, the Food and Drug Administration, the Environmental Protection Agency, the United Kingdom, and New Zealand. In December 1999, additional peer input was received from presentations made to the SRA and the National Advisory Committee on Microbiological Criteria for Food.

FSIS presented a summary of some of the team's draft findings at a public meeting on February 29, 2000. The purpose of the public meeting was to discuss FSIS policy regarding *E. coli* O157:H7 and new information concerning the pathogen and its relation to human health.

FSIS also circulated the draft risk assessment for comment within the Federal Government, including a CDC and a select group of individuals.

The team has completed a draft of the risk assessment. FSIS is making this draft available to the public and is requesting comments. The Agency also is making the assessment available for scientific peer review from the National Academies of Science and the document will be revised with comments from that review. All comments received in response to this notice will be reviewed and considered when finalizing the risk assessment.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and provide copies of this **Federal Register** publication in the FSIS Constituent Update. FSIS provides a weekly FSIS Constituent Update, which is communicated via fax to over 300 organizations and individuals. In addition, the update is available on-line through the FSIS web page located at <http://www.fsis.usda.gov>. The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent fax list consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific

professionals, and other individuals that have requested to be included. Through these various channels, FSIS is able to provide information to a much broader, more diverse audience. For more information and to be added to the constituent fax list, fax your request to the Congressional and Public Affairs Office, at (202) 720-5704.

Done at Washington, DC on: October 30, 2001.

Margaret O'K. Glavin,
Acting Administrator.

[FR Doc. 01-27541 Filed 11-2-01; 8:45 am]

BILLING CODE 3410-DM-P

DEPARTMENT OF AGRICULTURE

Rural Telephone Bank

Amendment to Bylaws

AGENCY: Rural Telephone Bank, USDA.

ACTION: Notice; correction.

Correction

In notice document 01-23502, beginning on page 48416 in the issue of Thursday, September 20, 2001, make the following correction: On page 48417, in the second column, the date the notice was approved should read "Dated: September 13, 2001".

Dated: October 30, 2001.

Blaine D. Stockton,
Acting Governor, Rural Telephone Bank.
[FR Doc. 01-27715 Filed 11-2-01; 8:45 am]
BILLING CODE 3410-15-P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Georgia Transmission Corporation; Notice of Finding of No Significant Impact

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Utilities Service (RUS) has made a finding of no significant impact (FONSI) with respect to a request from Georgia Transmission Corporation for assistance from the RUS to finance the construction of a 230/115 kV electric substation in Gwinnett County, Georgia.

FOR FURTHER INFORMATION CONTACT: Bob Quigel, Environmental Protection Specialist, Engineering and Environmental Staff, RUS, Stop 1571, 1400 Independence Avenue, SW., Washington, DC 20250-1571, telephone (202) 720-0468, e-mail at bquigel@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The substation is to be named the Bay Creek Substation. It is to be located just northeast of the intersection of Athatown Road and the Gwinnett County/Walton County line in Gwinnett County, Georgia. The project will require approximately 11 acres of clearing for the substation and transmission line access. The actual fenced area of the substation will be approximately 3.5 acres.

Copies of the FONSI are available for review at, or can be obtained from, RUS at the address provided herein or from Mr. John Lasseter, Georgia Transmission Corporation, 2100 East Exchange Place, Tucker, Georgia 30085-2088, telephone (770) 270-7710. Mr. Lasseter's e-mail address is john.lasseter@gatrans.com.

Dated: October 18, 2001.

Blaine D. Stockton,
Assistant Administrator, Electric Program.
[FR Doc. 01-27714 Filed 11-2-01; 8:45 am]
BILLING CODE 3410-15-P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Suite 4100W, Franklin Court Building, U.S. Department of Commerce, 1099 14th Street, NW., Washington, DC.

Docket Number: 01-017.

Applicant: University of Connecticut, Department of Metallurgy and Materials Engineering, 97 North Eaglesville Road, Storrs, CT 06269-3136.

Instrument: Electron Microscope, Model JEM-2010.

Manufacturer: JEOL Ltd., Japan.

Intended Use: The instrument is intended to be used to study the microstructure of a wide range of materials including metals, alloys, ceramics, composites, rocks,

ferroelectrics, semiconductors, high-temperature superconductors, mesoporous materials and catalysts. Experiments to be conducted are as follows:

(1) Interfacial Structure and Processes in Engineering Alloys.

(2) Mineral Reactions and Textural Evolution in Silicate Rocks.

(3) Microstructural Evolution in Tough Ceramics.

(4) EELS/ESI as a Probe of Magnetic Structure in Alloys.

(5) Synthesis and Characterization of Inorganic Helices.

In addition, the instrument will be used in the courses MMAT322 Materials Characterization and MMAT323 Transmission Electron Microscopy.

Application accepted by Commissioner of Customs: September 5, 2001.

Docket Number: 01-018.

Applicant: Federal Highway Administration, Turner-Fairbank Highway Research Center. HRDI-10, 6300 Georgetown Pike, McLean, VA 22101-2296.

Instrument: Automated Ultrasonic Inspection System, Model P-scan 4 Lite.

Manufacturer: Force Institute, Denmark.

Intended Use: The instrument is intended to be used to detect cracks, slag inclusions, porosity, and other defects in butt-welded steel girders. Field testing of the instrument on under-construction bridge girders will be conducted to determine the effect of environment and human factors on system performance.

Application accepted by Commissioner of Customs: September 5, 2001.

Docket Number: 01-019.

Applicant: University of California, Ernest Orlando Lawrence Berkeley National Laboratory, One Cyclotron Road, Mail Stop 937-200, Berkeley, CA 94720.

Instrument: Electron Microscope (used), Model CM200 FEG.

Manufacturer: FEI Company, The Netherlands.

Intended Use: The instrument is intended to be used to understand the structural architecture of biological complexes that makes them cellular units of function, and the structural bases for the regulation of such complexes. Also, application of cryo-electron microscopy and image analysis to the structural characterization of microtubules, a highly dynamic self-assembly system regulated by the nucleotide state of its structural unit, the ab-tubulin heterodimer, and their interaction with cellular factors and

antimitotic ligands. In addition, investigation of the structural bases of transcription initiation and regulation by characterizing the structures of the eukaryotic, general transcriptional machinery and its interaction with DNA, activators and large cofactor complexes. These studies are being extended to the structural characterization of the molecular machinery involved in transcription-coupled DNA repair.

Application accepted by Commissioner of Customs: September 19, 2001.

Docket Number: 01-020.

Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Room 8-309, Cambridge, MA 02139.

Instrument: Impact Module for Nano Indentor.

Manufacturer: Micro Materials Ltd., United Kingdom.

Intended Use: The instrument is intended to be used for studies of the mechanical properties such as strength and stiffness of industrial metals—aluminum, various steels, ceramics and super alloys. In addition, the instrument will be used to illustrate state of the art testing procedures of advanced materials on the undergraduate and graduate levels in the course Mechanical Behavior of Materials.

Application accepted by Commissioner of Customs: October 1, 2001.

Docket Number: 01-021.

Applicant: Baylor College of Medicine, One Baylor Plaza, Houston, TX 77030.

Instrument: Electron Microscope, Model JEM-2010F and Accessories.

Manufacturer: JEOL Ltd., Japan.

Intended Use: The instrument is intended to be used to study proteins, viruses, protein-nucleic acid complexes and membrane receptors, which are involved in a variety of biological processes in viral morphogenesis, signal transduction, ion and molecular transport and catalysis. The experiments to be conducted include direct imaging with the specimen embedded in vitreous ice and kept at a liquid nitrogen temperature (–170C) during the microscopic observations.

Application accepted by Commissioner of Customs: October 10, 2001.

Gerald A. Zerdy,

Program Manager, Statutory Import Programs Staff.

[FR Doc. 01-27732 Filed 11-2-01; 8:45 am]

BILLING CODE 3510-DS-P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denial of Participation in the Special Access Program

October 31, 2001.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs suspending participation in the Special Access Program.

EFFECTIVE DATE: November 5, 2001.

FOR FURTHER INFORMATION CONTACT: Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The Committee for the Implementation of Textile Agreements (CITA) has determined that Mother's Work, Inc. has violated the requirements for participation in the Special Access Program, and has suspended Mother's Work, Inc. from participation in the Program for the one-year period November 5, 2001 through November 4, 2002.

Through the letter to the Commissioner of Customs published below, CITA directs the Commissioner to prohibit entry of products under the Special Access Program by or on behalf of Mother's Work, Inc. during the period November 5, 2001 through November 4, 2002, and to prohibit entry by or on behalf of Mother's Work, Inc. under the Program of products manufactured from fabric exported from the United States during that period.

Requirements for participation in the Special Access Program are available in **Federal Register** notice 63 FR 16474, published on April 3, 1998.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 31, 2001.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The purpose of this directive is to notify you that the Committee

for the Implementation of Textile Agreements has suspended Mother's Work, Inc. from participation in the Special Access Program for the period November 5, 2001 through November 4, 2002. You are therefore directed to prohibit entry of products under the Special Access Program by or on behalf of Mother's Work, Inc. during the period November 5, 2001 through November 4, 2002. You are further directed to prohibit entry of products under the Special Access Program by or on behalf of Mother's Work, Inc. manufactured from fabric exported from the United States during the period November 5, 2001 through November 4, 2002.

Sincerely,

D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.
[FR Doc.01-27690 Filed 11-2-01; 8:45 am]

BILLING CODE 3510-DR-S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02-04]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub.L. 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-04 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: October 30, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

23 OCT 2001
In reply refer to:
I-01/011822

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 02-04, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Ireland for defense articles and services estimated to cost \$26 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in cursive script, reading "Tome Walters", is positioned above the typed name.

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-04

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

- (i) **Prospective Purchaser:** Ireland
- (ii) **Total Estimated Value:**

Major Defense Equipment*	\$19 million
Other	<u>\$ 7 million</u>
TOTAL	\$26 million
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** Sixty Javelin command launch units, 100 Javelin missile rounds, simulators, support equipment, spare and repair parts, publications and technical data, personnel training and equipment, U.S. Government and contractor engineering and logistics personnel services, a Quality Assurance Team, and other related elements of logistics support.
- (iv) **Military Department:** Army (UCV)
- (v) **Prior Related Cases, if any:** None
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** None
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached
- (viii) **Date Report Delivered to Congress:** 23 OCT 2001

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Ireland - Javelin Anti-tank Missile Systems

The Government of Ireland has requested a possible sale of 60 Javelin command launch units, 100 Javelin missile rounds, simulators, support equipment, spare and repair parts, publications and technical data, personnel training and equipment, U.S. Government and contractor engineering and logistics personnel services, a Quality Assurance Team, and other related elements of logistics support. The estimated cost is \$26 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Ireland while enhancing weapon system standardization and interoperability with U.S. forces.

Ireland desires this missile system to fulfill their commitments for participation in peacekeeping operation throughout the world, including the United Nations Stand-by Arrangement System. An improved anti-armor capability is required for these missions. The Javelin will replace the French MILAN anti-tank missile. Ireland will have no difficulty absorbing these systems into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Javelin Joint Venture (Raytheon and Lockheed Martin) of Orlando, Florida. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of an U.S. Government Quality Assurance Team or two U.S. Government and one contractor representative to Ireland for one week to assist in the delivery and deployment of the missiles. Two contractor representatives will be required in-country for two years to perform maintenance services.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-04**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act****Annex
Item No. vi****(vi) Sensitivity of Technology:**

1. The Javelin anti-tank missile system provides a man-portable, medium anti-tank capability to infantry, scouts, and combat engineers. Javelin is comprised of two major components; a reusable command launch unit (CLU) and a missile sealed in a disposable launch tube assembly. The CLU incorporates an integrated day/night sight and provides target engagement capability in adverse weather and countermeasure environments. The CLU may also be used in the stand-alone mode for battlefield surveillance and target detection. Javelin's key technical feature is the use of fire-and-forget technology that allows the gunner to fire and immediately take cover. Additional special features are the top attack and/or direct fire modes (for targets under cover), integrated day/night sight, advanced tandem warhead, imaging infrared seeker, target lock-on before launch, and soft launch from enclosures or covered fighting positions. The Javelin replaces the Dragon weapon system. The Javelin weapon system hardware is unclassified. Specific data related to operation, performance, and system vulnerabilities are classified up to the Secret level.

2. This proposed sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification. Further, the sale strengthens collective security and contributes to the standardization and interoperability in the case of peacekeeping operations and support for the United Nations Stand-by Arrangement System. The benefits to be derived from this proposed sale, as outlined in the Policy Justification, outweigh the potential damage that could result if the sensitive technology were revealed to unauthorized persons.

DEPARTMENT OF DEFENSE**Office of the Secretary****[Transmittal No. 02-07]****36(b)(1) Arms Sales Notification****AGENCY:** Department of Defense, Defense Security Cooperation Agency.**ACTION:** Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104-164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703)604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-07 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: October 30, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

25 OCT 2001
In reply refer to:
I-01/012019

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 02-07, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to the United Arab Emirates for defense articles and services estimated to cost \$40 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in cursive script, reading "Tome Walters", is positioned above the typed name.

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act**

- (i) **Prospective Purchaser:** United Arab Emirates
- (ii) **Total Estimated Value:**

Major Defense Equipment*	\$36 million
Other	<u>\$ 4 million</u>
TOTAL	\$40 million
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** Twelve RGM-84L HARPOON Block II missiles with containers, maintenance training and equipment, spare and repair parts, training, shipboard equipment, support and test equipment, publications, U.S. Government and contractor technical assistance and other related elements of logistics support.
- (iv) **Military Department:** Navy (AAS)
- (v) **Prior Related Cases, if any:** FMS case AAH - \$57 million - 29Apr98
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** None.
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached.
- (viii) **Date Report Delivered to Congress:** 25 OCT 2001

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION**United Arab Emirates - HARPOON Missiles**

The Government of United Arab Emirates (UAE) has requested a possible sale of 12 RGM-84L HARPOON Block II missiles with containers, maintenance training and equipment, spare and repair parts, training, shipboard equipment, support and test equipment, publications, U.S. Government and contractor technical assistance and other related elements of logistics support. The estimated cost is \$40 million.

This proposed sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for political stability and economic progress in the Middle East.

The proposed sale of the RGM-84L HARPOON Block II missiles will provide the UAE with a more capable anti-surface warfare capability, thus providing a competent first line defense against hostile forces threatening United States interests in the region. The platform for these anti-ship missiles will be the two Kortenaer class frigates that the UAE obtained from the Netherlands. The UAE will have no difficulty absorbing these additional missiles into its inventory for use in the defense of its coastline and surrounding islands.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be The Boeing Company of St. Louis, Missouri. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of five to seven U.S. Government and contractor representatives to support this program for two years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-07

**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act**

**Annex
Item No. vi**

(vi) Sensitivity of Technology:

1. The RGM-84L HARPOON Block II missile contains sensitive technology and has the following classified components, including applicable technical and equipment documentation and manuals:

- a. Radar seeker**
- b. Missile characteristics and performance data**
- c. Global Positioning System (GPS) standard positioning service improves mid-course guidance to the target area**

2. The AGM-84L HARPOON missile is an ship-launched, anti-ship, 75nm range, sea skimming, "fire and forget" missile with auto-pilot navigation and multiple waypoint capability. HARPOON Block I terminal guidance is provided by a radar seeker with a selectable attack profile. The HARPOON Block II upgrade incorporates software and hardware changes that will add an improved Anti-Surface Warfare (ASUW) capability against ships in the open ocean and in the littoral. HARPOON Block II hardware improvements includes a new Guidance Control Unit (GCU) that uses GPS aided inertial navigation. This will improve the missile's overall navigation accuracy. GPS accuracy will also give HARPOON Block II an inherent secondary role against land-based targets, making Block II useful in coastal target suppression roles. HARPOON Block II software improvements include changes to the launching system that will provide the operator with the ability to superimpose a geographic coastline on the mission-planning screen. This will allow the user to shape the search pattern of the HARPOON seeker in ASUW mode, enhancing its performance in littoral areas. The information on the HARPOON is classified Confidential.

3. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

4. A determination has been made that the United Arab Emirates can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

DEPARTMENT OF DEFENSE**Office of the Secretary****[Transmittal No. 02-12]****36(b)(1) Arms Sales Notification****AGENCY:** Department of Defense, Defense Security Cooperation Agency.**ACTION:** Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104-164 dated July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604-6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02-12 with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: October 30, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001-08-M



DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

17 October 2001

In reply refer to:
I-01/012378

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-12, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to the United Kingdom for defense articles and services estimated to cost \$87 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

A handwritten signature in black ink, appearing to read "Tome H. Walters, Jr.", is located below the word "Sincerely,".

TOME H. WALTERS, JR.
LIEUTENANT GENERAL, USAF
DIRECTOR

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Attachments

Transmittal No. 02-12

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

- (i) **Prospective Purchaser:** United Kingdom
- (ii) **Total Estimated Value:**

Major Defense Equipment*	\$85 million
Other	<u>\$ 2 million</u>
TOTAL	\$87 million
- (iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase:** Forty-eight conventionally armed TOMAHAWK BLOCK IIIC Land Attack Missiles (TLAM), containers, engineering technical assistance, spare and repair parts, and other related elements of logistics support.
- (iv) **Military Department:** Navy (AHF)
- (v) **Prior Related Cases, if any:**

FMS case AHB - Cancelled - 01Dec99
FMS case AHA - \$ 28 million - 26Aug99
FMS case AGS - \$140 million - 16Oct95
- (vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid:** none
- (vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold:** See Annex attached
- (viii) **Date Report Delivered to Congress:** October 17, 2001.

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION**United Kingdom - TOMAHAWK BLOCK IIIC Land Attack Missiles**

The Government of the United Kingdom has requested a possible sale of 48 conventionally armed TOMAHAWK BLOCK IIIC Land Attack Missiles (TLAM), containers, engineering technical assistance, spare and repair parts, and other related elements of logistics support. The estimated cost is \$87 million.

This proposed sale will contribute to the foreign policy and national security of the United States by improving the military capabilities of the United Kingdom and enhancing weapon system standardization and interoperability of this important NATO ally.

The United Kingdom needs these missiles to augment their present operational inventory and to enhance their submarine launched capability. The missiles will enhance the United Kingdom's operational effectiveness in support of NATO. The United Kingdom, which already has TOMAHAWK missiles in its inventory, will have no difficulty absorbing these additional missiles.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be Raytheon Missile Systems Company of Tucson, Arizona. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government and contractor representatives to the United Kingdom.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 02-12**Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act****Annex
Item No. vi****(vi) Sensitivity of Technology:**

1. The conventionally armed TOMAHAWK BLOCK IIIC Land Attack Missile (TLAM) consists of the following classified components:

a. The TOMAHAWK missile (Complete) - Guidance Set, Digital Scene Matching Area Correlator (DSMAC) Global Positioning System (GPS) when software is installed, Data Link when software/firmware is installed, Common Missile Radar Altimeter (CMRA), Operational Flight Software as well as DSMAC and GPS flight software.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness. The consequences of loss of this technology to a technologically advanced or competent adversary could result in the development of countermeasures or equivalent systems which could reduce weapons system effectiveness or be used in the development of a system with similar advanced capabilities.

3. A determination has been made that the United Kingdom can provide substantially the same degree of protection for this technology as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 01-27688 Filed 11-2-01; 8:45 am]

BILLING CODE 5001-08-C

DEPARTMENT OF DEFENSE**Office of the Secretary****Nationwide TRICARE Demonstration Project**

AGENCY: Office of the Secretary, The Department of Defense

ACTION: Notice of a nationwide TRICARE demonstration project.

SUMMARY: This notice is to advise interested parties of a demonstration project in which the Department of Defense will test the Military Health System's (MHS's) ability to address unreasonable impediments to the continuity of healthcare encountered by family members of Reservists and National Guardsmen called to active duty in support of a national emergency. This TRICARE Reserve Family Demonstration Project seeks to show that the MHS, with certain flexibility in operation, can ensure timely access to

healthcare during a national crisis, maintain clinically appropriate continuity of healthcare to family members of activated reservists and guardsmen, appropriately limit the out-of-pocket expenses for those family members, and remove potential barriers to healthcare access by families in order to improve the morale and retention of reservists and guardsmen. In this Project, for family members of activated reservists and guardsmen, the Department of Defense will authorize an increase in the TRICARE payment for healthcare services received from non-participating providers under TRICARE Standard up to 115 percent of the TRICARE maximum allowable charge less the appropriate patient copayment; waive the TRICARE Standard annual deductible; and, waive the requirement for nonemergency inpatient care to be provided by a facility of the uniformed services (when the facility is located within a 40-mile radius of the residence of the patient and the services are available at that facility) in order for the patient to have continuity of healthcare from a civilian healthcare provider. At

the end of this Project, the Department of Defense will conduct an analysis of the benefits and costs of the program in improving the welfare of Service members and their families when called to active duty during a national emergency. Information and experience gained as part of this demonstration project will provide the foundation for longer-term solutions in the event of future national emergencies. This demonstration project is being conducted under the authority of 10 U.S.C. 1092.

EFFECTIVE DATE: This demonstration project applies to all covered health care services provided on or after September 14, 2001. In view of the declaration of a national emergency and the immediacy of the call of reservists and guardsmen to active duty in support of deployment to conduct operational missions, the Department of Defense is waiving the regulation (32 CFR 199.1(o)) requiring at least 30 days notice of a demonstration project prior to its effective date. Waiver of the notice period is deemed necessary to avoid delay in implementing program changes

to address obstacles faced by family members of reservists and guardsmen from the onset of the call to active duty. In view of the fact that this demonstration project will accrue to the benefit of the participants by relieving certain restrictions on access to healthcare and will directly contribute to the effectiveness of the activated reservists and guardsmen in responding to the national emergency, failure to adhere to the normal notice period will not place any participant at a disadvantage.

FOR FURTHER INFORMATION CONTACT: LTC Pradeep G. Gidwani, Office of the Assistant Secretary of Defense for Health Affairs, TRICARE Management Activity, (703) 681-3636.

SUPPLEMENTARY INFORMATION:

A. Background

On September 14, 2001, President Bush signed Executive Order 13223 under which members of the Reserve and National Guard may be called to active duty in support of the Nation's response to the terrorist attacks of September 11, 2001. The declaration of a national emergency by the President, the immediate nature of this call to active duty in support of deployment to conduct operational missions, and the potential 24-month period of active duty impose significant challenges to family members of reservists and guardsmen. For example, an absence from civilian employment by a reservist or guardsman may result in the loss of employer-sponsored health insurance and the immediacy of the call-up limits the flexibility for alternate arrangements. Therefore, to support the families during this period of transition, the Department of Defense will exercise those authorities necessary to address the potential for lack of access to, or disruption in the continuity of, required health care services for the affected family members. A key component of the Department's efforts will be a nationwide TRICARE Demonstration Project.

Current law provides health care coverage under TRICARE Standard for family members of reservists and guardsmen who are activated for a period of more than 30 days. For those reservists and guardsmen called to active duty for a period of 179 or more days, their family members may, alternatively, elect to enroll in TRICARE Prime, which provides excellent, cost-effective coverage. However, some will opt to remain under TRICARE Standard in order to retain their current health care providers. In other cases, reservist families will have no option other than

TRICARE Standard because they live far from military facilities in areas not supported by TRICARE provider networks. By regulation, 32 CFR 199.14(h), TRICARE limits payment for healthcare services furnished by professional providers to the TRICARE Maximum Allowable Charge (TMAC). If a patient obtains care from a TRICARE participating provider, that provider must accept the TMAC and the patient's copayment as payment in full. Some doctors, however, do not participate in TRICARE Standard, and by law may balance bill the patient for an additional amount up to 15 percent above TMAC. Therefore, family members of reservists and guardsmen covered by TRICARE Standard could face undue financial hardships if they use such providers.

A military family eligible for TRICARE Standard is also required by law (10 U.S.C. 1079(b)(2) and (3)), to pay up to \$300 in a deductible for outpatient care each fiscal year. Therefore, if a reservist or guardsman is called to active duty for a period of more than 30 days prior to October 1, 2001, his or her family will have an out-of-pocket expense of up to \$300 for TRICARE outpatient care received during the month of September 2001 and another out-of-pocket expense up to \$300 for TRICARE outpatient care received after October 1, 2001. These payments of TRICARE deductibles pose an undue financial hardship for families, including those who may have already paid an annual deductible for the same period of time under their previous health insurance. The inequity of this situation was thought to be corrected by enactment of 10 U.S.C. 1095d, in which a waiver was authorized for the annual deductible for families of reservists called to active duty for a period of less than 1 year. However, the inequity remains for those families of reservists called to active duty for 1 year or more, especially if the activation order results in the accrual of multi-fiscal year deductibles within the 1-year period.

In addition, the law (10 U.S.C. 1079(a)(7)) requires that non-emergency inpatient care be provided by a facility of the uniformed services located within a 40-mile radius of the residence of the patient. As previously noted, some family members of activated reservists or guardsmen may opt to remain under TRICARE Standard in order to retain their current health care providers. In the absence of a waiver of the requirement to obtain care from a facility of the uniformed services, continuity of healthcare by the patient's civilian healthcare provider may be

disrupted even when clinically appropriate.

Accordingly, the Secretary of Defense has authorized a demonstration project under 10 U.S.C. 1092 to address these identified impediments to, and disruptions in, access to healthcare under established patient-doctor relationships by families of activated reservists and guardsmen.

B. Description of Demonstration Project

(1) Location of Project: The limited nature of the Reserve/National Guard call to active duty will only affect small numbers of families in any given geographical area. Therefore, to achieve a level of participation sufficient to test new strategies, this demonstration project will occur nationwide. Demonstration participants will be limited to families of Reserve and National Guard members ordered to active duty for periods of more than 30 days in support of operations that result from the terrorist attacks of September 11, 2001, under Executive Order 13223, 10 U.S.C. 12302, 10 U.S.C. 12301(d), or 32 U.S.C. 502(f). Such operations include for example, Operation ENDURING FREEDOM and Operation NOBLE EAGLE.

(2) Project Components: The demonstration project will consist of 3 separate components.

(a) *Waiver of TMAC under TRICARE Standard.* Title 32, Code of Federal Regulations, Section 199.14(h) shall be waived to authorize TRICARE payments up to 115 percent of the TRICARE maximum allowable charge (TMAC), less the applicable patient copayment, for care received from a provider that does not participate (accept assignment) under TRICARE to the extent necessary to ensure timely access to care and clinically appropriate continuity of care. This component of the demonstration project shall cover all healthcare received by an eligible participant prior to November 1, 2003. Because balance billing in excess of 15% above the TMAC is prohibited, the effect of increasing the TMAC for services covered by the demonstration project is to limit beneficiary out-of-pocket costs to the normally applicable per-service copayment of 20% of the TMAC.

(b) *Waiver of TRICARE Standard Annual Deductible.* Title 32 Code of Federal Regulations, Part 199.4(f)(2), as it implements 10 U.S.C. 1079(b)(2) and (3), to require an annual outpatient deductible up to \$300 shall be waived for all eligible demonstration participants. This component of the demonstration project shall cover all outpatient health care received by an

eligible participant prior to November 1, 2003.

(c) *Waiver of Non-Availability Statement (NAS) Requirement for Nonemergency Inpatient Care.* Title 32, Coded of Federal Regulations, section 199.4(a)(9), as it implements 10 U.S.C. 1079(a)(7), to require the issuance of an NAS before nonemergency inpatient care can be paid under TRICARE Standard is waived for all eligible demonstration participants. This component of the demonstration project shall cover all non-emergency inpatient care received by an eligible participant prior to November 1, 2003.

Dated: October 30, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 01-27680 Filed 11-2-01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; meeting

AGENCY: Department of Defense.

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board (DSB) Task Force on Chemical Warfare Defense will meet in closed session on November 27, 2001, at SAIC, Inc., 4001 N. Fairfax Drive, Arlington, VA. The Task Force will assess the possibility of controlling the risk and consequences of a chemical warfare (CW) attack to acceptable national security levels within the next five years.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting, the Task Force will assess current national security and military objectives with respect to CW attacks; CW threats that significantly challenge these objectives today and in the future; the basis elements (R&D, material, acquisition, personnel, training, leadership) required to control risk and consequences to acceptable levels, including counter-proliferation; intelligence, warning, disruption, tactical detection and protection (active and passive); consequence management; attribution and deterrence; and policy. The Task Force will also assess the testing and evaluation necessary to demonstrate and maintain the required

capability and any significant impediments to accomplishing this goal.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended (5 U.S.C. App. II), it has been determined that this Defense Science Board meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly this meeting will be closed to the public.

Dated: October 30, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01-27681 Filed 11-2-01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Change in Meeting Date of the DoD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group B (Microelectronics) of the DoD Advisory Group on Electron Devices (AGED) announces a change to a closed session meeting.

DATES: The meeting will be held at 0900, Friday, November 16, 2001.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and technology, to the Director Defense Research and Engineering (DDR&E), and through the DDR&E, to the Director Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective research and development program in the field of electron devices.

The Working Group B meeting will be limited to review of research and development programs which the military proposes to initiate with industry, universities or in their laboratories. The microelectronics area includes such programs on semiconductor materials, integrated circuits, charge coupled devices and memories. The review will include classified program details throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. 10(d)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: October 30, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01-27682 Filed 11-02-01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DoD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group C (Electro-Optics) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, November 27, 2001.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Elise Rabin, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group C meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This opto-electronic device area includes such programs as imaging device, infrared detectors and lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. 10(d)), it has been determined that this Advisory Group

meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: October 30, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01-27683 Filed 11-2-01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DoD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Wednesday, November 14, 2001.

ADDRESSES: The meeting will be held at Night Vision & Electro-Optics Directorate, 10221 Burbeck Rd., Ft. Belvoir, VA 222060-5806.

FOR FURTHER INFORMATION CONTACT: Mr. Eliot Cohen, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. 10(d)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: October 30, 2001.

L.M. Bynum,

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

[FR Doc. 01-27684 Filed 11-2-01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: Working Group A (Microwave Devices) of the DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATES: The meeting will be held at 0900, Tuesday, November 13, 2001.

ADDRESSES: The meeting will be held at Palisades Institute for Research Services, Inc. 1745 Jefferson Davis Highway, Suite 500, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: David Cox, AGED Secretariat, 1745 Jefferson Davis Highway, Crystal Square Four, Suite 500, Arlington, Virginia 22202.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition and Technology, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency (ARPA) and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The Working Group A meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. This microwave device area includes programs on developments and research related to microwave tubes, solid state microwave devices, electronic warfare devices, millimeter wave devices, and passive devices. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Pub. L. No. 92-463, as amended, (5 U.S.C. App. 10(d)) it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly,

this meeting will be closed to the public.

Dated: October 30, 2001.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 01-27685 Filed 11-2-01; 8:45 am]

BILLING CODE 5001-08-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02-23-000]

El Paso Natural Gas Company, Complainant, v. Phelps Dodge Corporation, Respondent; Notice of Complaint

October 30, 2001.

Take notice that on October 30, 2001, pursuant to Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.206, El Paso Natural Gas Company (EPNG) filed a complaint under section 5 of the Natural Gas Act against Phelps Dodge Corporation (PDC).

EPNG alleges that PDC is responsible for but has refused to pay the cost of a facility expansion required to increase the capacity of EPNG's Silver City lateral in response to increases in the requirements of PDC. EPNG requests that the Commission order PDC to pay the cost of the facilities.

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 November 15, 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 November 15, 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. 01-27676 Filed 11-2-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02-11-000]

LG&E Power Tiger Creek LLC; Notice of Application for Commission Determination of Exempt Wholesale Generator Status

October 30, 2001.

Take notice that on October 24, 2001, LG&E Power Tiger Creek (Power Tiger Creek), a Delaware limited liability company with its principal place of business at 220 West Main Street, Louisville, Kentucky 40232, 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.

Power Tiger Creek proposes to construct, own and operate four 170-megawatt combustion turbine electric generating units in Washington County, Georgia. The units are scheduled to be completed in March and June, 2003 and to be in service by June 15, 2003. All capacity and energy from the plant will be sold exclusively at wholesale.

Any person desiring to be heard concerning the application for exempt wholesale generator status should file a motion to intervene or comments 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). The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application. All such motions and comments should be filed on or before November 20, 2001, and must be served on the applicant. 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. 01-27672 Filed 11-2-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01-446-000]

Northern Natural Gas Company; Great Lakes Gas Transmission; Limited Partnership; ANR Pipeline Company; Notice of Joint Application

October 30, 2001.

Take notice that on September 24, 2001, Northern Natural Gas Company (Northern), Great Lakes Gas Transmission Limited Partnership (Great Lakes), and ANR Pipeline Company (ANR) filed a joint application pursuant to section 7(b) of the Natural Gas Act (NGA), as amended, and the rules and regulations of the Federal Energy Regulatory Commission (Commission), requesting permission and approval to abandon service under an individually certificated exchange agreement, all as more fully set forth in the joint application which is on file with the Commission, and open to public inspection.

Specifically, Northern, Great Lakes, and ANR propose to abandon Rate Schedules X-33, X-3, and X-32 contained in their respective FERC Gas Tariffs, Original Volumes No. 2. The parties mutually agree to the termination of the service under these Rate Schedules.

Any questions regarding this application should be directed to Keith L. Petersen, Director, Certificates and Reporting for Northern, 1111 South 103 Street, Omaha, Nebraska 68124, or Gene Fava, Manager, Transportation Administration for Great Lakes, 5250 Corporate Drive, Troy, Michigan 48098 or Dawn McGuire, Attorney, Regulatory Law for ANR, 9 Greenway Plaza, Houston, Texas 77046.

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 section 385.214 and section 385.211 of the Commission's rules and regulations. All such protests must be filed by November 20, 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. 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 be viewed on the Commission's web site at <http://www.ferc.gov> using the "RIMS" link, select "Docket#" and follow the instructions ((202) 208-2222 for assistance). 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. 01-27670 Filed 11-2-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP99-580-003 and CP99-582-004]

Southern LNG Inc.; Notice of Compliance Filing

October 29, 2001.

Take notice that on October 24, 2001, Southern LNG Inc. (Southern LNG) tendered for filing its FERC Gas Tariff, Original Volume No. 1, to become effective December 1, 2001, the proposed in-service date of its liquefied natural gas receiving terminal near Savannah, Georgia. 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).

Southern LNG states that the purpose of this filing is to place its open-access tariff into effect in compliance with section 154.207 of the Commission's regulations, conform the tariff to the current Part 284 regulations, and update the initial rates for service consistent with orders issued in Docket Nos. CP99-579, CP99-580, and CP99-582 on December 22, 1999 (89 FERC ¶ 61,314); March 16, 2000 (90 FERC ¶ 61,257); February 23, 2001 (94 FERC ¶ 61,188); and July 16, 2001 (96 FERC ¶ 61,083).

Any person desiring to be heard or to make any protest with reference to said application should on or before November 8, 2001, file with the Federal

Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest 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 Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules. 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 website under "e-Filing" link.

David P. Boergers,
Secretary.

[FR Doc. 01-27669 Filed 11-2-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL02-12-000]

Sunbury Generation, LLC, Complainant v. PPL Electric Utilities Corporation, Respondent; Notice of Complaint

October 30, 2001.

Take notice that on October 25, 2001, Sunbury Generation, LLC (Sunbury) tendered for filing an original and fourteen copies of a Complaint against PPL Electric Utilities Corporation (PPL) pursuant to Rule 206 of the Commission's Rules of Practice and Procedure. 18 CFR 385.206. Sunbury requests the Commission to (i) find that PPL's charges for station power violate the jurisdictional agreements between Sunbury and PPL and violate the Federal Power Act; (ii) find that Sunbury self-supplies its station power needs under these agreements; and (iii) require PPL to file with the Commission its PJM Interface Services Agreement with Sunbury and refund the time value of amounts collected under that Agreement prior to the Commission's acceptance date of the filing.

Sunbury has served a copy of this Complaint upon PPL.

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 November 14, 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 November 14, 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. 01-27673 Filed 11-2-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02-10-000]

Transcontinental Gas Pipe Line Corp.; Notice of Application

October 30, 2001.

Take notice that on October 22, 2001, Transcontinental Gas Pipe Line Corporation (Transco), PO Box 1396, Houston, Texas 77251-1396, filed an application in Docket No. CP02-10-000 pursuant to section 7(c) of the Natural Gas Act (NGA) and part 157(A) of the Federal Energy Regulatory Commission's Regulations (Commission), for a certificate of public convenience and necessity authorizing Transco's construction and operation of certain facilities at Compressor Station No. 110 (Station 110) in Randolph County, Alabama to comply with the Clean Air Act Amendments of 1990, all as more fully set forth in the application which is on file with the Commission and open to public inspection. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at <http://www.ferc.gov> using the "RIMS" link, select "Docket #" and follow the

instructions (call 202-208-2222 for assistance).

Transco states that the Clean Air Act Amendments of 1990 and state implementation plans require certain reductions of NO_x (oxides of nitrogen) air emissions at several of Transco's compressor stations. Accordingly, during the past few years and over the next few years Transco has installed and plans to install certain facilities at these stations to achieve the required reductions of NO_x. Transco states that it plans to install these facilities pursuant to its blanket facilities certificate (18 CFR 157.208) issued in Docket No. CP82-426 when it is authorized to do so (either under automatic or prior notice authorization, depending on the estimated dollar amount). However, at the stations where the estimated total cost of installing these facilities is more than \$20.6 million, Transco states that it is not authorized to perform such work pursuant to its blanket facilities certificate and, therefore, is required to file an application for a certificate of public convenience and necessity.

Transco states that it proposes to modify several of its existing reciprocating engines at Station 110 in order to comply with the State of Alabama plan to implement the Clean Air Act Amendments of 1990. Station 110 has 16 units including 15 reciprocating/compressor units and one Solar Mars gas turbine driven centrifugal compressor unit. The facilities at Station 110 are located within a fenced area of approximately 28 acres.

Transco states that it plans to install turbochargers and associated equipment on 9 of the 15 reciprocating engines in order to reduce NO_x emissions. These engines currently do not have turbochargers on them. Transco plans to modify the existing turbochargers at the other 6 reciprocating units to increase their capacity and install associated equipment in order to reduce NO_x emissions. At all 15 engines, emissions will be reduced by achieving a true lean air-fuel ratio, injecting high pressure fuel directly into the power cylinders and making other engine adjustments. The injection of high pressure fuel directly into the power cylinders significantly improves the combustion process by producing a more homogeneous mixture of air and fuel within the power cylinder. The true lean air-fuel ratio coupled with the high pressure fuel injection works by promoting stable combustion characteristics and thus reduces the formation of NO_x.

Transco states that following installation of the turbochargers, the 9

engines will have the potential to perform above their current operating horsepower. However, since Station 110 is automated, Transco has the ability to shut down other engines or reduce their load to ensure that the station will not operate above the station's total certificated horsepower. Since Transco will install these turbochargers at Station 110 solely to achieve an environmental improvement, *i.e.*, lower NO_x emissions, Transco states that it has no intent or need to operate the station above its certificated horsepower. Therefore, Transco states that when it installs these turbochargers at Station 110 it will adjust the automation program at the station so that it will not operate above its certificated horsepower.

At the other 6 engines, Transco states that modification of the existing turbochargers to increase their capacity will not create the potential of these engines performing above their current operating horsepower because the engines are already operating at maximum horsepower and cannot operate at a higher horsepower output. Accordingly, Transco states that there will be no increase in the capacity of Transco's system in the vicinity of the station as a result of installing the 9 new turbochargers and modifying the 6 existing turbochargers.

Transco states that installation of new turbochargers and modifications to existing ones at Station 110 will require some work to be done outside of the compressor building. All of the proposed work described above will be built within 50 feet of existing station facilities and will be done within the confines of previously disturbed areas. Approximately 0.2 acre of previously disturbed ground will be affected by the proposed project. Restoration of this area will be conducted according to the Commission's Upland Erosion Control, Revegetation, and Maintenance Plan.

Transco states that it estimates the proposed modifications will cost \$26.8 million. Transco states that the installation and operation of the proposed facilities will have no significant impact on the quality of human health or the environment other than the positive impact of reducing NO_x emissions and that a state air permit will be negotiated with the Alabama Department of Environmental Management (ADEM).

Transco states that this project will serve the public convenience and necessity because it will reduce NO_x emissions at Station 110 and will enable Transco to comply with the Clean Air Act Amendments of 1990 and the

requirements of the ADEM implementing regulations.

Transco states that it needs to commence the work at Station 110 in January 2002 in order to complete the work on a timely basis with respect to the requirements of the Clean Air Act Amendments of 1990 and the requirements of the ADEM, while at the same time accommodating the operational needs of its pipeline system and ensuring that Transco's gas service obligations are met.

Any questions regarding this application should be directed to Tom Messick, P.O. Box 1396, Houston, Texas 77251-1396 at (713) 215-2772.

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 20, 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 under the "e-Filing" link.

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. 01-27671 Filed 11-2-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. ER00-980-005, et al.]

Bangor Hydro-Electric Company, et al.; Electric Rate and Corporate Regulation Filings

October 29, 2001.

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

1. Bangor Hydro-Electric Company

[Docket No. ER00-980-005]

Take notice that on October 25, 2001, Bangor Hydro-Electric Company submitted a Refund Report with the Federal Energy Regulatory Commission (Commission). Bangor Hydro has made all other refunds required by the settlement agreement.

Comment date: November 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. Ameren Services Company

[Docket No. ER01-1914-001]

Take notice that on October 24, 2001, Ameren Services Company (ASC), the transmission provider, tendered for filing with the Federal Energy Regulatory Commission (Commission) Amended Service Agreement for Firm Point-to-Point Transmission Services between ASC and Entergy-Koch Trading, LP, f/k/a Axia Energy, Inc. (customer). ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to customer pursuant to Ameren's Open Access Tariff.

Comment date: November 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Nevada Power Company

[Docket Nos. ER01-2754-001, ER01-2755-001, ER01-2757-001, ER01-2758-001, ER01-2759-001]

Take notice that on October 25, 2001, Nevada Power Company (Nevada Power) filed with the Federal Energy Regulatory Commission (Commission), pursuant to Section 205 of the Federal Power Act, an answer to a letter from the Commission Staff regarding Transmission Service Agreements filed in the above-referenced proceedings. As directed by the Staff, the answer was filed as an amendment to the Transmission Service Agreements.

Comment date: November 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. GNE, LLC

[Docket No. ER02-159-000]

On October 24, 2001, GNE, LLC, filed with the Federal Energy Regulatory Commission (Commission) an application for market-based rate authorization to sell energy, capacity and specified ancillary services, waivers and exemptions and a request for an effective date of December 31, 2001 for its market-based rate authorization.

GNE, LLC is a Delaware limited liability company that will own and operate four hydroelectric plants located at or near Millinocket, Maine, with a total nameplate capacity of approximately 130 megawatts is seeking market-based rate authorization, waivers and exemptions, and a request for an effective date of December 31, 2001 for its market-based rate authorization in order to sell the output of the facilities to Maclaren Energy, Inc.

Comment date: November 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. The Montana Power Company

[Docket No. ER02-161-000]

Take notice that on October 24, 2001, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission (Commission) pursuant to 18 CFR 35.13 executed Network Integration Transmission Service Agreements with Advanced Silicon Materials LLC and Express Pipeline LLC under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff).

A copy of the filing was served upon with Advanced Silicon Materials LLC and Express Pipeline LLC.

Comment date: November 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Erie Boulevard Hydropower, L.P.

[Docket No. ER02-162-000]

Take notice that on October 24, 2001, Erie Boulevard Hydropower, L.P. (Erie Boulevard) filed with the Federal Energy Regulatory Commission (Commission) the Power Purchase Agreement between Erie Boulevard and Niagara Mohawk Power Corporation dated as of March 16, 2001 (PPA). The filing is made pursuant to Erie Boulevard's authority to sell power at market-based rates under its Market-Based Rate Tariff, FERC Electric Tariff, Original Volume No. 1, approved by the Commission on June 17, 2001, in Docket No. ER99-1764-000.

Comment date: November 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Mid-Continent Area Power Pool

[Docket No. ER02-163-000]

Take notice that on October 24, 2001, the Mid-Continent Area Power Pool (MAPP), on behalf of its members that are subject to Commission jurisdiction as public utilities under Section 201(e) of the Federal Power Act, filed tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notice of Termination for Short-Term and Non-Firm Point-To-Point Transmission Service Agreements between MAPP and El Paso Merchant Energy, L.P., formerly Coastal Merchant Energy, L.P. and originally Engage Energy US, L.P.

Comment date: November 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. Entergy Services, Inc.

[Docket No. ER02-164-000]

Take notice that on October 24, 2001, Entergy Services, Inc., on behalf of Entergy Mississippi, Inc., tendered for filing with the Federal Energy Regulatory Commission (Commission) a unilaterally executed Interconnection and Operating Agreement with Reliant Energy Choctaw County LLC (Reliant), and a Generator Imbalance Agreement with Reliant.

Comment date: November 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. Public Service Company of New Mexico

[Docket No. ER02-165-000]

Take notice that on October 25, 2001, Public Service Company of New Mexico (PNM) submitted for filing with the Federal Energy Regulatory Commission (Commission) a unilaterally executed service agreement with the City of Mesa, dated October 23, 2001, for electric power and energy sales at negotiated rates under the terms of PNM's Power and Energy Sales Tariff. PNM has requested an effective date of September 1, 2001 for the agreement. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Copies of the filing have been sent to the City of Mesa and to the New Mexico Public Regulation Commission.

Comment date: November 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. Calpine Construction Finance Company, L.P.

[Docket No. ER02-166-000]

Take notice that on October 24, 2001, Calpine Construction Finance Company, L.P. (CCFC) filed with the Federal Energy Regulatory Commission

(Commission) an amended Direct Power Transaction Confirmation under its market-based rate schedule.

Comment date: November 14, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Cambridge Electric Light Company

[Docket No. ER02-167-000]

Take notice that on October 25, 2001, Cambridge Electric Light Company (Cambridge Electric) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Interconnection Agreement between Cambridge Electric and Mirant Kendall, LLC (Mirant Kendall). Cambridge Electric also tendered for filing a Notice of cancellation of Rate Schedule FERC No. 41, which is an Interconnection and Site Agreement between Cambridge Electric and Mirant Kendall f/k/a Southern Energy new England, L.L.C. that was previously accepted by the Commission in Docket No. ER98-4088-000 as part of Cambridge Electric's sale of its generation assets to Mirant Kendall (Former Interconnection Agreement). Cambridge Electric states that all rights and obligations of the parties contained in the Former Interconnection Agreement that are still relevant have been subsumed into the new Interconnection Agreement.

Cambridge Electric request an effective date of December 24, 2001 and Notice of Cancellation become effective upon the same date.

Comment date: November 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

12. Alabama Power Company

[Docket No. ER02-168-000]

Take notice that on October 25, 2001, Alabama Power Company (APC) filed with the Federal Energy Regulatory Commission (Commission) a Service Agreement for Supply of Electric Service to Electric Membership and Electric Cooperative Corporations under Rate Schedule REA-1 of its First Revised FERC Electric Tariff Original Volume No. 1 (Tariff). Pursuant to that Service Agreement, APC will provide electric service to Tombigbee Electric Cooperative, Inc. at a new Robert E. Crow Delivery Point located in Marion County, Alabama. In addition, APC is refiling the Tariff in its entirety to comply with the Commission's electric rate schedule designation requirements contained in the Commission's Order No. 614.

Comment date: November 15, 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. 01-27655 Filed 11-2-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG02-12-000, et al.]

Duke Energy Grays Harbor, LLC, et al.; Electric Rate and Corporate Regulation Filings

October 30, 2001.

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

1. Duke Energy Grays Harbor, LLC

[Docket No. EG02-12-000]

Take notice that on October 26, 2001, Duke Energy Grays Harbor, LLC (Duke Grays Harbor) filed an application with the Federal Energy Regulatory Commission (Commission) for determination of exempt wholesale generator status pursuant to section 32 of the Public Utility Holding Company Act of 1935, as amended, and part 365 of the Commission's regulations.

Duke Grays Harbor is a Delaware limited liability company that will be engaged directly and exclusively in the business of owning and operating all or part of one or more eligible facilities to

be located in Grays Harbor County, Washington. The eligible facilities will consist of an approximately 1,200 MW natural gas-fired, combined cycle electric generation plant and related interconnection facilities. The output of the eligible facilities will be sold at wholesale.

Comment date: November 20, 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. Progress Energy Inc. on behalf of Carolina Power & Light Company

[Docket No. ER02-160-000]

Take notice that on October 25, 2001, Carolina Power & Light Company (CP&L) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Service Agreement between CP&L and the following eligible buyer, Consumers Energy Company d/b/a Consumers Energy Traders. Service to this eligible buyer will be in accordance with the terms and conditions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 5. Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

CP&L requests an effective date of September 27, 2001 for this Service Agreement.

Comment date: November 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Boston Edison Company

[Docket No. ER02-170-000]

Take notice that on October 26, 2001, Boston Edison Company (Boston Edison) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Second Amendment to Agreement for the Purchase and Sales of All Requirements Service by and between Boston Edison and the Town of Wellesley Municipal Light Plant (Wellesley). Boston Edison states that it has served a copy of the filing on Wellesley and the Massachusetts Department of Telecommunications and Energy.

Boston Edison requests an effective date of January 1, 2000.

Comment date: November 16, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Duke Energy New Albany, LLC

[Docket No. ER02-171-000]

Take notice that on October 26, 2001, Duke Energy New Albany, LLC (Duke New Albany) tendered for filing with

the Federal Energy Regulatory Commission (Commission) a Notice of Succession pursuant to 18 CFR 35.16 in order to reflect its name change from New Albany Power I, LLC. As a result of the name change Duke New Albany adopted and ratified all applicable rate schedules filed with the Commission by New Albany Power I, LLC effective October 15, 2001.

Comment date: November 16, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Northeast Utilities Service Company

[Docket No. ER02-172-000]

Take notice that on October 26, 2001, Northeast Utilities Service Company (NUSCO), tendered for filing with the Federal Energy Regulatory Commission (Commission) a Service Agreement with Calpine Energy Services, L.P. (Engage) under the NU System Companies' System Sale For Resale Tariff No.7. NUSCO states that a copy of this filing has been mailed to Calpine.

NUSCO requests that the Service Agreement become effective on October 1, 2001.

Comment date: November 16, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC

[Docket No. ER02-173-000]

Take notice that on October 26, 2001, Allegheny Energy Service Corporation on behalf of Allegheny Energy Supply Company, LLC (Allegheny Energy Supply) filed with the Federal Energy Regulatory Commission (Commission) Service Agreement No. 151 to add one (1) new Customer to the Market Rate Tariff under which Allegheny Energy Supply offers generation services. Allegheny Energy Supply proposes to make service available as of October 25, 2001 to The New Power Company.

Copies of the filing have been provided to all parties of record.

Comment date: November 16, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. New England Power Company

[Docket No. ER02-174-000]

Take notice that on October 25, 2001, New England Power Company (NEP) submitted for filing with the Federal Energy Regulatory Commission (Commission) Second Revised Service Agreement No. 14 between NEP and North Attleborough Electric Department, Second Revised Service Agreement No. 20 between NEP and Templeton Municipal Lighting Plant

and Second Revised Service Agreement No. 21 between NEP and Wakefield Municipal Light Department (collectively, the Service Agreements). The Service Agreements are under NEP's open access transmission tariff—New England Power Company, FERC Electric Tariff, Second Revised Volume No. 9. These Service Agreements are fully executed versions of the First Revised Service Agreements that were filed unexecuted on August 8, 2001, in Docket No. ER01-2802-000. No other changes have been made to the Service Agreements and the terms remain the same as 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 agreements.

Comment date: November 15, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. New England Power Company

[Docket No. ER02-175-000]

Take notice that on October 25, 2001, New England Power Company (NEP) tendered for filing with the Federal Energy Regulatory Commission (Commission) a First Revised Service Agreement No. 16 for service under NEP's Wholesale Market Sales Tariff, FERC Electric Tariff, Original Volume No. 10 between NEP and USGen New England, Inc.

Comment date: November 15, 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. 01-27668 Filed 11-2-01; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM01-12-000]

Electricity Market Design and Structure; Notice of Extension of Time and Opportunity To Submit Comments on Regional Transmission Organization Issues Discussed at Workshops

October 30, 2001.

As noticed on September 28, 2001 and October 5, 2001, a series of workshops was held from October 15 through October 19, 2001 at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The purpose of the workshops was to discuss core issues related to the development of efficient electric markets in an era in which electric transmission systems will be operated by Regional Transmission Organizations (RTOs).

The Commission's staff has developed summaries of the key issues discussed at each workshop and is attaching those summaries to this notice, as well as posting the summaries on the Commission's website at www.ferc.gov under "RTO activities" to encourage further discussion on the development of RTOs.¹ These summaries reflect what the staff heard, including any points of consensus among the panelists at the workshops. The summaries are not intended to suggest that there is an industry-wide consensus. The primary purpose of releasing these summaries is to obtain alternative opinions on the issues addressed in these summaries. All interested persons are invited to submit written comments addressing these summaries or any other matter discussed at the workshops. While we are not providing a deadline for the submission of comments, and in effect are eliminating the November 5, 2001 deadline given in the October 5, 2001 notice, the comments should be submitted as soon as reasonably possible.

Comments related to this proceeding may be filed in paper format or

¹ The attachment is not being published in the Federal Register.

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. RM01-12-000.

To file the comments in an electronic format, access the Commission's website at www.ferc.gov, click on "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.

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. The comments may also be viewed by accessing the Commission's website at www.ferc.gov, clicking on "RTO Activities" and then clicking on "Electricity Market Design and Structure."

David P. Boergers,
Secretary.

[FR Doc. 01-27675 Filed 11-2-01; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7098-1]

EPA Science Advisory Board Executive Committee; Notification of Public Advisory Committee Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Executive Committee (EC) of the US EPA Science Advisory Board (SAB) will meet on Wednesday, November 28, 2001 and Thursday, November 29, 2001 in Conference Room 6013, USEPA, Ariel Rios Building North, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. The meeting will begin by 8:30 a.m. on November 28 and adjourn no later than 3:00 p.m. on November 29, 2001 Eastern

Time. All meetings are open to the public, however, seating is limited and available on a first come basis.

Purpose of the Meeting: This meeting of the SAB Executive Committee is one in a series of periodic meetings in which the EC takes action on reports generated by SAB Committees, meets with Agency leadership, and addresses a variety of issues germane to the operation of the Board. The agenda for the November 28 meeting will be posted on the SAB website (www.epa.gov/sab) not later than 5 days before the meeting and may include, but not be limited to the following:

1. Action on Committee reports
 - a. A Framework for Reporting on Ecological Condition: An SAB Report from the Ecological Processes and Effects Committee (EPEC)
 - b. The Southeastern Ecological Framework: An SAB Report from EPEC
 - c. Multi-year Research Plans: Water Quality and Pollution Prevention: An SAB Report from the Research Strategies Advisory Committee (RSAC)
2. Meeting with Agency leaders, including
 - a. Governor Christine Todd Whitman, USEPA Administrator
 - b. Ms. Linda Fisher, Deputy USEPA Administrator
 - c. Top award winners of the Agency's Scientific and Technological Achievement Awards (STAA) competition
3. Matters of Board business, including
 - a. Training on conflicts-of interest
 - b. Update on steps taken to respond to the General Accounting Office report on the SAB
 - c. Setting the SAB agenda for FY02 and beyond.

Availability of Review Materials: Draft SAB reports will be posted on the SAB Website (www.epa.gov/sab) approximately two weeks before the date of the meeting. The underlying documents that are the subject of SAB reviews, however, are not available from the SAB Office but are normally available from the originating EPA office.

For Further Information—Any member of the public wishing further information concerning this meeting or wishing to submit brief oral comments (10 minutes or less) must contact Dr. Donald Barnes, Designated Federal Officer, EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564-4533; FAX (202) 501-0323; or via e-mail at barnes.don@epa.gov. Requests for oral comments must be in writing (e-mail, fax or mail) and

received by Dr. Barnes no later than noon Eastern Time on November 21, 2001.

Providing Oral or Written Comments at SAB Meetings

It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to Dr. Barnes at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: WordPerfect, Word, or Rich Text files (in IBM-PC/Windows 95/98 format)). Those providing written comments and who attend the meeting are also asked to bring 25 copies of their comments for public distribution.

General Information—Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (<http://www.epa.gov/sab>) and in The FY2000 Annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 564-4533 or via fax at (202) 501-0323. Committee rosters, draft Agendas and meeting calendars are also located on our website.

Meeting Access—Individuals requiring special accommodation at this meeting, including wheelchair access to the conference room, should contact Dr. Barnes at least five business days prior

to the meeting so that appropriate arrangements can be made.

Dated: October 30, 2001.

John R. Fowle III,

Acting Staff Director, EPA Science Advisory Board.

[FR Doc. 01-27726 Filed 11-2-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7097-7]

PRC Patterson Superfund Removal Site; Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, As Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency.

ACTION: Notice, request for public comments.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed Administrative Order on Consent ("AOC," Region 9 Docket No. 2001-14) pursuant to section 122(h) of CERCLA concerning the PRC PATTERSON SUPERFUND REMOVAL SITE (the "Site"), located in Patterson, California, and including an above ground storage tank in Vernalis, California. The respondents to the AOC are Chevron Corporation and Chevron U.S.A., Inc. Through the proposed AOC the respondents will complete the removal action addressing an above ground bulk storage tank at the Site. The AOC provides the respondents with a covenant not to sue and contribution protection for the removal actions at the Site. To date, EPA has incurred approximately \$900,000.00 in response costs related to the Site; however, EPA's response costs incurred at the Site are less than twenty-five percent (25%) of the total costs of the response action at the Site. EPA is waiving all claims for recovery of its response costs against the respondents consistent with EPA's established policy regarding allocation of "orphan shares," which are those of potentially responsible parties that are insolvent or defunct. EPA anticipates recovery of all or a significant portion of its costs from other potentially responsible parties at the Site. For thirty

(30) days following the date of publication of this Notice, the Agency will receive written comments relating to the proposed AOC. The Agency's response to any comments received will be available for public inspection at EPA's Region IX offices, located at 75 Hawthorne Street, San Francisco, California 94105.

DATES: Comments must be submitted on or before December 5, 2001.

ADDRESSES: The proposed AOC may be obtained from Danielle Carr, Hearing Clerk, telephone (415) 744-1389. Comments regarding the proposed AOC should be addressed to Danielle Carr (ORC-3) at 75 Hawthorne Street, San Francisco, California 94105, and should reference the PRC Patterson Superfund Removal Site, and Region IX Docket No. 2001-14.

FOR FURTHER INFORMATION CONTACT: J. Andrew Helmlinger, Office of Regional Counsel, (415) 744-1325, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Dated: October 18, 2001.

Daniel A. Meer,

Acting Director, Superfund Division.

[FR Doc. 01-27725 Filed 11-2-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-7097-8]

PRC Patterson Superfund Removal Site; Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, As Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency.

ACTION: Notice, request for public comments.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act ("CERCLA"), 42 U.S.C. 9622(i), notice is hereby given of a proposed Administrative Order on Consent ("AOC," Region 9 Docket No. 2001-08) pursuant to section 122(h) of CERCLA concerning the PRC PATTERSON SUPERFUND REMOVAL SITE (the "Site"), located in Patterson, California, and including an above ground bulk storage tank in Vernalis, California. The respondent to the AOC is the Atlantic

Richfield Company ("ARCO"). Through the proposed AOC, ARCO will conduct the removal of wastes from the above ground bulk storage tank in Vernalis, California. The AOC provides ARCO with a covenant not to sue and contribution protection for the removal action at the Site. To date, EPA has incurred approximately \$900,000.00 in response costs related to the Site. ARCO, as one of many generators of wastes at the Site, is reimbursing \$500,001.00 of the incurred response costs to EPA. EPA anticipates recovery of all or a significant portion of the remaining costs from other potentially responsible parties at the Site. For thirty (30) days following the date of publication of this Notice, the Agency will receive written comments relating to the proposed AOC. The Agency's response to any comments received will be available for public inspection at EPA's Region IX offices, located at 75 Hawthorne Street, San Francisco, California 94105.

DATES: Comments must be submitted on or before December 5, 2001.

ADDRESSES: The proposed AOC may be obtained from Danielle Carr, Hearing Clerk, telephone (415) 744-1389. Comments regarding the proposed AOC should be addressed to Danielle Carr (ORC-3) at 75 Hawthorne Street, San Francisco, California 94105, and should reference the PRC Patterson Superfund Removal Site, and Region IX Docket No. 2001-08.

FOR FURTHER INFORMATION CONTACT: J. Andrew Helmlinger, Office of Regional Counsel, (415) 744-1325, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105.

Dated: October 18, 2001.

Daniel A. Meer,

Acting Director, Superfund Division.

[FR Doc. 01-27727 Filed 11-2-01; 8:45 am]

BILLING CODE 6560-50-P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on November 6, 2001, from 9 a.m. until such time as the Board concludes its business.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

FOR FURTHER INFORMATION CONTACT: Kelly Mikel Williams, Secretary to the Farm Credit Administration Board, (703) 883-4009, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: This meeting of the Board will be open to the public (limited space available). In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

—October 11, 2001 (Open)

B. Report

—Corporate Approvals

Dated: October 31, 2001.

Kelly Mikel Williams,

Secretary, Farm Credit Administration Board.

[FR Doc. 01-27776 Filed 10-31-01; 5:10 pm]

BILLING CODE 6705-01-P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

October 30, 2001.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104-13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents,

including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before January 4, 2002. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, Room 1 A-804, 445 Twelfth Street, SW., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418-0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060-0996.

Title: AM Auction Section 307(b) Submissions.

Form Number: n/a.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents: 120.

Estimated time per response: 1-5 hours (time is split between contractors and respondents).

Frequency of Response: Reporting, on occasion.

Total annual burden: 210.

Total annual costs: \$27,000.

Needs and Uses: The Commission must undertake a traditional Section 307(b) analysis prior to conducting an auction for mutually exclusive AM applications proposing to serve different communities. Each applicant within a mutually exclusive group must submit an amendment containing certain supplemental information. The data submitted will be used to determine the community having the greater need for an AM radio service.

OMB Number: 3060-0180.

Title: Section 73.1610, Equipment Tests.

Form Number: None.

Type of Review: Extension of currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 500.

Estimated Hours Per Response: 0.5 hours.

Frequency of Response: Reporting, on occasion.

Cost to Respondents: None.

Estimated Total Annual Burden: 250 hours.

Needs and Uses: This information collection requires the permittee of a new broadcast station to notify the FCC of its plans to conduct equipment tests for the purpose of making adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit and applicable engineering standards. The data are used by FCC staff to assure compliance with the terms of the construction permit and applicable engineering standards.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01-27708 Filed 11-2-01; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:59 a.m. on Tuesday, October 30, 2001, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate, supervisory, and receivership activities.

In calling the meeting, the Board determined, on motion of Director Ellen S. Seidman (Director, Office of Thrift Supervision), seconded by Director John M. Reich (Appointive), concurred in by Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donald E. Powell, that corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board room of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: October 30, 2001.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary, (Operations).

[FR Doc. 01-27817 Filed 11-1-01; 8:45 am]

BILLING CODE 6714-01-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 19, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *Omar C. Wilhelms & Janice R. Wilhelms*, Shannon, Illinois; to retain voting shares of Shannon Bancorp, Inc., Shannon, Illinois, and thereby indirectly retain voting shares of First State Bank Shannon-Polo, Shannon, Illinois.

Board of Governors of the Federal Reserve System, October 30, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01-27662 Filed 11-2-01; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM**Formations of, Acquisitions by, and Mergers of Bank Holding Companies**

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be

available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 28, 2001.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *Independence Bancshares, Inc.*, Independence, Iowa; to acquire 100 percent of the voting shares of Fairbank Bancshares, Inc., Fairbank, Iowa, and thereby indirectly acquire voting shares of Fairbank State Bank, Fairbank, Iowa.

2. *Malvern Bancshares, Inc.*, Malvern, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Malvern Trust & Savings Bank, Malvern, Iowa.

B. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. *Plainville Bancshares, Inc.*, Plainville, Kansas; to acquire 100 percent of the voting shares of Farmers Bancshares, Inc., Lincoln, Kansas, and thereby indirectly acquire Farmers National Bank, Lincoln, Kansas, and Beverly State Bank, Beverly, Kansas.

2. *West Point Bancorp, Inc.*, West Point, Nebraska; to acquire 100 percent of the voting shares of Town & Country Bank, Las Vegas, Nevada.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *McLaughlin Bancshares, Inc.*, Ralls, Texas, and McLaughlin Delaware Bancshares, Inc., Dover, Delaware; to acquire 100 percent of the voting shares of First Hale Center, Inc., Hale Center, Texas, and thereby indirectly acquire voting shares of FNB West Texas, Plainview, Texas.

Board of Governors of the Federal Reserve System, October 30, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01-27660 Filed 11-2-01; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM**Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction**

This notice corrects a notice (FR Doc. 01-26863) published on page 54011 of the issue for October 25, 2001.

Under the Federal Reserve Bank of San Francisco heading, the entry for Wells Fargo & Company, San Francisco, California, is revised to read as follows:

1. *Wells Fargo & Company*, San Francisco, California; to acquire 100 percent of the voting shares of Texas Financial Bancorporation, Inc., Minneapolis, Minnesota; and thereby indirectly acquire voting shares of Marquette Bank Monmouth, Monmouth, Illinois; The Bank of Santa Fe, Santa Fe, New Mexico; Delaware Financial, Inc., Wilmington, Delaware; First National Bank of Texas, Decatur, Texas; First State Bank of Texas, Denton, Texas; and to acquire Marquette Bank, N.A., Rogers, Minnesota; Marquette Capital Bank, N.A., Wayzata, Minnesota; The First National Bank and Trust Company of Baraboo, Baraboo, Wisconsin; Meridian Capital Bank, N.A., Milwaukee, Wisconsin; and Marquette Bank Morrison, Morrison, Illinois, from Marquette Bancshares, Inc., Minneapolis, Minnesota.

In connection with this application, Applicant also has applied to acquire Marquette Financial Group, Inc., Minneapolis, Minnesota, and thereby engage in securities brokerage and investment advisory activities, pursuant to § 225.28(b)(6) and (7) of Regulation Y.

Comments on this application must be received by November 19, 2001.

Board of Governors of the Federal Reserve System, October 30, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01-27661 Filed 11-2-01; 8:45 am]

BILLING CODE 6210-01-S

FEDERAL RESERVE SYSTEM**Sunshine Act Meeting**

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 66 FR 54527, October 29, 2001.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:30 a.m. Wednesday, October 31, 2001.

CHANGES IN THE MEETING: Addition of the following closed item(s) to the meeting: Consideration of quorum and other voting requirements for Board action.

CONTACT PERSON FOR MORE INFORMATION: Michelle A. Smith, Assistant to the Board; 202-452-3204.

SUPPLEMENTARY INFORMATION: You may call 202-452-3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at <http://www.federalreserve.gov> for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: October 31, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01-27763 Filed 10-31-01; 4:41 pm]

BILLING CODE 6210-01-P

GENERAL ACCOUNTING OFFICE

Advisory Council on Government Auditing Standards; Notice of Meeting

The Advisory Council on Government Auditing Standards will meet Monday, November 19, 2001 from 8:30 a.m. to 5:00 p.m., in room 7C13 of the General Accounting Office building, 441 G Street, NW., Washington, DC.

The Advisory Council on Government Auditing Standards will hold a meeting to discuss issues that may impact government auditing standards. The meeting is open to the public. Any interested person who plans to attend the meeting as an observer should present a copy of this meeting notice and a form of picture identification to the GAO Security Desk on the day of the meeting to obtain access to the GAO Building. Council discussions and reviews are open to the public. Members of the public will be provided an opportunity to address the Council with a brief (five minute) presentation on Monday afternoon.

For further information or to notify the Council you plan to attend the meeting, please contact Jennifer Allison, Council Assistant, 202-512-3423. Please check the Government Auditing Standards web page (www.gao.gov/

[govaud/ybk01.htm](http://www.fda.gov/ohrms/dockets)) one week prior to the meeting for a final agenda.

Marcia B. Buchanan,

Assistant Director.

[FR Doc. 01-27664 Filed 11-2-01; 8:45 am]

BILLING CODE 1610-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N-0222]

Agency Information Collection Activities; Announcement of OMB Approval; Third-Party Review Under FDAMA

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled "Third-Party Review Under FDAMA" has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT:

Peggy Schlosburg, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 27, 2001 (66 FR 45047), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910-0375. The approval expires on October 31, 2004. A copy of the supporting statement for this information collection is available on the Internet at

<http://www.fda.gov/ohrms/dockets>.

Dated: October 29, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01-27642 Filed 11-2-01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N-0231]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Veterinary Adverse Drug Reaction, Lack of Effectiveness, Product Defect Report

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by December 5, 2001.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT:

Denver Presley, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1472.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Veterinary Adverse Drug Reaction, Lack of Effectiveness, Product Defect Report—21 CFR Part 510 (OMB Control No. 0910-0012)—Extension

Section 512(l) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C 360b(l)) and 21 CFR 510.300, 510.301, and 510.302 require that applicants of approved new animal drug applications (NADAs) submit within 15 working days of receipt, complete records of reports of certain adverse drug reactions and unusual failure of new animal drugs. Other reporting requirements of adverse reactions to these drugs must be reported annually or semiannually in a specific format. This continuous monitoring of approved new animal drugs, affords the primary means by which FDA obtains information regarding potential problems in safety and effectiveness of

marketed animal drugs and potential manufacturing problems. Data already on file with FDA is not adequate because animal drug effects can change over time and less apparent effects may take years to manifest themselves. Reports are reviewed along with those previously submitted for a particular drug to determine if any change is needed in the product or labeling, such as package insert changes, dosage changes, additional warnings or

contraindications, or product reformulation.

Adverse reaction reports are required to be submitted by the drug manufacturer on FDA Forms 1932 or 1932a (voluntary reporting form), following complaints from animal owners or veterinarians. Likewise, product defects and lack of effectiveness complaints are submitted to FDA by the drug manufacturer following their own detection of a problem or complaints

from product users or their veterinarians using FDA Forms 1932 and 1932a. FDA Form 2301 is available for the required transmittal of periodic reports and promotional material for new animal drugs. Respondents to this collection of information are applicants of approved NADAs.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN¹

Form No.	21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Form FDA 2301 ...	510.302(a)	190	13.16	2,500	0.5	1,250
Form FDA 1932 ...	510.302(b)	190	94.74	18,000	1.0	18,000
Form FDA 1932a (voluntary)	510.302(b)	100	1.0	100	1.0	100
Total burden hours						19,350

¹There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN¹

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Response per Recordkeeper	Hours per Recordkeeper	Total Hours
510.300(a) and 510.301(a)	190	13.16	2,500	10.35	25,875
510.300(b) and 510.301(b)	190	94.74	18,000	0.50	9,000
Total burden hours					34,875

¹There are no capital costs or operating and maintenance costs associated with this collection of information.

The estimate of the times required for record preparation and maintenance is based on agency communication with industry. Other information needed to calculate the total burden hours (i.e., adverse drug reaction, lack of effectiveness, and product defect reports) are derived from agency records and experience.

Dated: October 29, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01-27641 Filed 11-2-01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D-0489]

Draft FDA Guidance on the Establishment and Operation of Clinical Trial Data Monitoring Committees; Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting.

The Food and Drug Administration (FDA), Center for Biologics Evaluation and Research (CBER), Center for Drug Evaluation and Research (CDER), and Center for Devices and Radiological Health (CDRH), is announcing the following public meeting: Draft FDA Guidance on the Establishment and Operation of Clinical Trial Data Monitoring Committees (DMCs). The topics to be discussed are addressed in the draft entitled "Guidance for Clinical Trial Sponsors On the Establishment and Operation of Data Monitoring Committee." These topics include: The history of DMCs, the types of clinical trials in which DMCs are most important, DMC membership and operations, independence of DMCs, and the regulatory requirements relevant to DMCs.

Date and Time: The meeting will be held on November 27, 2001, from 9 a.m. to 5 p.m.

Location: The meeting will be held at The Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact: Melanie Whelan, Center for Biologics Evaluation and Research (HFM-40), Food and Drug Administration, 1401 Rockville Pike,

Rockville, MD 20852-1448, 301-827-3841, FAX 301-827-3843, or e-mail: Whelan@cber.fda.gov.

Registration: Send registration information (including name, title, firm name, address, telephone, and fax number), to Melanie Whelan (address above) by November 20, 2001. We encourage early registration because seating is limited. There is no registration fee.

If you need special accommodations due to a disability, please contact Melanie Whelan at least 7 days in advance.

SUPPLEMENTARY INFORMATION: This meeting will provide a forum for all members of the public to express their opinions and suggestions on the draft entitled "Guidance for Clinical Trial Sponsors On the Establishment and Operation of Data Monitoring Committees." The draft guidance is intended to address scientific, ethical, and practical issues related to the establishment and operation of DMCs for clinical trials. The meeting will be of primary interest to sponsors of clinical trials evaluating FDA-regulated products. The objectives of the meeting are to: (1) Present the material in the draft guidance document and (2) solicit

your comments and recommendations on the draft guidance document. The draft guidance will be announced in the **Federal Register** for public comment and posted on the Internet at <http://www.fda.gov/cber/guidelines.htm>.

Transcripts: Transcripts of the meeting may be requested in writing from the Freedom of Information Office (HFI-35), Food and Drug Administration, rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting at a cost of 10 cents per page. The public meeting transcript will also be available on the Internet at <http://www.fda.gov/cber/minutes/workshop-min.htm>.

Dated: October 30, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01-27643 Filed 11-02-01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Application of Nucleic Acid Testing to Blood Borne Pathogens and Emerging Technologies; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop.

The Food and Drug Administration (FDA) is announcing a public workshop entitled "Application of Nucleic Acid Testing to Blood Borne Pathogens and Emerging Technologies." The purpose of the public workshop is to focus on issues surrounding the implementation of nucleic acid testing (NAT) to screen blood and plasma donors.

Date and Time: The 2-day public workshop will be held on December 4 and 5, 2001, from 8:30 a.m. to 5 p.m.

Location: The public workshop will be held at the Lister Hill Center, National Institutes of Health, Bldg. 38A, 8600 Rockville Pike, Bethesda, MD.

Contact: Joseph Wilczek, Center for Biologics Evaluation and Research (HFM-305), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852-1448, 301-827-6129, FAX 301-827-2843, e-mail: wilczek@cber.fda.gov.

Registration: Preregistration is not required. However, early registration is recommended because there are only 175 seats at the site. Registration at the site will be done on a space available basis on the days of the workshop, beginning at 7:30 a.m. Mail, e-mail, or

fax your registration information (including name, title, firm name, address, telephone and fax number, and e-mail address) to the contact person on or before November 23, 2001. A registration form is available on the Internet at <http://www.fda.gov/cber/scireg.htm>. There is no registration fee. If you need special accommodations due to a disability, please contact Joseph Wilczek (address above) at least 7 days in advance.

Transcripts: Transcripts of the public workshop may be requested in writing from the Freedom of Information Office (HFI-35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A-16, Rockville, MD 20857, approximately 15-working days after the meeting at a cost of 10 cents per page. The public workshop transcript will also be available on the Internet at <http://www.fda.gov/cber/minutes/workshop-min.htm>.

SUPPLEMENTARY INFORMATION: FDA is sponsoring a public workshop on issues surrounding the implementation of NAT for blood borne pathogens. These issues for testing blood and plasma donors include screening for human immunodeficiency virus, hepatitis C virus, hepatitis B virus, and testing manufacturing pools for hepatitis A virus and parvovirus B-19. The goals of the public workshop are to examine: (1) International developments and regulatory issues regarding the implementation of minipool and single unit NAT; (2) standardization and quality assurance of NAT methods; (3) industry experience with minipool NAT for donor screening and in-process plasma pools; (4) potential replacement of current viral marker tests by NAT; and (5) emerging issues in nucleic acid testing, including new pathogens and new screening technologies. Another goal of the workshop is to evaluate future directions in NAT for blood borne pathogens. The public workshop agenda is posted on the Internet at <http://www.fda.gov/cber/scireg.htm>.

Dated: October 29, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01-27644 Filed 11-2-01; 8:45 am]

BILLING CODE 4160-01-S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Maternal and Child Health Federal Set-Aside Program; Project Grants; Hana Health Initiative for Children and Adolescents

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of grant award.

SUMMARY: The Maternal and Child Health Bureau (MCHB), Health Resources and Services Administration (HRSA), is awarding a grant for \$1,000,000 in fiscal year (FY) 2001 to the Hana Community Health Center in Hana, Hawaii. The grant supports expansion of health services to children and adolescents, with a focus on addressing special needs of Native Hawaiians in the community of Hana. The award was made from funds appropriated under Public Law 106-554 (HHS Appropriation Act for FY 2001). This project is a Special Project of Regional and National Significance (SPRANS) authorized by section 501(a)(2) of the Social Security Act, the Maternal and Child Health Federal Set-Aside Program.

Purpose: HRSA determined that it was necessary to provide funds to the community of Hana for expanded emergency, health and related services to children and adolescents in Hana, with services to have a Native Hawaiian focus. The primary source of health care for Hana is the Hana Community Health Center. To seek another source of health care residents must travel two and one-half to three hours, one way, to the main town of Wailuku.

In FY 2001, community surveys indicated a continuing need for funds for the on-site health services supported through this project, which was initiated in 1999 through MCHB's Emergency Medical Services for Children program. Concerns were raised about the need for quality primary and related health care services and the maintenance of 24 hour coverage, especially emergency care. As this is an isolated community with limited health and human services there was a desire to expand the services of the Hana Community Health Center. Maternal and Child Health SPRANS funds were designated to continue to address these services. This project reflects input and participation from the State of Hawaii and the Hana-based community health center and service providers. It provides a comprehensive strategy for: (1)

Addressing service delivery gaps and barriers; (2) expanding health care and related services to the children and adolescents of Hana; and (3) responding to the needs of the Native Hawaiian population in Hana.

Availability of Funds: Approximately \$1,000,000 was made available to support this project for the first year of a planned three-year project/budget period, beginning in FY 2001, and extending from September 27, 2001 through September 26, 2004, subject to the availability of appropriations.

Other Award Information: This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal programs (as implemented by 45 CFR part 100). The Catalog of Federal Domestic Assistance (CFDA) number for this project is 93.110M.

FOR FURTHER INFORMATION CONTACT: Peter S. Conway, Division of Child, Adolescent and Family Health, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 18A-30, Rockville, MD 20857, 301-443-2250.

Dated: October 29, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01-27646 Filed 11-2-01; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Maternal and Child Health Federal Set-Aside Program; Welfare Reform and Women's and Children's Health Cooperative Agreement

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of grant award.

SUMMARY: The Maternal and Child Health Bureau (MCHB), Health Resources and Services Administration (HRSA), is awarding \$224,000 in fiscal year (FY) 2001 to support a cooperative agreement with the Mailman School of Public Health, Columbia University, in New York, NY. The award was made from funds appropriated under Public Law 106-554 (Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriation Act for FY 2001). The cooperative agreement is authorized by section 501(a)(2) of the Social Security Act, the Maternal and Child Health Federal Set-Aside Program, as a Special Project of Regional and National Significance.

Purpose: The HRSA is providing Federal financial assistance for the "Finding Common Ground" project to allow completion of a pre-existing set of tasks by Columbia University's Mailman School of Public Health. The project is designed to provide an empirical base for assessing the impact of State welfare reform policies, implemented since 1996, on women's and children's health services utilization and health outcomes. These tasks include analysis of data gathered from six national and State data sets and identification of trends in welfare and Medicaid in South Carolina, Texas, and Washington. The project was initiated in 1997 through a cooperative agreement with combined support from the Maternal and Child Health Bureau (MCHB), the Centers for Disease Control and Prevention, and the Office of Population Affairs. This funding expired in 2001.

This award for a new cooperative agreement, sponsored solely by MCHB, ensures that results of the ongoing study are available on a timely basis to provide the empirical foundation to address maternal and child health issues associated with welfare reform. Data will be used to develop training and demonstration projects to inform participants in professional deliberations regarding possible future changes in welfare law.

This "Finding Common Ground" project is the only existing analytical project dedicated to exploring the impact of welfare reform policies on the health status and service utilization of women and children. While other groups are conducting studies on welfare reform, they are primarily focused on the impact on employment, earnings, and income. The project team for this study is uniquely qualified through its combination of expertise and experience in clinical, public health, and social science research to complete the project in cooperation with MCHB.

The administrative and funding instrument used for this program is the cooperative agreement, in which substantial MCHB scientific or programmatic involvement with the awardee is anticipated during performance of the project. Under the cooperative agreement, MCHB supports or stimulates the awardee's activities by working with the awardee in a non-directive, partnership role, but not assuming direction, prime responsibility, or a dominant role in the activity.

Availability of Funds: Approximately \$224,000 was made available for obligation to support this project for budget period beginning in FY 2001,

extending from September 30, 2001 through August 29, 2002.

Other Award Information: This program is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal programs (as implemented by 45 CFR part 100). The Catalog of Federal Domestic Assistance (CFDA) Number is 93.110RA.

FOR FURTHER INFORMATION CONTACT: Russ Scarato, Office of Data and Information Management, Maternal and Child Health Bureau, HRSA, 5600 Fishers Lane, Room 18-44, Rockville, MD 20857, 301-443-0701.

Dated: October 29, 2001.

Elizabeth M. Duke,

Acting Administrator.

[FR Doc. 01-27647 Filed 11-2-01; 8:45 am]

BILLING CODE 4165-15-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Great Lakes Panel Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces meeting of the Aquatic Nuisance Species Task Force Great Lakes Panel. The meeting topics are identified in the **SUPPLEMENTARY INFORMATION**.

DATES: The Great Lakes Panel will meet from 8 am to 5 pm on Thursday, November 29, 2001, and 8 am to noon on Friday, November 30, 2001.

ADDRESSES: The Great Lakes Panel will be held at the Holiday Inn, North Campus, 3600 Plymouth Road, Ann Arbor, Michigan 48105. Phone (734) 769-9800.

FOR FURTHER INFORMATION CONTACT: Kathe Glassner-Shwayder, Project Manager, Great Lakes Commission, at 734-665-9135 or Sharon Gross, Executive Secretary, Aquatic Nuisance Species Task Force at 703-358-2308 or by e-mail at: sharon_gross@fws.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces meetings of the Aquatic Nuisance Species Task Force Great Lakes Panel. The Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

The Great Lakes Panel, comprised of representatives from Federal, State, and local agencies and from private

environmental and commercial interests, provides the following:

(a) Identify priorities for the Great Lakes Region with respect to aquatic nuisance species;

(b) Make recommendations to the Task Force regarding programs to carry out zebra mussel programs;

(c) Assist the Task Force in coordinating Federal aquatic nuisance species program activities in the Great Lakes region;

(d) Coordinate, where possible, aquatic nuisance species program activities in the Great Lakes region that are not conducted pursuant to the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (as amended, 1996);

(e) Provide advice to public and private individuals and entities concerning methods of controlling aquatic nuisance species; and,

(f) Submit an annual report describing activities within the Great Lakes region related to aquatic nuisance species prevention, research, and control.

The focus of this meeting will be to: Review topics related to NISA reauthorization, discuss Panel activities, priorities, and membership, and discuss coordination of regional panels on a national level.

Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 810, 4401 North Fairfax Drive, Arlington, Virginia 22203-1622, and will be available for public inspection during regular business hours, Monday through Friday.

Dated: October 19, 2001.

Everett Wilson,

Co-Chair, Aquatic Nuisance Species Task Force, Acting Assistant Director—Fisheries & Habitat Conservation.

[FR Doc. 01-27730 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR-030-01-1610-DQ:GP1-0136]

Notice of Availability of Proposed Southeastern Oregon Resource Management Plan and Final Environmental Impact Statement; and Proposed Area of Critical Environmental Concern Designations

AGENCY: Bureau of Land Management, Malheur and Jordan Resource Areas, Vale District.

SUMMARY: Pursuant to section 202 of the Federal Land Policy and Management Act and section 102(2)(c) of the National Environmental Policy Act, the Bureau of

Land Management (BLM) has prepared a Proposed Southeastern Oregon Resource Management Plan (PSEORMP) and associated final Environmental Impact Statement (FEIS) for the Malheur and Jordan Resource Areas, Vale District, Oregon. The Final SEORMP will only provide management direction for a portion of the original planning area. The Draft SEORMP/EIS (October, 1998) addressed approximately 6.3 million acres of public land; however, due to congressional action (House Resolution 4828, Steens Mountain Cooperative Management and Protection Act of 2000), the Andrews Resource Area was withdrawn from the land use planning process and will be addressed in a separate land use planning process scheduled to begin in 2001 by the Burns BLM District. Final decisions of this SEORMP planning process will supercede the Northern and Southern Malheur Management Framework Plans, as amended, and the Ironside and Southern Malheur Rangeland Program Summaries. The Final SEORMP will provide direction for management of these public lands for approximately 20 years. The PSEORMP/FEIS addresses seven alternatives for management, including the Proposed Resource Management Plan (Proposed RMP), on approximately 4.6 million acres of BLM administered public lands in southeast Oregon. The Proposed RMP would result in designation of all public lands for the management of motorized vehicles (2,615,116 acres Open, 2,004,369 acres Limited, and 15,826 acres Closed), and would recommend 42.5 miles of streams and river segments determined to be eligible and administratively suitable for congressional designation under the Wild and Scenic Rivers Act. This notice is also issued pursuant to 43 CFR Part 1610.7-2(b) of the BLM Planning Regulations, with the Proposed RMP proposing 26 Areas of Critical Environmental Concern (ACEC) (approximately 206,257 acres) be designated.

DATES: The public has the opportunity to protest the proposed resource management plan in the Final EIS. The BLM Planning Regulations, 43 CFR 1610.5-2, state that any person who has participated in the planning process and has an interest which may be adversely affected may protest. A protest may raise only those issues which were submitted for the record during the planning process. The BLM will make a decision on the SEORMP after review of protests (if any) that must be filed by December 5, 2001. Written protests may be submitted at any time during the

protest period at the following address: Director, Bureau of Land Management, Attention: Ms. Brenda Williams, Protests Coordinator, WO-210/LS-1075, Department of the Interior, Washington, DC 20240. To be considered timely, your protest must be postmarked no later than the last day of the protest period. Also, although not a requirement, we suggest that you send your protest by certified mail, return receipt requested.

To be considered complete, your protest must contain, at a minimum, the following information:

- Name, mailing address, telephone number and the affected interest of the person filing the protest(s).
- A statement of the issue or issues being protested.
- A statement of the part or the parts of the proposed plan being protested. To the extent possible, reference specific pages, paragraphs and sections of the document.
- A copy of all your documents addressing the issue or issues which were discussed with BLM for the record.
- A concise statement explaining why the proposed decision is believed to be incorrect. This is a critical part of your protest. Document all relevant facts, as much as possible, referencing or citing the planning and environmental analysis documents. A protest that merely expresses disagreement with the State Director's proposed decision without any data will not provide us with the benefit of your information and insight. In this case, the Director's review will be based on the existing analysis and supporting data.

FOR FURTHER INFORMATION CONTACT: Jerry Taylor, Jordan Resource Area Field Manager; or Roy Masinton, Malheur Resource Area Field Manager, BLM, 100 Oregon Street, Vale, Oregon 97918. Telephone (541) 473-3144. Single copies of the PSEORMP/FEIS are available at the BLM Vale District Office. Copies will also be available for inspection during normal business hours at the BLM Baker Field Office, 3165 10th Street, Baker City, Oregon, the BLM Burns District Office, HC 74-12533, Highway 20 West, Hines, Oregon, and the BLM Oregon State Office, 1515 SW 5th Street, Portland, Oregon. Comments on the PSEORMP/FEIS, including names and addresses of respondents, will be available for public review at the Vale District Office during regular business hours (7:45 a.m. to 4:30 p.m. (mountain time), Monday through Friday, except holidays. Individuals may request confidentiality. If you wish to withhold your name or address from public review or from disclosure under

the Freedom of Information Act, you must state this promptly at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety. Interested persons not already on the mailing list may review the PSEORMP/FEIS via the internet at <http://www.or.blm.gov/Vale>. A hard copy or a CD ROM of the document may be requested from the Vale District Office by calling (541) 473-3144.

SUPPLEMENTARY INFORMATION: The Malheur and Jordan Resource Areas include 4,600,648 acres of BLM administered public lands in Malheur, Harney, and Grant Counties, Oregon, and encompass approximately 1,851,708 acres of other Federal, State and private lands. The land use planning effort addresses a broad spectrum of land uses and allocations. The Proposed RMP Alternative also provides for the following: the use of wild and prescribed fire to meet resource objectives; provisions for possible disposal of several parcels of potentially suitable public land totaling approximately 62,100 acres; livestock grazing on public lands except for approximately 58,900 acres not allocated; varied recreation uses and establishment of five special recreation management areas; management of special status plant and animal species and habitat; improvement of water quality and riparian habitats; management of wild horses in seven herd management areas; and mineral exploration and development, with retention of currently withdrawn public lands from locatable minerals and recommendation for withdrawal of several parcels from locatable minerals totaling approximately 116,351 acres for provisions such as ACEC's and administrative and recreation facilities. Other management actions under the Proposed RMP Alternative are as described in the PSEORMP/FEIS. The PSEORMP/FEIS is based on adaptive management, which is a continuing process of planning, implementation, monitoring, and evaluation to adjust management strategies to meet goals and objectives of ecosystem management. The concept of adaptive management uses the latest scientific information, site-specific information/data, and professional judgement to select the

management strategy most likely to meet goals and objectives of the plan.

Sandra L. Guches,

Acting Vale District Manager.

[FR Doc. 01-27456 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-33-P

DEPARTMENT OF THE INTERIOR

National Park Service

60 Day Notice of Intention To Request Clearance of Collection of Information; Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service, Yukon-Charley Rivers National Preserve.

ACTION: Notice and request for comments.

SUMMARY: The National Park Service (NPS) in conjunction with a natural resource protection council including members from the Air Force and a number of state and federal land management agencies is proposing in 2002 to conduct surveys of persons using selected Alaskan Military Operations Areas where Air Force training occurs. One of these surveys focuses on hunters who pursue big game animals. Hunters will be asked about their expectations concerning Air Force training and the impacts of reported overflights on their activities and experiences.

	Estimated numbers of	
	Responses	Burden hours
Alaskan Military Operations Areas: Big Game Hunter Survey	2604	1085

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 gathering the information in the proposed surveys. 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.

The NPS goal in conducting these surveys is to assess the effectiveness of

current mitigation efforts in limiting impacts of Air Force training activity on human users of Alaskan Military Operations Areas.

DATES: Public comments will be accepted on or before January 4, 2001.

SEND COMMENTS TO: Darryll R. Johnson, USGS/BRD/FRESC/Cascadia Field Station, College of Forest Resources, Box 352100, University of Washington, Seattle, WA 98195-2100; or Mark E. Vande Kamp, USGS/BRD/FRESC/Cascadia Field Station, College of Forest Resources, Box 352100, University of Washington, Seattle, WA 98195-2100.

FOR FURTHER INFORMATION CONTACT: Darryll R. Johnson. Voice: 206-685-7404, Email: <darryllj@u.washington.edu>; Mark E. Vande Kamp. Voice: 206-543-0378, Email: <mevk@u.washington.edu>.

SUPPLEMENTARY INFORMATION:

Titles: Alaskan Military Operations Areas Big Game Hunter Survey.

Bureau Form Number: None.

OMB Number: To be requested.

Expiration Date: To be requested.

Type of request: Request for new clearance.

Description of need: The National Park Service (in conjunction with a natural resource protection council including members from the Air Force and a number of state and federal land management agencies) needs information to assess the effectiveness of current mitigation efforts in limiting impacts of Air Force training activity on human users of Alaskan Military Operations Areas.

Automated data collection: At the present time, there is no automated way to gather this information because it includes expectations and evaluations visitors associate with their experiences while hunting in Alaskan Military Operations Areas.

Description of respondents: A sample of individuals who hunted big game in Military Operations Areas.

Estimated average number of respondents: 2604.

Estimated average number of responses: Each respondent will respond only once to a mail questionnaire.

Estimated average burden hours per response: 25 minutes.

Frequency of Response: 1 mail survey per respondent.

Estimated annual reporting burden: 1085 hours.

Dated: August 12, 2001.

Leonard E. Stowe,

Acting Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 01-27691 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Submission of Study Package to Office of Management and Budget; Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service, Urban and Adjacent Parks

ACTION: Notice and request for comments.

ABSTRACT: The National Park Service (NPS) is proposing in 2000 and 2001 to conduct surveys of persons living in the metropolitan areas of Boston, MA, Los Angeles, CA, Miami, FL, and New Orleans, LA where the following urban national parks are located: Boston African-American National Historic Site, Santa Monica Mountains National Recreation Area, Biscayne National Park, and Jean Lafitte National Historical Park and Preserve. In these surveys, persons will be asked about their knowledge of the urban national park located in their metropolitan area, and their familiarity with community outreach efforts that the urban national park has instituted.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 a 5 CFR part 1320, Reporting and Record Keeping Requirements, the NPS invites public comment on the proposed information request (ICR). Comments are invited on: (1) The need for the information, including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

The NPS goal in conducting this survey is to assess the community outreach programs in selected urban national parks to determine the program's contributions toward improving rates of NPS urban parks visitation by selected user groups. The information gathered will be used to help the staff at NPS evaluate and

improve the outreach programs, including the educational programs they offer at the site and in the local community. The following study objectives have been identified:

- Determine the effectiveness of the parks' current outreach programs on the attitudes of people in the communities;
- Determine community awareness of visitor and ancillary services offered by the parks;
- Determine potential benefits of the park to the community;
- Determine the importance and value of the parks to community members.

There were no public comments received as a result of publishing in the **Federal Register** a 60-day notice of intention to request clearance of information collection for this survey.

DATES: Public comments will be accepted on or before December 5, 2001.

SEND COMMENTS TO: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Interior Department, Office of Management and Budget, Washington, DC 20503.

The OMB has up to 60 days to approve or disapprove the information collection, but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments within 30 days from the date listed at the top of this page of the **Federal Register**.

FOR FURTHER INFORMATION OR A COPY OF THE STUDY PACKAGE SUBMITTED FOR OMB REVIEW, CONTACT: Ronald Vogel: Voice: (225) 771-3103, e-mail: ron@idsmail.com.

SUPPLEMENTARY INFORMATION: *Title:* NPS Urban and Adjacent Parks: Assessment and Development of Community Outreach.

Bureau Form Number: None.

OMB Number: To be requested.

Expiration date: To be requested.

Type of Request: Request for new clearance.

Description of Need: Description of need: The National Park Service needs information to assess the effectiveness of community outreach programs in reaching residents who live near urban national parks.

Automated data collection: At the present time, there is no automated way to gather this information because it includes asking residents for determinations on effectiveness and awareness of select programs developed by individual parks.

Description of respondents: Persons residing in the metropolitan areas of Boston, MA, Los Angeles, CA, Miami, FL and New Orleans.

Estimated average number of respondents: 400 (100 per above metropolitan area).

Estimated average number of responses: Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

Estimated average burden hours per response: 30 minutes.

Frequency of response: 1 time per respondent.

Estimated annual reporting burden: 125 hours.

Dated: August 27, 2001.

Leonard E. Stowe,

Acting Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 01-27692 Filed 11-22-01; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Submission of Study Package to Office of Management and Budget; Opportunity for Public Comment

AGENCY: National Park Service, Department of the Interior, Golden Gate National Recreation Area.

ACTION: Notice and request for comments.

ABSTRACT: The National Park Service (NPS) is proposing to conduct survey interviews in year 2001 to identify the market viability and visitor trip planning interests in recreational ferry services accessing Golden Gate National Recreation Areas (GNRA) on San Francisco Bay. The results of these surveys will be used to develop alternative plans for a possible ferry service and forecast potential demand. Intercept and telephone interviews will be carried out at non-park sites (intercept interviews) and with those who possibly currently do not visit those destinations (telephone interviews).

	Estimated number of	
	Re-sponses	Burden hours
GNRA Water Shuttle Access Plan: Telephone Interviews (10 min. each)	1200	200

	Estimated number of	
	Re-sponses	Burden hours
GGNRA Water Shuttle Access Plan: Intercept Interviews at Park Sites (15 min. each)	1600	400
Total	2800	600

SUMMARY: 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: (a) Whether the collection of information is necessary for the proper performance of the functions of the NPS, including whether the information will have practical utility; (b) the accuracy of the NPS estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) the quality, utility, and clarity of the information to be collected; and (d) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

DATES: Public comments will be accepted for 30 days from the date listed at the top of this page of the **Federal Register**.

SEND COMMENTS TO: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the

Interior Department, Office and Management and Budget, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT OR A COPY OF THE STUDY PACKAGE SUBMITTED FOR OMB REVIEW, CONTACT: Michael J. Savidge; Voice: (415) 561-4725, e-mail: michael.j.savidge@nps.gov.

SUPPLEMENTARY INFORMATION:

Title: Golden Gate National Recreation Area Water Shuttle Access Plan Resident Surveys.

Bureau Form Number: None.

OMB Number: To be assigned.

Expiration Date of Approval: To be assigned.

Type of Request: Request for new clearance.

Description of Need: The National Park Service needs information to develop plans for alternative modes of access to GGNRA sites, including ferry service.

Automated Data Collection: At the present time, there is no automated way to gather this information, since the information gathering process involves asking visitors and/or the general public to identify characteristics, use patterns, expectations, preferences and perceptions that are relevant to a study of ferry service.

Description of respondents: A sample of individuals who visit GGNRA sites of the National Park Service and individuals who do not visit GGNRA sites.

Estimated average number of respondents: up to 1200 (completed telephone interviews); up to 1600 (completed intercept interviews).

Estimated average number of responses: Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

Estimated average burden hours per response: 10 minutes (telephone); 15 minutes (intercept).

Frequency of Response: 1 time per respondent.

Estimated annual reporting burden: 600 hours.

Dated: August 27, 2001.

Leonard E. Stowe,

Acting Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 01-27693 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intention To Extend Expiring Concession Contracts for a One Year Period Within the Pacific West Region

SUMMARY: Pursuant to the National Park Service Concessions Management Improvement Act of 1998, notice is hereby given that the National Park Service intends to extend the following expiring concession contracts pursuant to 36 CFR Part 51, section 51.23. This action is a short-term extension and will be for a one-year period ending December 31, 2002.

Concessioner Identification No.	Concessioner name	Park
CABR001	Cabrillo Historical Association	Cabrillo National Monument.
DEVA004	Death Valley Natural History Association	Death Valley National Park.
GOGA007	Golden Gate National Park Association	Golden Gate National Recreation Area.
JOTR001	Joshua Tree National Park Association	Joshua Tree National Park.
LAME007	Seven Resorts, Inc	Lake Mead National Recreation Area.
MORA001	Rainier Mountaineering, Inc	Mount Rainier National Park.
LACH002	The House that Jack Built	North Cascades National Park.
LACH003	Lake Chelan Recreation, Inc. dba North Cascades—Stehekin Lodge.	North Cascades National Park.
OLYM006	Hurricane Ridge Winter Sports Club, Inc	Olympic National Park.
OLYM064	Sure Fire Wood	Olympic National Park.
OLYM093	Chester Rooney	Olympic National Park.
PORE004	Point Reyes National Seashore Association	Point Reyes National Seashore.
SEKI001	Tim & Patricia Lover dba Cedar Grove Pack Station and Grant Grove Stables.	Sequoia & Kings Canyon National Parks.
SEKI003	Wolverton Pack Station	Sequoia & Kings Canyon National Parks.
SEKI005	Mineral King Pack Station	Sequoia & Kings Canyon National Parks.
USAR002	Arizona Memorial Museum Association	USS Arizona Memorial.

SUPPLEMENTARY INFORMATION: All the listed concession authorizations will expire on or before December 31, 2001. The National Park Service has determined that the proposed short-term

extensions are necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption.

This 1-year extension is necessary to allow the National Park Service to develop and issue prospectuses, leading to the competitive selection of

concessioners for new longer-term concession contracts.

Information about this notice can be sought from: National Park Service, Chief, Concession Program Management Office, Pacific West Region, Attn: Mr. Tony Sisto, 1111 Jackson Street, Suite 700, Oakland, California 94607 or call (510) 817-1366.

Dated: September 25, 2001.

Martha K. Leicester,

Acting Regional Director, Pacific West Region.

[FR Doc. 01-27696 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-10-P

DEPARTMENT OF THE INTERIOR

National Park Service

Environmental Assessment for Proposal To Add a Boardwalk and Viewing Deck and Rehabilitate the Overlooks at Great Falls Park, VA

AGENCY: National Park Service.

ACTION: Availability of the Environmental Assessment (EA) for the proposed boardwalk and viewing deck, and rehabilitation of Overlooks One and Two of Great Falls Park, Virginia, a unit of the George Washington Memorial Parkway (GWMP).

SUMMARY: Pursuant to Council on Environmental Quality regulations and National Park Service (NPS) policy, the NPS announces the availability of an EA for the proposed boardwalk and viewing deck, and rehabilitation of Overlooks One and Two of Great Falls Park, Virginia, a unit of the GWMP. The EA examines several alternatives aimed to increase visitor safety, provide accessibility, and improve resource protection around and between the Overlooks and the Shade Tree-Jetty area. The record of serious visitor injuries and drownings, as well as obvious impacts on park resources, indicates a need to better manage visitor use in order to alleviate safety concerns and enhance protection of the park's resources. The NPS is soliciting comments on this EA. These comments will be considered in evaluating it and making decisions pursuant to the National Environmental Policy Act.

DATES: The EA will remain available for public comment 30 days from the date of publication in the **Federal Register**. Written comments should be received no later than this date.

ADDRESSES: Comments on this EA should be submitted in writing to: Ms. Audrey F. Calhoun, Superintendent, George Washington Memorial Parkway, Turkey Run Park, McLean, Virginia 22101. The EA will be available for

public inspection Monday through Friday, 8 a.m. through 4 p.m., at GWMP Headquarters, Turkey Run Park, McLean, Virginia, on the NPS Website www.nps.gov/gwmp, and at several libraries in Alexandria, Fairfax, and Arlington, Virginia.

SUPPLEMENTARY INFORMATION: The NPS proposes to increase accessibility and safety for trail users while maintaining the integrity of the natural and cultural resources at the Shade Tree-Jetty area and around Overlooks One and Two. Improvements to the park's system of trails and overlooks would address critical visitor safety and resource protection issues in the most heavily used part of the park. Two existing overlooks provide scenic views below the falls. The Overlooks are in deteriorating condition, and their concrete slab construction and steel handrails are visually incompatible with the surroundings. A short trail from the visitor center leads to an undeveloped area adjacent to and above the falls. This area provides some of the park's most spectacular and exciting viewing points. Unfortunately, numerous social trails have resulted from some visitors departing the designated trail system, inadvertently damaging stonework of the Patowmack Canal, rare plants, and other vegetation. Visitors also often scramble over the rocks and cliffs to reach certain vantage points. Their rock-hopping and wading along the river's edge at times places them in dangerous situations.

The following primary needs have been identified with this project to address the existing issues. There is a need:

1. To better manage visitor traffic in areas where resources are threatened and where there is no margin for error on the visitor's part.
2. To change inaccessible scenic views into accessible overlooks.
3. To protect natural and cultural resources from the Jetty to Overlook Two.

Incidents that have occurred at these locations have been formally documented by park staff and through conversations with visitors who have reported incidents. Finally, park staff and Fairfax County's Fire and Rescue teams have had to rescue or recover victims on several occasions from these areas.

All interested individuals, agencies, and organizations are urged to provide comments on the EA. The NPS, in making a final decision regarding this matter, will consider all comments received by the closing date.

FOR FURTHER INFORMATION CONTACT: Mr. Walter McDowney (703) 285-2763 or via email at Bonnie_Heath@nps.gov.

Audrey F. Calhoun,

Superintendent, George Washington Memorial Parkway.

[FR Doc. 01-27694 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

National Preservation Technology and Training Board: Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with the Federal Advisory Committee Act, 5 U.S.C. Appendix (1988), that the National Preservation Technology and Training Board will meet on November 6, 2001, in Natchitoches, Louisiana.

The Board was established by Congress to provide leadership, policy advice, and professional oversight to the National Center for Preservation Technology and Training, as required under the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470).

The Board will meet in the Natchitosh Room in Russell Hall on the NSU campus, Tuesday, November 6, 2001. The meeting will start at 8:30 a.m. and end at about 4:30 p.m. Matters to be discussed will include officer, committee, university, National Park Service, and Center reports including the status of the grants program, a review of past accomplishments of the Center and a look toward the future of the Center and its partners in the preservation community with a report on a university consortium. The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited and persons will be accommodated on a first-come, first-served basis.

Any member of the public may file a written statement concerning the matters to be discussed with Dr. Neville Agnew, Chair, National Preservation Technology and Training Board, Group Director, Information and Communication, The Getty Conservation Institute, 1200 Getty Center Drive, Suite 700, Los Angeles, CA 90049-1684.

Persons wishing more information concerning this meeting, or who wish to submit written statements, may do so by contacting Mr. E. Blaine Cliver, Chief, HABS/HAER, National Park Service, 1849 C Street NW, Washington, DC

20240, telephone (202) 343-9606. Draft summary minutes of the meeting will be available for public inspection approximately eight weeks after the meeting at the office of the Manager, National Center for Cultural Resources, Suite 350, 800 North Capitol Street NW, Washington, DC 20002.

Dated: October 1, 2001.

E. Blaine Cliver,

Chief, HABS/HAER, Designated Federal Official, National Park Service.

[FR Doc. 01-27699 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-70-S

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 13, 2001. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW., NC400, Washington, DC 20240. Written comments should be submitted by November 20, 2001.

Paul R. Lusignan,

Acting Keeper of the National Register.

ARKANSAS

Cleveland County

Rison Texaco Service Station, 216 Main St., Rison, 01001243

CALIFORNIA

San Luis Obispo County

Lincoln School, 9000 Chimney Rock Rd., Paso Robles, 01001244

DELAWARE

New Castle County

Ardens Historic District, Address Restricted, Arden, 01001245

FLORIDA

Martin County

Gate House, 214 S. Beach Rd., Jupiter Island, 01001246

Volusia County

Moulton—Wells House, W of Eldora Rd., Canaveral National Seashore, New Smyrna Beach, 01001247

GEORGIA

Muscogee County

Dinglewood Historic District, Bounded by 13th and 16th Ave., 13th St., and Wynnton Rd., Columbus, 01001248

KENTUCKY

Allen County

Turner, J.L. and Son, Building, Old East Main St. at 7th St., Scottsville, 01001253

Hart County

Battle of Munfordville (Boundary Increase), (Munfordville MRA) Mostly W of US 31W near Munforville, Munfordville, 01001254

Jefferson County

Allison—Barrickman House (Boundary Increase), 6909 Wolf Pen Branch Rd., Louisville, 01001250
Saint Francis in the Fields, 6710 Wolf Pen Branch Rd., Harrods Creek, 01001249

Kenton County

Covington Downtown Commercial Historic District (Boundary Increase), Approx. located along Scott, Pine, and E. 8th Sts., Covington, 01001252

McCracken County

Hotel Metropolitan, 724 Jackson St., Paducah, 01001251

LOUISIANA

Rapides Parish

Emmanuel Baptist Church, 430 Jackson St., Alexandria, 01001255

NEW JERSEY

Hudson County

Hudson and Manhattan Railroad Powerhouse, 60-84 Bay St., 344-56 Washington Blvd., Jersey City, 01001256

OHIO

Columbiana County

Hanna—Kenty House, 251 E. High St., Lisbon, 01001257

Cuyahoga County

McFarland, Duncan, House, 35069 Cannon Rd., Bentleyville, 01001258

TENNESSEE

Montgomery County

Golden Hill Cemetery, Seven Mile Ferry Rd., Clarksville, 01001261

Sevier County

Trotter—McMahan Farm (Boundary Increase), 1605 Middle Creek Rd., Sevierville, 01001262

Shelby County

Third Additon to Jackson Terrace Historic District, (Residential Resources of Memphis MPS) Henry Ave., Hardin Ave., Atlantic Ave. and Crump Ave., Memphis, 01001260

Union County

Maynardville State Bank, 1001 Main St., Maynardville, 01001259

Warren County

Spring Street Service Station, 200 N. Spring St., McMinnville, 01001263

TEXAS

Bee County

Rialto Theater, 112-114 N. Washington St., Beeville, 01001265

Garza County

Garza County Courthouse, 300 W. Main St., Post, 01001266

Hunt County

President's House, SW of Circle Dr., N of Stonewall St., bet. Campbell and Bois D'Arc Sts., Commerce, 01001264
A request for REMOVAL has been made for the following Resource:

TENNESSEE

Frentress County

Allardt Presbyterian Church, (Frentress County) MPS TN 52 Allardt, 91000818

[FR Doc. 01-27697 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-70-P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 6, 2001. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by November 20, 2001.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Montgomery County

Mount Ida Cities Service Filling Station, (Arkansas Highway History and Architecture MPS), 204 Whittington, Mount Ida, 01001230
Mount Ida Esso Service Station, (Arkansas Highway History and Architecture MPS), 114 US 270, Mount Ida, 01001231

Ouachita County

Clifton and Greening Street Historic District (Boundary Increase), 411 & 417 Greening St., Camden, 01001232

Washington County

Hantz House, (Arkansas Designs of E. Fay Jones MPS AD), 855 Fairview Dr., Fayetteville, 01001233

CALIFORNIA

Sonoma County

Carriger, Nicholas, Estate, 18880 Carriger Rd., Sonoma, 01001234

LOUISIANA**Iberville Parish**

Rivet, Pierre Ernest, House, (Louisiana's French Creole Architecture MPS), 58159 Plaquemine St., Plaquemine, 01001235

MASSACHUSETTS**Franklin County**

Montague Center Historic District, Center, Main, North, School & Union Sts., Montague, 01001236

VERMONT**Bennington County**

Whitney, Cora B., School, (Educational Resources of Vermont MPS), 814 Gage St., Bennington, 01001237

Chittenden County

Remington—Williamson Farm, (Agricultural Resources of Vermont MPS), 4282 Main Rd., Huntington, 01001239
Saltus Grocery Store, (Burlington, Vermont MPS), 299—301 N. Winooski Ave., Burlington, 01001238

Rutland County

Chaffee—Moloney Houses, 194 & 196—38 Colombian Ave., Rutland, 01001240

Windham County

Scott Farm Historic District, (Agricultural Resources of Vermont MPS), 707 Kipling Rd., Dummerston, 01001241

WISCONSIN**Dane County**

Dunlap, Adam, Farmstead, 9646 Dunlap Hollow Rd., Mazomanie, 01001242

[FR Doc. 01-27698 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF THE INTERIOR**National Park Service**

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the American Museum of Natural History, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the American Museum of Natural History, New York, NY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency

that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the American Museum of Natural History professional staff in consultation with representatives of the Jamestown S'Klallam Tribe of Washington; Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington; Lummi Tribe of the Lummi Reservation, Washington; Nooksack Indian Tribe of Washington; Port Gamble Indian Community of the Port Gamble Reservation, Washington; Samish Indian Tribe, Washington; Stillaguamish Tribe of Washington; Swinomish Indians of the Swinomish Reservation, Washington; Tulalip Tribes of the Tulalip Reservation, Washington; and Upper Skagit Indian Tribe of Washington.

In 1899, human remains representing a minimum of one individual were collected by Harlan I. Smith from "Lummi," in the vicinity of Marietta, Whatcom County, WA, while Mr. Smith was a member of the Jesup North Pacific Expedition, sponsored by the American Museum of Natural History. No known individual was identified. The four associated funerary objects are pieces of shell.

This individual has been identified as Native American based on the nature of the associated funerary objects and the burial location of "Lummi." Museum records suggest that this burial dates to the postcontact period. The geographic location is consistent with the traditional territory of the Lummi Tribe of the Lummi Reservation, Washington.

In 1898, human remains representing a minimum of one individual were collected from the vicinity of Point Roberts, Whatcom County, WA, by Harlan I. Smith, while a member of the Jesup North Pacific Expedition. The human remains came from a road cut through a shell heap between Point Roberts and "Alexander's house." No known individual was identified. No associated funerary objects are present.

This individual has been identified as Native American based on burial location in a shell heap. Museum records suggest that this burial dates to the postcontact period. The geographic location of the burial is consistent with the traditional territory of the Lummi Tribe of the Lummi Reservation, Washington.

In 1898, human remains representing a minimum of nine individuals were collected from the vicinity of Point

Roberts, Whatcom County, WA, by Harlan I. Smith, while a member of the Jesup North Pacific Expedition. The human remains came from a shell heap. No known individuals were identified. No associated funerary objects are present. These individuals have been identified as Native American based on burial location. Traces of wood found in the grave suggest that the burial was relatively recent. The geographic location of the burials are consistent with the traditional territory of the Lummi Tribe of the Lummi Reservation, Washington.

Based on the above-mentioned information, officials of the American Museum of Natural History have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of 11 individuals of Native American ancestry. Officials of the American Museum of Natural History also have determined that, pursuant to 43 CFR 10.2 (d)(2), the four objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the American Museum of Natural History have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Lummi Tribe of the Lummi Reservation, Washington.

This notice has been sent to officials of the Jamestown S'Klallam Tribe of Washington; Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington; Lummi Tribe of the Lummi Reservation, Washington; Nooksack Indian Tribe of Washington; Port Gamble Indian Community of the Port Gamble Reservation, Washington; Samish Indian Tribe, Washington; Stillaguamish Tribe of Washington; Swinomish Indians of the Swinomish Reservation, Washington; Tulalip Tribes of the Tulalip Reservation, Washington; and Upper Skagit Indian Tribe of Washington. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Martha Graham, Director of Cultural Resources, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024-5192, telephone (212) 769-5846, before December 5, 2001. Repatriation of the human remains and associated funerary objects to the Lummi Tribe of the Lummi Reservation,

Washington may begin after that date if no additional claimants come forward.

Dated: August 28, 2001.

John Robbins,

*Assistant Director, Cultural Resources
Stewardship and Partnerships.*

[FR Doc. 01-27701 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-70-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the American Museum of Natural History, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the American Museum of Natural History, New York, NY.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the American Museum of Natural History professional staff in consultation with representatives of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians, Bay Mills Reservation, Michigan; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Grand Traverse Band of Ottawa & Chippewa Indians of Michigan; Keweenaw Bay Indian Community of L'Anse and Ontonagon Bands of Chippewa Indians of the L'Anse Reservation, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of the Lac

Courte Oreilles Reservation of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Minnesota Chippewa Tribe, Minnesota; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians of the Red Lake Reservation, Minnesota; Saginaw Chippewa Indian Tribe of Michigan, Isabella Reservation; Sault Ste. Marie Tribe of Chippewa Indians of Michigan; Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, Wisconsin; St. Croix Chippewa Indians of Wisconsin, St. Croix Reservation; Turtle Mountain Band of Chippewa Indians of North Dakota; and White Earth Band of the Minnesota Chippewa Tribe, Minnesota.

At an unknown date, human remains representing a minimum of four individuals were collected by Frances Densmore from the vicinity of Lake Superior, MN. The American Museum of Natural History purchased the remains from Miss Densmore in 1920. No known individuals were identified. No associated funerary objects are present.

These individuals have been identified as Native American based on the American Museum of Natural History's documentation and geographic information. The original catalog refers to these remains as "Ojibway." These remains were obtained from the postcontact territory of the Ojibway (also known as Chippeway, Chippewa, or Ojibwa).

Based on the above-mentioned information, officials of the American Museum of Natural History have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of four individuals of Native American ancestry. Officials of the American Museum of Natural History also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians, Bay Mills Reservation, Michigan; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Chippewa-Cree Indians of the Rocky Boy's

Reservation, Montana; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Grand Traverse Band of Ottawa & Chippewa Indians of Michigan; Keweenaw Bay Indian Community of L'Anse and Ontonagon Bands of Chippewa Indians of the L'Anse Reservation, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of the Lac Courte Oreilles Reservation of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Minnesota Chippewa Tribe, Minnesota; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians of the Red Lake Reservation, Minnesota; Saginaw Chippewa Indian Tribe of Michigan, Isabella Reservation; Sault Ste. Marie Tribe of Chippewa Indians of Michigan; Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, Wisconsin; St. Croix Chippewa Indians of Wisconsin, St. Croix Reservation; Turtle Mountain Band of Chippewa Indians of North Dakota; and White Earth Band of the Minnesota Chippewa Tribe, Minnesota.

This notice has been sent to officials of the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians, Bay Mills Reservation, Michigan; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Grand Traverse Band of Ottawa & Chippewa Indians of Michigan; Keweenaw Bay Indian Community of L'Anse and Ontonagon Bands of Chippewa Indians of the L'Anse Reservation, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of the Lac Courte Oreilles Reservation of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota;

Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Minnesota Chippewa Tribe, Minnesota; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians of the Red Lake Reservation, Minnesota; Saginaw Chippewa Indian Tribe of Michigan, Isabella Reservation; Sault Ste. Marie Tribe of Chippewa Indians of Michigan; Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, Wisconsin; St. Croix Chippewa Indians of Wisconsin, St. Croix Reservation; Turtle Mountain Band of Chippewa Indians of North Dakota; and White Earth Band of the Minnesota Chippewa Tribe, Minnesota. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Martha Graham, Director of Cultural Resources, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024-5192, telephone (212) 769-5846, before December 5, 2001. Repatriation of the human remains to the Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians, Bay Mills Reservation, Michigan; Bois Forte Band (Nett Lake) of the Minnesota Chippewa Tribe, Minnesota; Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana; Fond du Lac Band of the Minnesota Chippewa Tribe, Minnesota; Grand Portage Band of the Minnesota Chippewa Tribe, Minnesota; Grand Traverse Band of Ottawa & Chippewa Indians of Michigan; Keweenaw Bay Indian Community of L'Anse and Ontonagon Bands of Chippewa Indians of the L'Anse Reservation, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of the Lac Courte Oreilles Reservation of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Leech Lake Band of the Minnesota Chippewa Tribe, Minnesota; Mille Lacs Band of the Minnesota Chippewa Tribe, Minnesota; Minnesota Chippewa Tribe, Minnesota; Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians of the Red Lake Reservation, Minnesota; Saginaw Chippewa Indian Tribe of Michigan, Isabella Reservation; Sault Ste. Marie Tribe of Chippewa Indians of Michigan; Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, Wisconsin;

St. Croix Chippewa Indians of Wisconsin, St. Croix Reservation; Turtle Mountain Band of Chippewa Indians of North Dakota; and White Earth Band of the Minnesota Chippewa Tribe, Minnesota may begin after that date if no additional claimants come forward.

Dated: August 28, 2001.

John Robbins,

*Assistant Director, Cultural Resources
Stewardship and Partnerships.*

[FR Doc. 01-27702 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-70-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the Brooklyn Museum of Art, Brooklyn, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43CFR 10.10 (a)(3), of the intent to repatriate cultural items in the possession of the Brooklyn Museum of Art, Brooklyn, NY, that meet the definition of "sacred objects" and "objects of cultural patrimony" under Section 2 of the Act.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these cultural items. The National Park Service is not responsible for the determinations within this notice.

The 93 cultural items are 22 Hopi spirit friends or Katsina masks (Wupamo, Hahea, Wawae, 3 Tasap, 2 Tacheukti, Kaletaka, Honau, Sikya Tihu, 2 Anakatsinamaana, Chakwin, Sio Humis, a headdress for Alosaka Katsina, and 6 unnamed spirit friends), 13 mask attachments, 6 Sio Humis headdress frames, 1 katsina doll, 16 Mazrau society dance items, 9 Snake society dance items, 1 Mazrau Society ceremonial water gourd from Walpi, 1 three-piece fiddle, a bow and several arrows, 8 prayer sticks, lightening sticks and lightening stick frame, 3 pipes, 4 Monkoho chief batons, 1 Hidden Ball game, and 1 fiber ring.

Between 1903 and 1905, Stewart Culin, the curator at the Brooklyn Museum of Art, purchased the katsina masks, Snake society dance items, and Hidden Ball game from Hopi individuals in Hopi villages in Arizona.

In 1904, Mr. Culin purchased the 16 Mazrau society dance items, 1 Mazrau Society ceremonial water gourd from Walpi, 1 three-piece fiddle, a bow and several arrows, 8 prayer sticks, lightening sticks and lightening stick frame, 3 pipes, 4 Monkoho chief batons, and 1 fiber ring from dealers in Chinle and Holbrook, AZ.

During consultation, representatives of the Hopi Tribe of Arizona identified these objects as sacred objects and objects of cultural patrimony. However, representatives of the Hopi Tribe of Arizona did not feel it appropriate to name the ceremonies or functions of these specific objects. Although Brooklyn Museum of Art accession records do not indicate an explicit ceremonial use of these objects, the Brooklyn Museum of Art has no evidence to the contrary. Accordingly, the Brooklyn Museum of Art accepts the determinations of the representatives of the Hopi Tribe for these objects.

Based on accession information and on consultation with Hopi representatives, these 93 cultural items are determined to be affiliated with the Hopi Tribe of Arizona. Representatives of the Hopi Tribe of Arizona, acting on behalf of the Katsinmomngwit, the Maraunomngwit, and the Lenmimngwit Society (Hopi traditional religious leaders) have stated that these 93 cultural items are needed by traditional Hopi religious leaders for the practice of traditional Native American religion by their present day adherents; and that these items have ongoing historical, traditional, and cultural importance central to the culture itself and could not be alienated by any individual.

Based on the above-mentioned information, officials of the Brooklyn Museum of Art have determined that, pursuant to 43 CFR 10.2 (d)(3), these 93 cultural items are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the Brooklyn Museum of Art also have determined that, pursuant to 43 CFR 10.2 (d)(4), these cultural items have ongoing historical, traditional, and cultural importance central to the tribe itself, and are of such central importance that they may not be alienated, appropriated, or conveyed, by any individual. Lastly, officials of the Brooklyn Museum of Art have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these sacred objects/objects of cultural patrimony and the Hopi Tribe of Arizona.

This notice has been sent to officials of the Hopi Tribe of Arizona and the Pueblo of Zuni Representatives of any other Indian tribe that believes itself to be culturally affiliated with these sacred objects/objects of cultural patrimony should contact Kate Portada, NAGPRA Project Coordinator, Brooklyn Museum of Art, 200 Eastern Parkway, Brooklyn, NY 11238, telephone (718) 638-5000, extension 524, before December 5, 2001. Repatriation of these sacred objects/objects of cultural patrimony to the Hopi Tribe may begin after that date if no additional claimants come forward.

Dated: September 21, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01-27707 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-70-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of the U.S. Department of the Interior, Bureau of Land Management, New Mexico State Office, Santa Fe, NM

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the control of the U.S. Department of Interior, Bureau of Land Management, New Mexico State Office, Santa Fe, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the University of Colorado Museum, Eastern New Mexico University, Maxwell Museum of Anthropology (University of New Mexico), New Mexico State University Museum, Museum of New Mexico, San Juan County Museum, and Bureau of Land Management professional staffs in consultation with representatives of the Hopi Tribe of Arizona; Navajo Nation,

Arizona, New Mexico & Utah; Pueblo of Acoma, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation, New Mexico.

In 1981, human remains representing 10 individuals were recovered from site LA 31848 in New Mexico during legally authorized excavations and collections conducted by the Archeological Field School of Simon Fraser University. These human remains presently are curated by the Museum of New Mexico. No known individuals were identified. The one associated funerary object is a bone awl.

Based on material culture, architecture, and site organization, site LA 31848 has been identified as an Anasazi pueblo occupied between C.E. 1100-1300.

Continuities of ethnographic materials, technology, and architecture indicate affiliation of Anasazi sites in this area of New Mexico with historic and present-day Puebloan cultures. Oral traditions presented by representatives of the Pueblo of Acoma support cultural affiliation with Anasazi sites in this area of New Mexico.

Based on the above-mentioned information, Bureau of Land Management, New Mexico State Office officials have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 10 individuals of Native American ancestry. Bureau of Land Management, New Mexico State Office officials also have determined that, pursuant to 43 CFR 10.2 (d)(2), the one object listed above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, Bureau of Land Management, New Mexico State Office officials have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary object and the Pueblo of Acoma, New Mexico.

This notice has been sent to officials of the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Pueblo of Acoma, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary object should

contact Stephen L. Fosberg, State Archeologist and NAGPRA Coordinator, New Mexico State Office, Bureau of Land Management, 1474 Rodeo Road, Santa Fe, NM 87502-0115, telephone (505) 438-7415, before December 5, 2001. Repatriation of the human remains and associated funerary object to the Pueblo of Acoma, New Mexico may begin after that date if no additional claimants come forward.

Dated: October 3, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01-27706 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-70-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by Phoebe A. Hearst Museum of Anthropology professional staff in consultation with representatives of the Klamath Indian Tribe of Oregon and the Quartz Valley Indian Community of the Quartz Valley Reservation of California.

In 1925, human remains representing three individuals (catalog numbers 12-11213, 12-11214, 12-11215) were recovered from a site "one mile from mouth of Williamson R. (N. side), E. side Klamath L., Oregon" by Dr. Leslie

Spier. Also in 1925, these human remains were acquired by the Phoebe A. Hearst Museum of Anthropology through university appropriation, a term used to indicate that the human remains and associated funerary objects were brought into the museum on university-sponsored projects with funds provided by the Regents of the University of California. No known individuals were identified. The 200 associated funerary objects (catalog numbers 1-26560, 2-29527) are glass beads and nonhuman bone.

Although these human remains are not clearly identifiable as to tribal origin, given the preponderance of the evidence, these human remains and associated funerary objects have been determined to be culturally affiliated with the Klamath Indian Tribe of Oregon and the Quartz Valley Indian Community of the Auartz Valley Reservation of California. This determination has been based on strong geographical evidence, linguistic evidence, regional archeological evidence indicating cultural continuity perhaps as early as C.E. 700, and the presence of historic-era funerary objects.

Based on the above-mentioned information, officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of three individuals of Native American ancestry. Officials of the Phoebe A. Hearst Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 200 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Phoebe A. Hearst Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Klamath Indian Tribe of Oregon and the Quartz Valley Indian Community of the Quartz Valley Reservation of California.

This notice has been sent to officials of the Klamath Indian Tribe of Oregon and the Quartz Valley Indian Community of the Quartz Valley Reservation of California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact C. Richard Hitchcock, NAGPRA Coordinator, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, CA 94720,

telephone (510) 643-7884, before December 5, 2001. Repatriation of the human remains and associated funerary objects to the Klamath Indian Tribe of Oregon and the Quartz Valley Indian Community of the Quartz Valley Reservation of California may begin after that date if no additional claimants come forward.

Dated: October 3, 2001.

John Robbins,

Assistant Director, Cultural Resources Stewardship and Partnerships.

[FR Doc. 01-27704 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-70-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Control of the California State Department of Transportation (CALTRANS), Sacramento, CA, and in the Possession of the Department of Anthropology, San Francisco State University, San Francisco, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the control of the California State Department of Transportation (CALTRANS), Sacramento, CA, and in the possession of the Department of Anthropology, San Francisco State University, San Francisco, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by San Francisco State University Department of Anthropology and CALTRANS professional staffs in consultation with representatives of the Indians of the Graton Rancheria of California.

During 1965-1966, human remains representing a minimum of 19 individuals were recovered from site CA-MRN-***, Marin County, CA,

during legally authorized salvage excavations for CALTRANS conducted by C. McNeath, T. King, and M. Moratto of San Francisco State University, San Francisco, CA. No known individuals were identified. The 104 associated funerary objects include flaked stone, groundstone, bone tools, chert scrapers, 1 glass scraper, shell ornaments, and baked clay.

Site CA-MRN-192 is located within documented Coast Miwok territory. Based on the associated funerary objects, these individuals have been identified as Native American. Based on the artifact assemblage, site CA-MRN-192 was occupied from Middle Horizon to Late Horizon Phase II (circa B.C.E. 2000-1500) to Euro-American contact. Based on archeological and linguistic research, these human remains and associated funerary objects may likely represent Penutian-speaking Coast Miwok inhabitants of Marin County, CA. Consultation with representatives of the Indians of Graton Rancheria of California confirms that these human remains and associated funerary objects are affiliated with the Coast Miwok represented by the Indians of the Graton Rancheria of California.

Based on the above-mentioned information, officials of CALTRANS have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of 19 individuals of Native American ancestry. Officials of CALTRANS also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 104 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of CALTRANS have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Indians of the Graton Rancheria of California.

This notice has been sent to officials of the Indians of the Graton Rancheria of California. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Tina Biorn, California State Department of Transportation, P.O. Box 942874 (M.S. 27), Sacramento, CA 94274-0001, telephone (916) 653-0013, before December 5, 2001. Repatriation of the human remains and associated funerary objects to the Indians of the Graton Rancheria of California may begin after

that date if no additional claimants come forward.

Dated: September 28, 2001.

John Robbins,

*Assistant Director, Cultural Resources
Stewardship and Partnerships.*

[FR Doc. 01-27705 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-70-S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects in the Possession of the University of Denver Department of Anthropology and Museum of Anthropology, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects in the possession of the University of Denver Department of Anthropology and Museum of Anthropology, Denver, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.2 (c). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of these Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the University of Denver Department of Anthropology and Museum of Anthropology professional staff in consultation with representatives of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Cocopah Tribe of Arizona; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Havasupai Tribe of the Havasupai Reservation, Arizona; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Hopi Tribe of Arizona; Pascua Yaqui Tribe of Arizona; Pueblo of Laguna, New Mexico; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Salt River Pima-Maricopa Indian Community of the Salt River

Reservation, Arizona; Tohono O'odham Nation of Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona; Zuni Tribe of the Zuni Reservation, New Mexico.

Around 1925, human remains representing one individual were recovered from the Hill Ruin, Maricopa County or Pinal County, AZ, by archeologist Frank Midvale. At an unknown date, the remains were transferred to Fallis F. Rees, who donated them to the University of Denver Department of Anthropology and Museum of Anthropology in 1967. No known individual was identified. The 311 associated funerary objects are 1 Sacaton Red-on-Buff bowl, 1 Sacaton Red-on-Buff bowl fragment, 284 Sacaton phase and Santa Cruz phase projectile points, and 25 shell beads.

The burial is a cremation. The Hill Ruin is located 10 miles southwest of Phoenix, AZ, and has been identified as a Hohokam settlement based on the artifacts. The funerary objects can be dated to the Santa Cruz phase (A.D. 800-1000) and the Sacaton phase (A.D. 1000-1200) of the Hohokam sequence.

At an unknown date, human remains representing a minimum of one individual were recovered from an unknown site in the Gila Plain, Maricopa County or Pinal County, AZ, by an unknown person. The remains were cremated and are in fragmentary condition, which makes an accurate determination of the number of individuals impossible. At an unknown date, the remains came into the possession of Fallis F. Rees, who donated the remains to the University of Denver Department of Anthropology and Museum of Anthropology in 1967. No known individual was identified. The 209 associated funerary objects are 1 plainware "cremation" bowl, 1 "cremation" olla, 2 buff ceramic rim sherds, 1 piece of cut and decorated mica, 1 shell fragment, 1 possible shell bracelet, and 202 nonhuman bone fragments, some of which may be bird bones.

Indian tribes occupying the Gila Plain have been identified as culturally affiliated with the Hohokam. Continuity of mortuary practices, ethnographic materials, and technology indicate an affiliation between ancient Hohokam settlements and present-day O'odham (Piman), Pee Posh (Maricopa), and Puebloan cultures. The Hopi Tribe of Arizona and the Pueblo of Zuni provided written testimony affirming cultural affiliation with Hohokam. Archeological and ethnohistorical

evidence also were used to determine cultural affiliation.

Hohokam culture spans approximately 300 B.C.-A.D. 1400 in the semiarid region of what is now central and southern Arizona, largely along the Gila and Salt Rivers. The culture is customarily divided into four developmental periods: Pioneer (circa 300 B.C.-A.D. 500), Colonial (A.D. 500-900), Sedentary (A.D. 900-1100), and Classic (A.D. 1100-1400).

During the Pioneer period, the Hohokam people lived in villages composed of widely scattered, individually built structures of wood, brush, and clay, each built over a shallow pit. They depended on the cultivation of corn (maize), supplemented by the gathering of wild beans and fruits and some hunting. Although floodwater irrigation may have been practiced, it was during this period that the first irrigation canal was built, a 3-mile-long channel in the Gila River valley that directed river water to the fields. Eventually, the Hohokam people developed complex canal networks. During this early period they also developed several varieties of pottery.

Based on the above-mentioned information, officials of the University of Denver Department of Anthropology and Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of two individuals of Native American ancestry. Officials of the University of Denver Department of Anthropology and Museum of Anthropology also have determined that, pursuant to 43 CFR 10.2 (d)(2), the 502 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the University of Denver Department of Anthropology and Museum of Anthropology have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity that can be reasonably traced between these Native American human remains and associated funerary objects and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

This notice has been sent to officials of the Ak Chin Indian Community of the

Maricopa (Ak Chin) Indian Reservation, Arizona; Cocopah Tribe of Arizona; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Havasupai Tribe of the Havasupai Reservation, Arizona; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Hopi Tribe of Arizona; Pascua Yaqui Tribe of Arizona; Pueblo of Laguna, New Mexico; Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Jan I. Bernstein, Collections Manager and NAGPRA Coordinator, University of Denver Department of Anthropology and Museum of Anthropology, 2000 Asbury, Sturm Hall S-146, Denver, CO 80208-2406, e-mail jbernste@du.edu, telephone (303) 871-2543, before December 5, 2001. Repatriation of the human remains and associated funerary objects to the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico may begin after that date if no additional claimants come forward.

Dated: August 31, 2001.

John Robbins,

*Assistant Director, Cultural Resources
Stewardship and Partnerships.*

[FR Doc. 01-27703 Filed 11-2-01; 8:45 am]

BILLING CODE 4310-70-S

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-451]

Certain CMOS Active Pixel Image Sensors and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Terminating the Investigation on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") terminating the investigation in its entirety based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT:

Clara Kuehn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-3012. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-2000.

SUPPLEMENTARY INFORMATION: The Commission ordered the institution of this investigation on March 5, 2001, based on a complaint filed by Photobit Corp. (Photobit) and the California Institute of Technology (Caltech), both of Pasadena, CA, against respondents OmniVision Technologies, Inc. of Sunnyvale, CA (OmniVision), Creative Labs, Inc. of Milpitas, CA (Creative Labs), and X10 Wireless Technology Inc. of Seattle, WA (X10). 66 FR 14421 (2001). The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, sale for importation, and sale within the United States after importation of certain CMOS active pixel image sensors and products containing same by reason of infringement of claims 1 and 2 of U.S. Letters Patent 5,841,126; claims 15-19 of U.S. Letters Patent

5,990,506; and claims 6-8 and 31 of U.S. Letters Patent 6,005,619.

On September 24, 2001, complainants Photobit and Caltech and respondents Creative Labs, OmniVision, and X10 filed a joint motion to terminate the investigation in its entirety based on settlement agreements. On October 2, 2001, the Commission investigative attorney filed a response supporting the joint motion. On October 9, 2001, the ALJ issued an ID (Order No. 10) granting the joint motion. No petitions for review of the ID were filed.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

Issued: October 30, 2001.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 01-27636 Filed 11-2-01; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-441]

Certain Field Programmable Gate Arrays and Products Containing Same; Notice of Commission Decision Not To Review an Initial Determination Terminating the Investigation on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") terminating the investigation in its entirety based on a settlement agreement.

FOR FURTHER INFORMATION CONTACT:

Clara Kuehn, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-3012. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for

inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-205-2000.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on December 21, 2000, based on a complaint filed by Xilinx, Inc. of San Jose, CA. 65 FR 80454 (2000). The complaint named Altera Corp. of San Jose, CA as the only respondent. Id. The complaint, as supplemented, alleged violations of section 337 of the Tariff Act of 1930 in the importation into the United States, sale for importation, and sale within the United States after importation of certain field programmable gate arrays and products containing same by reason of infringement of claims 1-3 and 5 of U.S. Letters Patent 5,343,406; claims 1 and 3 U.S. Letters Patent 5,432,719 ("the '719 patent"); and claim 16 of U.S. Letters Patent 5,861,761. On July 11, 2001, the ALJ issued an ID (Order No. 6) amending the notice of investigation to add claim 2 of the '719 patent. 66 FR 39790 (2001). The Commission determined not to review that ID.

A tutorial was held on June 22, 2001, and an evidentiary hearing was held from June 25 through July 5, 2001.

On July 25, 2001, complainant Xilinx, Inc. and respondent Altera Corp. filed a joint motion to terminate the investigation by settlement. On July 31, 2001, the Commission investigative attorney filed a response supporting the joint motion. On October 2, 2001, the presiding ALJ issued an ID (Order No. 8) granting the joint motion. No party petitioned for review of the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

Issued: October 30, 2001.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 01-27635 Filed 11-2-01; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP (OJJDP)-1339]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

AGENCY: Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention (OJJDP), Justice.

ACTION: Notice of Meeting.

SUMMARY: Announcement of the Coordinating Council on Juvenile Justice and Delinquency Prevention meeting.

DATES: A meeting of this advisory committee, chartered as the Coordinating Council on Juvenile Justice and Delinquency Prevention, will take place in the District of Columbia, beginning at 10 a.m. on Friday, November 30, 2001, and ending at noon, ET.

ADDRESSES: The meeting will take place at the U.S. Department of Justice, Office of Justice Programs, Main Conference Room, 3rd Floor, 810 Seventh Street, NW., Washington, DC 20531.

FOR FURTHER INFORMATION CONTACT: Bob Altman, Program Manager, Juvenile Justice Resource Center at (301) 519-5721. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: The Coordinating Council, established pursuant to section 3(2)A of the Federal Advisory Committee Act (5 U.S.C. App.2), will meet to carry out its advisory functions under section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (42 U.S.C. 5601 et seq.). The topic of this meeting is Supporting Community and Faith-based Initiatives. This meeting will be open to the public. Members of the public who wish to attend the meeting should notify the Juvenile Justice Resource Center at the number listed above by 5 p.m., ET, on Friday, November 16, 2001. For security purposes, picture identification will be required.

Dated: October 31, 2001.

Terrence S. Donahue,

Acting Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 01-27667 Filed 11-2-01; 8:45 am]

BILLING CODE 4410-18-P

MERIT SYSTEMS PROTECTION BOARD

Opportunity To File Amicus Briefs in *Gerald Michaud v. Department of the Army*, MSPB Docket No. BN-3443-00-0167-I-1

AGENCY: Merit Systems Protection Board.

SUMMARY: The Merit Systems Protection Board has requested an advisory opinion from the Director of the Office of Personnel Management (OPM) concerning the interpretation of regulations promulgated by OPM governing the Reemployment Priority List (RPL) at 5 CFR part 330, subpart B. The Board is providing interested parties with an opportunity to submit amicus briefs on the same questions raised in the request to OPM. The Board's request to OPM is reproduced below:

Pursuant to 5 U.S.C. 1204(e)(1)(A), the members of the Merit Systems Protection Board request that you provide an advisory opinion concerning the interpretation of regulations promulgated by the Office of Personnel Management (OPM).

SUPPLEMENTARY INFORMATION: This request for an advisory opinion is related to our previous request for an advisory opinion in *Sturdy v. Department of the Army*, 88 M.S.P.R. 502 (2001). There, we requested an advisory opinion on whether the Board has jurisdiction, under 5 CFR 330.209, over an alleged violation of reemployment priority rights when the employee received a Certification of Expected Separation by reduction in force (RIF) and/or a specific notice of RIF separation but was reassigned in lieu of his expected RIF separation. (For ease of reference, the term "notice of RIF separation" will be used hereinafter to refer to either type of notice.)

In response to our request in *Sturdy*, OPM's General Counsel provided an advisory opinion stating that separation by RIF is not a jurisdictional requirement for a "reemployment priority rights" appeal under 5 CFR 330.209 because employees are entitled to enroll in the Reemployment Priority List (RPL) as soon as they receive a notice of RIF separation. We deferred to OPM's advisory opinion and held in *Sturdy*, 88 M.S.P.R. 502, ¶¶ 18-19, that separation by RIF is not a jurisdictional requirement for "reemployment priority rights" appeal.

In *Michaud v. Department of the Army*, MSPB Docket No. BN-3443-00-0167-I-1, the appellant initially received a notice of RIF separation, but subsequently received an amended RIF

notice, informing him of his impending RIF demotion. He was then demoted by RIF pursuant to the amended RIF notice. Michaud alleged in his appeal that his nonselections for positions, including nonselections that occurred after his RIF demotion, violated his reemployment priority rights.

Question To Be Resolved

Michaud raises the question whether an employee who gains RPL eligibility based on his initial receipt of a notice of RIF separation retains his RPL eligibility after his RIF demotion (in lieu of his expected RIF separation), so that the Board has jurisdiction under 5 CFR 330.209 over any nonselections that occurred after his RIF demotion.

The members of the Board request that you provide an advisory opinion on this question and, in doing so, address the issues discussed below, as well as any other issues you deem pertinent.

Issues To Be Considered In Resolving the Question Posed

5 CFR 330.203(d)(2)(ii)

Section 330.203(d)(2)(ii) provides that “an individual is taken off the RPL before the period of eligibility expires when the individual * * * (ii) (r)eceives a career, career-conditional, or excepted appointment without time limit in any agency * * *.” This section appears to broadly provide that an individual’s RPL eligibility terminates upon his assignment to any permanent career, career-conditional, or excepted position in any agency, regardless of whether the assignment was by RIF or not, and regardless of whether the assignment was to a higher-, lower- or same-graded position. Thus, as explained further below, § 330.203(d)(2)(ii) could be interpreted as terminating Mr. Michaud’s RPL eligibility based on his acceptance of a RIF demotion.

We note in this regard that the term “appointment” in § 330.203(d)(2)(ii) does not appear to be limited to an initial hiring or a re-hiring after a break in service; rather, it appears to be a general term referring to an assignment to a position under particular terms and conditions. See 5 CFR 2.2(a) (“career appointments shall be given to * * *

(e)mployees serving under career appointments at the time of selection”), § 351.501(b)(3) (“Group III includes all employees serving under indefinite appointments, temporary appointments pending establishment of a register, status quo appointments, term appointments, and any other nonstatus nontemporary appointments which meet the definition of provisional appointments contained in §§ 316.401

and 316.403 of this chapter.”); *Wenk v. Office of Personnel Management*, 21 M.S.P.R. 218, 221–23 (1984). Thus, the term “appointment,” and hence § 330.203(d)(2)(ii), could be interpreted to cover the RIF demotion in Michaud.

5 CFR 330.203(d)(2)(iii), 330.206(a)(1) and 330.203(a)(4)

Section 330.203(d)(2)(iii) provides that “an individual is taken off the RPL before the period of eligibility expires when the individual * * * (iii) (d)eclines an offer of career, career-conditional, or excepted appointment without time limit * * * concerning a specific position having a representative rate at least as high, and with the same type of work schedule, as that of the position from which the person was or will be separated.”

Because § 330.203(d)(2)(iii) states that declining a reassignment terminates RPL eligibility, but does not state that declining a demotion terminates RPL eligibility, one may argue based on this section that accepting a demotion does not terminate RPL eligibility. However, § 330.203(d)(2)(iii), on its face, applies to situations when an individual *declines* a placement offer, and not to situations when an individual accepts a placement offer. As discussed above, when Mr. Michaud accepted a RIF demotion, it could be argued that this constituted the acceptance of an “appointment” which terminated his RPL eligibility under § 330.203(d)(2)(ii).

Thus, when subsections (ii) and (iii) of § 330.203(d)(2) are read together, they could be interpreted to provide individuals a choice between receiving/accepting an offered appointment (at whatever grade and pay) with concurrent termination of RPL eligibility, or declining the offered appointment and taking a chance that a better appointment offer will be forthcoming while remaining on the RPL. These provisions do not appear to allow individuals to accept a placement offer and still remain on the RPL.

On the other hand, § 330.206(a)(1) (“Job consideration”) provides that:

An eligible employee under § 330.203 is entitled to consideration for positions in the commuting area for which qualified and available that are at no higher grade (or equivalent), have no greater promotion potential than the position from which the employee was or will be separated, and have the same type of work schedule. *In addition, an employee is entitled to consideration for any higher grade previously held on a nontemporary basis in the competitive service from which the employee was demoted under part 351 of this chapter.*

(Emphasis added.)

The italicized language is 5 CFR 330.206(a)(1) arguably suggests that an

individual who is demoted by RIF, like Mr. Michaud, remains eligible for the RPL after the RIF demotion. However, § 330.206(a) addresses the types of positions for which an RPL eligible is entitled to be considered; it does not address RPL eligibility, which is set forth in the RPL regulations, at 5 CFR 330.203(a). Further, although § 330.203(a)(4) provides RPL eligibility for employees who have not declined certain types of RIF placements (i.e., positions at the same or higher representative salary with the same work schedule), the eligibility criteria in § 330.203 do not include employees, like Mr. Michaud, who have accepted RIF offers of lower-graded positions.

Thus, the statement in § 330.206(a)(1) that an RPL eligible is “entitled to consideration for any higher grade previously held * * * from which (he) was demoted” by RIF is ambiguous. Was this regulation intended to provide for RPL eligibility after an employee has accepted a RIF demotion?

Federal Personnel Manual (FPM)

The FPM, ch. 330, Subch. 1, Sec. 1–4.b (Feb. 22, 1991), provided that an employee “loses RPL eligibility if he or she is * * * (a)ssigned to a permanent competitive position at any grade in the same or different agency before the RIF separation takes effect” and that “employees who are demoted by RIF action are not eligible for the RPL but may be eligible for priority consideration for their former grade level through other agency programs(.)” This FPM provision, along with many others, was abolished effective December 31, 1993. FPM Sunset Document. It appears, however, that OPM has not changed its interpretation of the RPL regulations since abolishing the FPM. See 60 FR 3055 (Jan. 13, 1995) (when the RPL regulations were last revised, to incorporate some of the sunsetted FPM provisions, OPM noted that “(t)here was particular agreement not to change current policies in the sensitive area of reductions-in-force (RIF) and related reemployment priority lists (RPL)”).

Policy Considerations

The facts in Michaud highlight an anomalous result stemming from the RPL regulations. When an individual (Employee A) initially receives a notice of RIF separation, but is subsequently demoted (as in Michaud) or reassigned (as in Sturdy) in lieu of his initially expected RIF separation, he nevertheless is eligible for the RPL, at least up until the time he accepts the demotion or reassignment. (Whether such employees retain RPL eligibility

after they are demoted or reassigned is the central question posed by this request for an advisory opinion). However, when an individual (Employee B) is demoted or reassigned in a RIF, without initially receiving a notice of RIF *separation*, it appears that he never gains RPL eligibility because receipt of a notice of RIF separation is a requirement under the RPL regulations. See 5 CFR 330.203(a)(3). Employee A's initial receipt of a notice of RIF separation did not result in his actual RIF separation or have any deleterious effect on his employment vis-à-vis Employee B, and yet his receipt of the notice gave him important rights—RPL eligibility and concomitant Board appeal rights—not given to Employee B. It appears arbitrary to differentiate between Employee A and Employee B simply because Employee A happened to have received a notice of RIF separation. However, if the requirement for a notice of separation. However, if the requirement for a notice of separation in § 330.203(a)(3) is interpreted broadly as notice that the employee would be separated from his *current* position, it appears that employee B would be eligible for the RPL if acceptance of a RIF demotion does not disqualify the employee under the regulations discussed above. What is OPM's view on whether Employee B is eligible for the RPL under its regulations?

Instructions Regarding the Advisory Opinion

The Director is requested to submit her advisory opinion to the Clerk of the Board within 30 days of her receipt of this letter, and to serve copies of her opinion on the parties and their representatives in the above-captioned appeal. (The addresses of the parties and their representatives are set forth below in the "cc" list.)

Right of the Parties to Respond to Director's Opinion

The parties may file any comments on the Director's opinion no later than 30 days from the date of service of her opinion.

DATES: All briefs in response to this notice shall be filed with the Clerk of the Board on or before December 5, 2001.

ADDRESSES: All briefs should include the case name and docket number noted above (Gerald Michaud v. Department of the Army, MSPB Docket No. BN-3443-00-0167-I-1) and be entitled "Amicus Brief." Briefs should be filed with the Office of the Clerk, Merit Systems

Protection Board, 1615 M Street, NW., Washington, DC 20419.

FOR FURTHER INFORMATION CONTACT: Shannon McCarthy, Deputy Clerk of the Board, or Matthew Shannon, Counsel to the Clerk, (202) 653-7200.

Dated: October 29, 2001.

Robert E. Taylor,
Clerk of the Board.

[FR Doc. 01-27657 Filed 11-2-01; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES

Proposed Collection, Comment Request, Evaluation of the Institute of Museum and Library Services General Operating Support Grant Program

AGENCY: Institute of Museum and Library Services, NFAH.

ACTION: Notice.

SUMMARY: The Institute of Museum and Library Services as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance 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 study of Status of Museum School Partnerships.

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 January 4, 2002.

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: Karen Motylewski, Research Officer, Institute of Museum and Library Services, 1100 Pennsylvania Ave., NW., Room 802, Washington, DC 20506. Ms. Motylewski can be reached on Telephone: 202-606-5551. Fax: 202-606-1077 or at kmotylewski@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: Evaluation of the Institute of Museum and Library Services General Operating Support Grant Program.

OMB Number: n/a.

Agency Number: 3137.

Frequency: 10 years.

Affected Public: Museums.

Number of Respondents: 1500.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 750.

Total Annualized capital/startup costs: \$73,585.

Total Annual costs: \$7,358.

FOR FURTHER INFORMATION CONTACT: Mamie Bittner, Director Office of Public and Legislative Affairs, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW. Washington, DC 20506, telephone (202) 606-4648.

Dated: October 24, 2001.

Mamie Bittner,

Director of Public and Legislative Affairs.

[FR Doc. 01-27648 Filed 11-2-01; 8:45 am]

BILLING CODE 7036-01-M

NATIONAL COUNCIL ON THE HUMANITIES

Meeting

October 30, 2001.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given the National Council on the Humanities will meet in Washington, DC on November 15-16, 2001.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support from and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on November 15-16, 2001, will not be open to the public pursuant to subsections (c)(4), (c)(6) and (c)(9)(B) of section 552b of title 5, United States Code because the Council will consider information that may disclose: trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the session on November 15, 2001 will be as follows:

Committee Meetings

9:00-10:30 a.m.

(Open to the Public)

Policy Discussion

Education Programs—Room M-07

Preservation and Access/Challenge

Grants—Room 415

Public Programs—Room 426

Research Programs—Room 315

(Closed to the Public)

Discussion of specific grant applications and programs before the Council

10:30 a.m. until Adjourned

Federal/State Partnership

Preservation and Access/Challenge

Grants

Public Programs

12:30-2:00 p.m.

Research Programs

Jefferson Lecture and National Humanities Medals Committee Meeting

The morning session on November 16, 2001 will convene at 9:00 a.m., in the 1st Floor Council Room, M-09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

Minutes of the Previous Meeting Reports

A. Introductory Remarks

B. Staff Report

C. Congressional Report

D. Reports on Policy and General Matters

1. Overview

2. Research Programs

3. Education Programs

4. Preservation and Access/Challenge Grants

5. Public Programs

6. Jefferson Lecture/National Humanities Medals

The remainder of the proposed meeting will be given to the consideration of specific applications and programs before the Council and closed to the public for the reasons stated above.

Further information about this meeting can be obtained from Ms. Laura S. Nelson, Advisory Committee Management Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or by calling (202) 606-8322, TDD (202) 606-8282. Advance notice of any special needs or accommodations is appreciated.

Laura S. Nelson,

Advisory Committee, Management Officer.

[FR Doc. 01-27656 Filed 11-2-01; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Notice of Intent to Seek Approval to Reinstate with Revision an Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and Request for Comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request reinstatement of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), we are providing an opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB

approve clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by January 4, 2002 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to splimpto@nsf.gov.

FOR FURTHER INFORMATION CONTACT: Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292-7556; or send email to splimpto@nsf.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: *Title of Collection:* Application for NATO Advanced Study Institutes Travel Award and NATO Advanced Study Institutes Travel Award Report Form. *OMB Approval Number:* 3145-0001. *Expiration Date of Approval:* Not applicable.

Type of Request: Intent to seek approval to reinstate an information collection for three years.

Abstract: The North Atlantic Treaty Organization (NATO) initiated its Advanced Study Institutes Program in 1958 modeled after a small number of very successful summer science "courses" that were held in Europe and that sought to rebuild Europe's science strength following World War II. The goal was to bring together both students and researchers from the leading centers of research in highly targeted fields of science and engineering to promote the "American" approach to advanced learning, spirited give-and-take between students and teachers, that was clearly driving the rapid growth of U.S. research strength. Today the goal remains the same; but due to the expansion of NATO, each year an increasing number of ASIs are held in NATO Partner Countries along with those held in the original NATO Member Countries. In the spirit of cooperation with this important activity, the Foundation inaugurated in 1959 a small program of travel grants for advanced graduate students and young postdoctorals to assist with the major

cost of such participation, that of transatlantic travel. It remains today a significant means for young scientists and engineers to develop contact with their peers throughout the world in their respective fields of specialization.

The Advanced Study Institutes (ASI) travel awards are offered primarily to advanced graduate students, but include recent postdoctoral students and new science faculty members, to attend one of the NATO's ASIs held in the NATO-member and partner countries of Europe. The NATO ASI program is targeted to those individuals nearing the completion of their doctoral studies in science, mathematics, and engineering who can take advantage of opportunities to become familiar with progress in their respective fields of specialization in other countries.

The following describes the procedures for the administration of the Foundation's NATO Advanced Study Institute (ASI) Travel Awards, which provide travel support for a number of U.S. graduate students and postdoctoral participants to attend the ASIs scheduled for Europe.

Advanced Study Institute Determination

Once NATO has notified us that the schedule of institutes is final, and we have received the descriptions of each institute, we determine which institutes NSF will support. The ASI travel award program supports those institutes that offer instruction in the fields of science traditionally supported by NSF as published in *Guide to Programs*. The program will not support institutes that deal with clinical topics, biomedical topics, or topics that have disease-related goals. Examples of areas of research that will not be considered are epidemiology; toxicology; the development or testing of drugs or procedures for their use; diagnosis or treatment of physical or mental disease, abnormality, or malfunction in human beings or animals; and animal models of such conditions. However, the program does support institutes that involve research in bioengineering, with diagnosis or treatment-related goals that apply engineering principles to problems in biology and medicine while advancing engineering knowledge. The program also supports bioengineering topics that aid persons with disabilities. Program officers from other Divisions in NSF will be contacted should scientific expertise beyond our own be required in the determination process.

• Solicitation for Nominations

Following the final determination as to which Advanced Study Institutes

NSF will support, we contact each institute director to ask for a list of up to 5 nominations to be considered for NSF travel support.

• EHR Contact With the Individuals Nominated

Each individual who is nominated by a director will be sent the rules of eligibility, information about the amount of funding available, and the forms (NSF Form 1379, giving our Finance Office electronic banking information; NSF Form 1310 (already cleared), and NSF Form 192 (Application for International Travel Grant) necessary for our application process.

• The Funding Process

Once an applicant has been selected to receive NSF travel award support, his or her application is sent to our Finance office for funding. They electronically transfer the amount of \$1000 into the bank or other financial institution account identified by the awardee.

Our plan is to have the \$1000 directly deposited into the awardee's account prior to the purchase of their airline ticket. An electronic message to the awardee states that NSF is providing support in the amount of \$1000 for transportation and miscellaneous expenses. The letter also states that the award is subject to the conditions in F.L. 27, *Attachment to International Travel Grant*, which states the U.S. flag-carrier policy.

As a follow-up, each ASI director may be asked to verify whether all NSF awardees attended the institute. If an awardee is identified as not utilizing the funds as prescribed, we contact the awardee to retrieve the funds. However, if our efforts are not successful, we will forward the awardee's name to DGA, which has procedures to deal with that situation.

We also ask the awardee to submit a final report on an NSF Form 250, which we provide as an attachment to the electronic award message.

• Selection of Awardees

The criteria used to select NSF Advanced Study Institute travel awardees are as follows:

1. The priority of selection is by the status level of the applicant:
 - (a) Advanced graduate student, or
 - (b) Recent post-doc (Ph.D. received no earlier than three years before the ASI).
 - (c) New faculty with Ph.D.'s received no earlier than three years before the ASI).
2. We shall generally follow the order of the nominations, listed by the

director of the institute, within priority level.

3. Those who have not attended an ASI in the past will have a higher priority than those who have.

4. Nominees from different institutions and research groups have higher priority than those from the same institution or research group. (Typically, no more than one person is invited from a school or from a research group.)

Use of the Information: For NSF Form 192, information will be used in order to verify eligibility and qualifications for the award. For NSF Form 250, information will be used to verify attendance at Advanced Study Institute and will be included in Division annual report.

Estimate of Burden: Form 192—1.5 hours. Form 250—2 hours.

Respondents: Individuals.

Estimated Number of Responses per Award: 150 responses, broken down as follows: For NSF Form 250, 75 respondents; for NSF Form 192, 75 respondents.

Estimated Total Annual Burden on Respondents: 262.5 hours, broken down by 150 hours for NSF Form 250 (2 hours per 75 respondents); and 112.5 hours for NSF Form 192 (1.5 hours per 75 respondents).

Frequency of Responses: Annually.

Comments: Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; or (d) ways to 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.

Dated: October 31, 2001.

Suzanne H. Plimpton,

Reports Clearance Officer.

[FR Doc. 01-27677 Filed 11-2-01; 8:45 am]

BILLING CODE 7555-01-M

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On August 29, 2000, the National Science Foundation published a notice in the **Federal Register** of a permit applications received. A permit was issued on October 17, 2001 to: Moody Gardens, Inc., Permit No. 2001-017.

Nadene G. Kennedy,
Permit Officer.

[FR Doc. 01-27678 Filed 11-2-01; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-369 and 50-370]

Duke Energy Corporation; McGuire Nuclear Station, Unit Nos. 1 and 2; Notice of Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has partially denied a request by Duke Energy Corporation (the licensee) for an amendment to Facility Operating License (FOL) Nos. NPF-9 and NPF-17 issued to the licensee for operation of the McGuire Nuclear Station, Unit Nos. 1 and 2, respectively, located in Mecklenburg County, North Carolina. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on November 1, 2001 (65 FR 65341).

The purpose of the licensee's amendment request was to revise the FOLs by (a) deleting the license conditions (LCs) that have been fulfilled by actions that have been completed or are imposed by other regulatory requirements, (b) changing the license conditions that have been superseded by the current plant status, and (c) incorporating other administrative changes.

The NRC staff has concluded that the licensee's request cannot be fully granted with regard to the following elements for Unit 1:

License Condition 2.G, Reporting of Violations

The licensee's basis for deletion of license condition 2.G which requires the reporting of violations of the requirements of license conditions 2.C(1), Maximum Power Level, 2.C(4) Fire Protection program, and 2.E, on safeguards and security, is that the primary reporting requirements for these license conditions are covered by 10 CFR 50.72 and 10 CFR 50.73. However, the staff does not find that the licensee has shown that specific issues addressed by these LCs are encompassed by the provisions of 10 CFR 50.72 and 10 CFR 50.73 and, on this basis denies the request to delete license condition 2.G as it applies to license condition 2.C(1), 2.C(4) and 2.E. The licensee's request to delete portions of license condition 2.G as it applies to other license conditions has been granted.

The NRC staff has concluded that the licensee's request cannot be fully granted with regard to the following elements for Unit 2:

License Condition 2.C(11), Protection of the Environment

The NRC staff determined that the license condition must be retained on the basis that the requirement of the license condition is an ongoing requirement and will be germane for the life of the license. Licensee compliance with some environmental regulations is, in fact, monitored by the State of North Carolina and the U.S. Environmental Protection Agency. However, in its role as a licensing agency, the NRC is responsible for monitoring compliance with other regulations. Examples include the Endangered Species Act and the Historic Preservation Act. In order to meet its responsibilities, the NRC must be made aware of planned licensee activities which may result in a significant adverse environmental impact that was not evaluated or that is significantly greater than that evaluated in the Final Environmental Statement or any other environmental impact statement (EIS) relevant to the site (e.g., an EIS associated with license renewal). Therefore, staff finds that this requirement must remain in place and that its request for deletion is denied.

License Condition 2.F, Reporting of Violations

The licensee's basis for deletion of license condition 2.F which requires the reporting of violations of the requirements of license conditions 2.C(1), Maximum Power Level, 2.C(7) Fire Protection, 2.C(11) Protection of the

Environment, and 2.E, on safeguards and security, is that the primary reporting requirements for these license conditions are covered by 10 CFR 50.72 and 10 CFR 50.73. However, the staff does not find that the licensee has shown that the specific issues addressed by these LCs are encompassed by the provisions of 10 CFR 50.72 and 10 CFR 50.73 and, on this basis denies the request to delete license condition 2.G as it applies to license condition 2.C(1), 2.C(7), 2.C(11) and 2.E. The licensee's request to delete portions of license condition 2.F as it applies to other license conditions has been granted.

Accordingly, this aspect of the licensee's proposed license amendment is denied. The licensee was notified of the Commission's denial of the proposed change by a letter dated October 19, 2001.

By December 5, 2001, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or 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 U.S. Nuclear Regulatory Commission, Public Document Room, Washington, DC 20555-0001, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Ms. Lisa F. Vaughn, Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28201-1006 attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated June 13, 2000, as supplemented August 30 and September 10, 2001, and (2) the Commission's letter to the licensee dated October 19, 2001.

Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible electronically through the ADAMS Public Electronic Reading Room link at the NRC web site (<http://www.nrc.gov>).

Dated at Rockville, Maryland, this 19th day of October 2001.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

*Director, Project Directorate II, Division of
Licensing Project Management, Office of
Nuclear Reactor Regulation.*

[FR Doc. 01-27731 Filed 11-2-01; 8:45 am]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

Request for Public Comment

Upon Written Request, Copies Available
from: Securities and Exchange
Commission, Office of Filings and
Information Services, Washington, DC
20549.

Extension:

Form N-8F, Form S-6—OMB Control No.
3235-0157, SEC File No. 270-136; OMB
Control No. 3235-0184, SEC File No.
270-181

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") is publishing for public comment the following summary of previously approved information collection requirements. The Commission plans to submit these existing collections of information to the Officer of Management and Budget for extension and approval.

Form N-8F is the form prescribed for use by registered investment companies in certain circumstances to request orders of the Commission declaring that the registration of that investment company cease to be in effect. The form requests, from investment companies seeking a deregistration order, information about (i) the investment company's identity, (ii) the investment company's distributions, (iii) the investment company's assets and liabilities, (iv) the events leading to the request to deregister, and (v) the conclusion of business. The information is needed by the Commission to determine whether an order of deregistration is appropriate.

Form N-8F takes approximately 3 hours on average to complete. It is estimated that approximately 200 investment companies file Form N-8F annually, so that the total annual burden for the form is estimated to be 600 hours.

Form S-6 is used for registering, under the Securities Act of 1933 (1933 Act), the securities of any unit investment trust registered under the Investment Company Act of 1940 (1940 Act) on Form N-8B-2.¹ A separate

registration statement under the 1933 Act must be filed for each series of units issued by the trust. Form S-6 consists of two parts. Part I contains the prospectus, and Part II consists of a list of exhibits and financial information and contains other information required in the registration statement but not required to appear in the prospectus.

Section 10(a)(3) of the 1933 Act (15 U.S.C. 77j(a)(3)) provides that when a prospectus is used more than nine months after the effective date of the registration statement, the information therein shall be as of a date not more than sixteen months prior to such use. Unit investment trusts file post-effective amendments to their registration statements on Form S-6 in order to update their prospectus. As a result, most unit investment trusts update their registration statements on Form S-6 Act on an annual basis in order that their sponsors may continue to maintain a secondary market in the units.

The purpose of the registration statement on Form S-6 is to provide disclosure of financial and other information that investors may use to make informed decisions regarding the merits of the securities offered for sale. To that end, unit investment trusts must furnish to investors a prospectus containing pertinent information set forth in the registration statement. Without the registration requirement, this material information would not necessarily be available to investors. The Commission reviews registration statements filed on Form S-6 to ensure adequate disclosure is made to investors.

Each year investment companies file approximately 3,639 Forms S-6. It is estimated that preparing Form S-6 requires a unit investment trust to spend approximately 35 hours so that the total burden on preparing Form S-6 for all affected investment companies is 127,365 hours.

Estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Written comments are requested on: (a) Whether the collections of information necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate

1940 Act. The form requires that certain material information about the trust, its sponsor, its trustees, and its operation be disclosed. The registration on Form N-8B-2 is a one-time filing that applies to the first series of the unit investment trust as well as any subsequent series that is issued by the sponsor.

of the burdens of the collection of information; (c) ways to enhance the quality, utility and clarity of the information collection; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: October 26, 2001.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-27709 Filed 11-2-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request Copies Available
From: Securities and Exchange
Commission, Office of Filings and
Information Services, Washington, DC
20549.

Extensions:

Rule 425, Schedule TO—OMB Control No.
3235-0521, SEC File No. 270-462; OMB
Control No. 3235-0515, SEC File No.
270-456

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission ("Commission") is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

Rule 425 requires the filing of certain prospectuses and communications under Rule 135 in connection with business combinations. The purpose of the rule was to relax existing restrictions on oral and written communications with shareholders about tender offers, mergers and other business combination transactions by permitting the dissemination of more information on a timely basis as long as the written communications are filed on the date of first use. Approximately 5,739 issuers file communications under Rule 425 for a total of 1,435 annual burden hours.

Schedule TO must be filed by a reporting company that makes a tender

¹ Form N-8B-2 is the form used for registration statements filed by unit investment trusts under the

offer for its own securities. Also, persons other than the reporting company making a tender offer for equity securities registered under section 12 of the Exchange Act (which offer, if consummated, would cause that person to own over 5 percent of that class of the securities) must file Schedule TO. The purpose Schedule TO is to improve communications between public companies and investors before companies file registration statements involving tender offer statements. Approximately 3,038 issuers annually file Schedule TO and it takes 43.5 hours to prepare for a total of 132,153 annual burden hours. It is estimated that 50% of the 132,153 total burden hours (66,077 burden hours) is prepared by the company.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments are invited on: (a) Whether these collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collections of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: October 25, 2001.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-27711 Filed 11-2-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 10b-18—SEC File No. 270-416, OMB Control No. 3235-0474

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (Commission) has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

Rule 10b-18 under the Securities Exchange Act of 1934 (Exchange Act) provides that the issuer or any affiliated purchaser of the issuer will not incur liability under section 9(a)(2) of the Exchange Act or Rule 10b-5 under the Exchange Act if its purchases are effected in compliance with the manner, timing, price, and volume limitations of the safe harbor. The Rule further provides that purchases falling outside of the Rule's conditions shall not give rise to a presumption of manipulation. An issuer or an affiliated purchaser seeking to avail itself of the safe harbor, however, must collect information regarding the manner, time, price, and volume of its purchases of the issuer's common stock in order to verify compliance with the Rule's conditions and application of the safe harbor.

Each year there are approximately 1,179 share repurchase programs conducted in accordance with Rule 10b-18. For each such repurchase program, an average of approximately 8 hours are spent collecting the requisite information. If approximately 1,179 issuers engage in repurchases following a market-wide trading suspension and comply with the safe harbor then, collectively, these issuers would incur an additional 1,179 burden hours. Thus, the total compliance burden per year is approximately 10,611 burden hours.

Compliance with Rule 10b-18 does not involve the collection of confidential information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Office for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 30, 2001.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-27710 Filed 11-02-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-27460]

Filings Under the Public Utility Holding Company Act of 1935, as Amended ("Act")

October 30, 2001.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by **November 26, 2001**, to the Secretary, Securities and Exchange Commission, Washington, DC 20549-0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After **November 26, 2001**, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

National Grid Group plc, et al. (70-9849)

National Grid Group plc ("National Grid"), a registered public-utility holding company, its nonutility direct subsidiary, New National Grid plc ("New National Grid"), both located at 15 Marylebone Road, London, NW15JD, United Kingdom, certain registered public-utility holding company subsidiaries of National Grid ("Intermediate Holding Companies")—namely, National Grid (US) Holdings Limited, National Grid (US) Investments, both located at 15 Marylebone Road, London, NW15JD,

United Kingdom, National Grid Ireland 1 Limited, National Grid Ireland 2 Limited, both located at 6 Avenue Pasteur, L 2310, Luxembourg, National Grid General Partnership, located on the 8th Floor of the Oliver Building, 2 Oliver Street, Boston Massachusetts 02109—National Grid USA, a registered public-utility holding company and direct or indirect subsidiary of the Intermediate Holding Companies, its direct and indirect subsidiaries—namely, New England Power Company (“NEPCO”), a public-utility company and public-utility holding company exempt from registration under section 3(a)(2),¹ Massachusetts Electric Company (“Massachusetts Electric”), a public-utility company, The Narragansett Electric Company (“Narragansett”), a public-utility company, Granite State Electric Company (“Granite State”), a public-utility company, Nantucket Electric Company (“Nantucket Electric”), a public-utility company, New England Electric Transmission Corporation (“NEET”), a public-utility company, New England Hydro-Transmission Corporation (“NH Hydro”), a public-utility company, New England Hydro-Transmission Electric Co., Inc. (“MA Hydro”) a public-utility company, Vermont Yankee Nuclear Power Corporation (“Vermont Yankee”), a public-utility company, Wayfinder Group, Inc., a nonutility company, Metrowest Realty LLC, a nonutility company, NEES Energy, Inc., a nonutility company, EUA Energy Investments Corp., a nonutility company, National Grid Transmission Services Corp., a nonutility company, National Grid USA Service Company Inc. (formerly known as New England Power Service Company), a service company within the meaning of rule 88 under the Act, all located at 25 Research Drive, Westborough, Massachusetts 01582, and each of their subsidiaries—together with Niagara Mohawk Holdings, Inc. (“NiMo”), a holding company exempt from regulation under section 3(a)(1) of the Act,² and its direct and indirect subsidiaries (collectively, “Applicants”), including Niagara Mohawk Power Company (“Niagara Mohawk”), a public-utility company, and Opinac North America, Inc. (“Opinac”), its direct nonutility subsidiary, all located at 300 Erie Boulevard West Syracuse, New York 13202, have filed an application-

declaration under sections 3(a)(1), 5, 6(a), 7, 9(a), 10, 12(b) and 13(b) of the Act and rules 20, 26, 42, 43, 45, 53, 54 and 88 under the Act.

Generally, Applicants request authority to (1) reorganize the National Grid system, by organizing New National Grid as a holding company of National Grid (“Reorganization”); (2) Acquire NiMo, by effecting a merger of NiMo with Grid Delaware, Inc. (“Grid Delaware”), a wholly owned direct subsidiary of New National Grid plc (“Merger”); (3) issue and sell securities to finance the proposed acquisition and other corporate business; and (4) effect related transactions. Applicants also request that the Commission issue an order exempting NiMo from all requirements applicable to registered holding companies under the Act except for those contained in section 9(a)(2).³

I. Description of the Parties

A. The National Grid System

National Grid was incorporated in England and Wales on April 1, 1989. Its ordinary shares are listed on the London Stock Exchange and its American Depositary Receipts (“ADRs”) are listed on the New York Stock Exchange.⁴ As of March 31, 2001, National Grid owned assets worth \$14.756 billion, including \$7.917 billion in net utility plant assets. As of March 31, 2001, 1,484,609,664 ordinary shares and one special share of National Grid stock were outstanding.⁵

National Grid conducts its principal business, namely the transmission of electricity in England and Wales, in the United Kingdom through The National Grid Company (“NGC”), its wholly owned indirect subsidiary. NGC owns and operates a transmission system consisting of approximately 4,400 miles of overhead lines and approximately 600 miles of underground cable together with substations at some 220 sites. All ownership interests in NGC and other non-United States operations of National Grid are held by National Grid Holdings Limited (“National Grid Holdings”), a foreign utility company (“FUCO”) within the meaning of section 33 of the Act.

³ NiMo would remain subject to the Act with respect to its status as a subsidiary of a registered holding company.

⁴ In addition, Applicants state that National Grid has a small number of American Depositary Shares in the United States, which account for less than one percent of National Grid’s publicly issued shares, that trade as ADRs and are held principally by United States institutions.

⁵ The special share, or the golden share, is a non-voting share owned by the United Kingdom government. Applicants state that the special share is a means for the United Kingdom government to assure the continued independence of National Grid as a provider of transmission services.

New National Grid was incorporated in England and Wales on July 11, 2000. Currently, the company does not conduct any business activities. An executive director of National Grid holds ten ordinary shares of New National Grid, and NG Nominees Limited owns the other 499,990 issued ordinary shares.

The Intermediate Holding Companies are wholly owned, directly or indirectly, by National Grid. They are used to avoid the loss of United Kingdom tax relief for foreign taxes paid on profits repatriated to the United Kingdom, and to minimize taxes on the repatriation of profits by the United States to the United Kingdom. In an order dated March 15, 2000, the Commission held that the Intermediate Holding Companies do not unduly complicate National Grid’s capital structure, and treated the Intermediate Holding Companies as a single company for purposes of section 11(b)(2) of the Act.⁶

National Grid USA, an indirect wholly owned subsidiary of National Grid, holds directly all of the issued and outstanding ownership interests of the following public-utility companies: NEPCO, Massachusetts Electric, Narragansett, Granite State, Nantucket, and NEET. Additionally, National Grid USA owns directly 53.97% of the common stock of both NH Hydro and MA Hydro, each a public-utility company. Through subsidiaries, National Grid USA is also engaged in various nonutility activities.⁷

Each of the public-utility company subsidiaries of National Grid USA is a member of the New England Power Pool (“NEPOOL”), and they have transferred control over their pool transmission facilities system to ISO-NE, which was established on the platform of an existing tight power pool.⁸ ISO-NE operates the transmission systems of all of the public utility systems in New England.⁹

⁶ See *National Grid Group plc*, Holding Co. Act Release No. 27154 (“Prior Order”).

⁷ For example, through subsidiaries, National Grid USA is engaged in the construction and leasing of fiber optic telecommunications systems and the provision of consulting services to nonaffiliated utilities in the area of electric utility restructuring and customer choice.

⁸ See *Unitil Corp.*, HCAR No. 25524 (April 24, 1992).

⁹ ISO-NE directs and controls the operation of certain facilities, in particular pool transmission facilities (“PTF”) that are owned by ISO-NE participants and rated 69 kV or above which are required to allow energy from significant power sources to move freely on the New England transmission network. ISO-NE also directs and controls the operation of certain generating facilities that are subject to central dispatch. ISO-NE is the central dispatching agency and has responsibility

Continued

¹ See *Yankee Atomic Electric Co.*, HCAR No. 13048 (November 25, 1955) (granting the section 3(a) proposal).

² See *Niagara Mohawk Holdings*, HCAR No. 26986 (March 4, 1999).

NEPCO operates electricity transmission facilities owned by associate public-utility companies in concert with the Independent System Operator New England ("OSE-NE").¹⁰ NEPCO also operates the non-pool transmission facilities (transmission facilities rated below 69 kV). It also holds National Grid USA's remaining ownership interests in generating units.¹¹ As of March 31, 2001, NEPCO owned assets worth \$2.9 billion and, for the twelve months preceding that date, earned \$656.3 million in operating revenues and \$58.3 million in net income. NEPCO is subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC") for ratemaking purposes and the Nuclear Regulatory Commission ("NRC") because it owns certain nuclear facilities. The Rhode Island Division of Public Utilities and Carriers ("RIDIV"), Massachusetts Department of Telecommunications and Energy ("MDTE"), New Hampshire Public Utilities Commission ("NHPUC"), and Vermont Public Service Board have jurisdiction over the company's financing transactions and transactions with affiliates. The Maine Public Utilities Commission also has jurisdiction over NEPCO's financing transactions, but Applicants state that the agency defers to the MDTE regarding these matters. NEPCO is also a public-utility holding company exempt from registration under section 3(a)(2),¹² as it owns approximately twenty percent of the outstanding voting securities of Vermont Yankee.¹³ Vermont Yankee is the licensed operator of the Vermont Yankee nuclear facility, which has a gross maximum dependable capacity of approximately 535 MW. For the year that ended March 31, 2001, Vermont Yankee earned \$178,565,569 in operating revenues and \$6,388,956 in net income, and owned assets worth \$710,851,866.

for the NEPOOL control area and the administration of the NEPOOL Open Access Transmission Tariff.

¹⁰ Although ISO-NE directs the central dispatch of the transmission facilities, NEPCO is responsible for determining whether and the extent to which safety requires facilities to be operated at less than their rated capability.

¹¹ Applicants state that the company is actively seeking to divest these facilities.

¹² See *Yankee Atomic Electric Co.*, HCAR No. 13048 (November 25, 1955) (granting the section 3(a) proposal).

¹³ NEPCO also holds thirty, twenty, and fifteen percent ownership interest in Yankee Atomic Electric Company, Maine Yankee Atomic Power Company, and Connecticut Yankee Atomic Power Company, respectively. Previously, each of these companies was a public-utility company, but Applicants state that they have all permanently eased operations.

Massachusetts Electric is engaged in the delivery of electricity to approximately 1.2 million customers in 170 cities and towns in Massachusetts. The cities and towns served by the company include the highly diversified commercial and industrial cities of Worcester, Lowell, and Quincy, the Interstate 495 high technology belt, suburban communities, and many rural, towns. Massachusetts Electric owns approximately 16,021 pole miles of electric transmission and distribution lines. As of March 31, 2001, Massachusetts Electric owned assets worth \$3.0 billion and, during the twelve months preceding that date, earned \$1.9 billion in operating revenues and \$24 million in net income. The company is subject to rate regulation by the FERC and the MDTE. The MDTE also has jurisdiction over the company's financing transactions and transactions with affiliates.

Narragansett delivers electricity to approximately 460,000 customers in thirty-eight cities and towns in Rhode Island. Its service area covers approximately ninety-nine percent of Rhode Island, and includes suburban, rural and urban areas such as the cities of Providence, East Providence, Cranston, and Warwick. The company owns approximately 4,737 pole miles of electric transmission and distribution lines. As of March 31, 2001, Narragansett owned assets worth \$1.5 billion and, during the twelve months preceding that date, earned \$757.6 million in operating revenues and \$16.9 million in net income. Narragansett is subject to rate regulation by the FERC and the Rhode Island Public Utilities Commission, and the RIDIV has jurisdiction over the company's financing transactions and transactions with affiliates.

Granite State provides retail electric service to approximately 36,000 customers in twenty-one communities in New Hampshire. Its service area includes the Salem area of southern New Hampshire, as well as several communities located along the Connecticut River, primarily in the Lebanon and Walpole areas. The company owns approximately 1,049 pole miles of electric transmission and distribution lines. As of March 31, 2001, Granite State owned assets worth \$90.2 million and, during the twelve months preceding that date, earned \$73.7 million in operating revenues and \$1.8 million in net revenues. Granite State is subject to regulation by the FERC and the NHPUC. The NHPUC also has jurisdiction over the company's financing transactions and transactions with affiliates.

Nantucket provides retail electric service to approximately 10,000 customers on Nantucket Island, in Massachusetts. It owns approximately 110 pole miles of electric transmission and distribution lines. As of March 31, 2001, Nantucket owned assets worth \$58 million and, during the twelve months preceding that date, earned \$17.9 million in operating revenues and \$100,000 in net income. Nantucket is subject to regulation by the FERC and the MDTE. The MDTE also has jurisdiction over the company's financing transactions and transactions with affiliates.

NEET owns and operates a direct current/alternating current converter terminal facility for the first phase of the Hydro-Quebec and New England interconnection ("Interconnection") and six miles of high voltage direct current transmission line in New Hampshire. As of March 31, 2001, NEET owned assets worth \$24 million and, during the twelve months preceding that date, earned \$8.3 million in operating revenues and \$700,000 in net income. NEET is subject to rate regulation by the FERC, and the NHPUC has jurisdiction over the company's financing transactions and transactions with affiliates.

NH Hydro operates 121 miles of high-voltage direct current transmission line in New Hampshire for the second phase of the Interconnection that extends to the Massachusetts border. As of March 31, 2001, NH Hydro owned assets worth \$113.8 million and, during the twelve months preceding that date, earned \$28.2 million in operating revenues and \$4.2 million in net income. NH Hydro is subject to rate regulation by the FERC, and the NHPUC has jurisdiction over the company's financing transactions and transactions with affiliates.

MA Hydro operates a direct current/alternating current terminal and related facilities for the second phase of the Interconnection and twelve miles of high-voltage direct current transmission line in Massachusetts. As of March 31, 2001, the company owned assets worth \$139.8 million and, during the twelve months preceding that date, earned \$34.4 million in operating revenues and \$7.0 million in net income. MA Hydro is subject to rate regulation by the FERC, and the MDTE has jurisdiction over the company's financing transactions and transactions with affiliates.

B. The NiMo System

Through subsidiaries, NiMo is engaged in the sale, distribution and transportation of natural gas, the generation, transmission and distribution of electricity, and certain

nonutility businesses. Its common stock is listed on the New York Stock Exchange and, as of March 31, 2001, there were 160,239,918 of its shares outstanding. As of March 31, 2001, on a consolidated basis, NiMo owned assets worth \$12.381 billion, including \$5.717 billion in net utility plant assets, earned \$4.712 billion in operating revenues, and reported a net loss of \$20 million.¹⁴ The NiMo system employees approximately 7,546 full-time employees. NiMo has two direct, wholly owned subsidiaries: Niagara Mohawk and Opinac, a "holding company" within the meaning of section 2(a)(7) of the Act.

Niagara Mohawk is a combination electric and gas public-utility company. Through subsidiaries, Niagara Mohawk is also engaged in various nonutility businesses.¹⁵ As of March 31, 2001, Niagara Mohawk owned assets worth \$12,069 billion, including \$5.717 billion in net utility assets and, during the twelve months preceding that date, earned \$4.004 billion in operating revenues and incurred a net loss of \$39.2 million. During the twelve months prior to April 30, 2001, Niagara Mohawk provided electric service and sold, distributed and transported natural gas to approximately 1,535,135 electric and 546,835 natural gas customers in eastern, central, northern and western New York State.¹⁶ Niagara Mohawk's electric system interconnects with the National Grid USA's system, and consists of 9,327 pole miles of transmission lines and 41,125 pole miles of distribution networks. Niagara Mohawk owns hydroelectric generation

assets located in Mechanicsville, New York, that, although inoperable, has a nominal capacity of 4.5 MW. It also holds land rights under hydroelectric facilities that have a collective generation capacity of 58.5 MW.¹⁷ Currently, Niagara Mohawk holds a 100% ownership interest in the 613 MW Nine Mile Point Nuclear Station Unit No. 1 and a forty-one percent ownership interest in the 1,143 MW Nine Mile Point Nuclear Station Unit No. 2, and operates both of these facilities. Niagara Mohawk has entered into an agreement, however, to sell its ownership interests in these nuclear plants to Constellation Nuclear LLC. Niagara Mohawk has transferred control of its transmission system to the New York Independent System Operator ("NYISO").¹⁸ All of Niagara Mohawk's customers may choose their electricity supplier, but Niagara Mohawk distributes electricity through its transmission and distribution systems for all customers, regardless of their supplier. It also provides electricity to those customers who do not choose a new electricity supplier. Niagara Mohawk also purchases, transports and distributes natural gas in eastern, central and northern New York State in an area that generally extends from Syracuse to Albany. Gas utility service is provided largely in areas where Niagara Mohawk also provides electrical service, and the majority of the company's gas sales are for residential and commercial space and water heating. Niagara Mohawk purchases its natural gas for sale to its customers under firm and spot contracts, and transports the gas under both firm and interruptible transportation contracts. The New York State Public Service Commission ("NYPSC") regulates the following aspects of Niagara Mohawk's operations: financing with a term of one year or more, the company's capital structure, dividend payments, asset sales, affiliate transactions, and the terms and quality of services provided.

Through its subsidiaries, Opinac is currently engaged in various utility and nonutility businesses.¹⁹ Opinac Energy

Corporation ("Opinac Energy"), a wholly owned, direct subsidiary of Opinac, is a public-utility holding company exempt from registration under section 3(a)(5) of the Act.²⁰ It holds a fifty percent ownership interest in Canadian Niagara Power Company Limited ("CNP Limited"), a public-utility company based in Ontario, Canada.²¹ CNP Limited will obtain certification as a FUCO prior to consummation of the Merger.

CNP Limited generates electricity, and supplies and markets energy and energy services in Ontario. It also sells electricity that is surplus to its Ontario needs into the New York wholesale market.²² It owns and operates the William B. Rankine Generating Station, a 74.6 MW hydroelectric plant located on the Canadian side of the Niagara River at Niagara Falls. As of March 31, 2001, CNP Limited owned, on a consolidated basis, assets worth \$20.3 million and, during the preceding twelve months, earned \$13 million in operating revenues and \$4.5 million in net income. CNP Limited is subject to the jurisdiction of the Ontario Energy Board ("OEB"). Additionally, CNP Limited owns all of the issued and outstanding ownership interests in Canadian Niagara Power Inc. ("CNP Inc."), a public-utility company.

CNP Inc. primarily distributes electricity to residential, commercial and industrial customers in Fort Erie, Ontario. Through an international interconnection between its facilities and those of Niagara Mohawk, CNP Inc. provides back-up power in the event of an outage at Niagara Falls.²³ CNP Inc.

five percent ownership interest in Telergy Central LLC, a company engaged in the development, deployment and operation of a fiber optic network and in telecommunications generally; a twenty-six percent ownership interest in Direct Global Power, a company engaged in the development of photovoltaic and other renewable energy products; and a 17.9% ownership interest in Northern Power System, Inc., a company engaged in providing remote power and renewable energy systems solutions.

Opinac also holds an eighteen percent and a sixteen percent ownership interest in Telergy, Inc. ("Telergy") and EVonyx, Inc. ("EVonyx"), respectively. Telergy is engaged in the development, deployment and operation of a fiber optic network and telecommunications generally; EVonyx is engaged in the research and development of fuel cell and battery technology.

²⁰ See *Opinac Energy Corp.*, HCAR No. 25632 (September 16, 1992).

²¹ Fortis Inc. ("Fortis") holds the remaining fifty percent ownership interest in CNP Limited. Applicants state that Fortis is an unaffiliated holding company that is exempt from all requirements of the Act by rule 5 under the Act.

²² During the twelve months preceding March 31, 2001, CNP Limited sold 355,886 MWh to various parties in the northeastern United States.

²³ CNP Inc. owns 32 km of transmission lines and 900 km of distribution lines, including one 25 hertz

¹⁴ Niagara Mohawk comprises ninety-eight percent of NiMo's total assets and generates ninety-four percent of NiMo's total revenues.

¹⁵ Niagara Mohawk's wholly owned direct nonutility subsidiaries are NM Uranium, Inc. ("NM Uranium"), NM Properties, Inc. ("NM Properties"), NM Receivables LLC ("NM receivables") and NM Receivables Corp. II ("NM Receivables II"). NM Uranium holds a fifty percent ownership interest in certain closed uranium mines in the State of Texas. NM Properties engages in the divestiture, or in conjunction with others, the development of real property formerly owned by Niagara Mohawk. NM Receivables is a single-purpose, financing subsidiary that purchases and resells Niagara Mohawk's customer receivables, including accrued unbilled revenues. NM Receivables, LLC is over 99.99% owned by Niagara Mohawk and is also owned by NM Receivables Corp. II, a wholly owned subsidiary of Niagara Mohawk that manages NM Receivables, LLC.

NM Properties wholly owns the following real estate development subsidiaries: NM Properties, Inc. wholly owns the following subsidiary real estate development companies: Hudson Pointe, Inc., Land Management & Development, Inc., Landwest, Inc., Moreau Park, Inc., Riverview, Inc., Salmon Shores, Inc., Upper Hudson Development, Inc., Arbuckle Acres, Inc., and OproprCo., Inc.

¹⁶ It provides electric service in the cities of Buffalo, Syracuse, Albany, Utica, Schenectady, Niagara Falls and Troy.

¹⁷ The nonaffiliate leasees sell the generated power to Niagara Mohawk under power purchase agreements.

¹⁸ The NYISO is an independent operator of the electric transmission systems of all of the public utility systems in New York State.

¹⁹ Niagara Mohawk Energy, Inc. ("NM Energy"), a wholly owned direct subsidiary of Opinac, is an energy marketing and services company. Through its wholly owned direct subsidiary, Niagara Mohawk Energy Marketing, Inc., NM Energy purchases electricity and gas for resale both within and outside New York, through short-term forward contracts or spot market purchases. NM Energy also holds the following ownership interests: a twenty-

serves approximately 14,600 customers, employs forty-four people, and is subject to the jurisdiction of the OEB. As of March 31, 2001, the company owned \$15.8 million in assets and, during the twelve months preceding that date, earned \$6.8 million in operating income but no net income. Additionally, on July 19, 2001, CNP Limited announced that it had signed an agreement that provides for CNP Inc. to lease the electricity distribution business of Port Colborne Hydro, Inc. ("Port Colborne Hydro"), which serves approximately 9,000 customers within the City of Port Colborne. This acquisition is subject to the approval of OEB. CNP Inc. also recently acquired a ten percent interest in Westario Power Holdings Inc. ("Westario Power") and Rideau St. Lawrence Holdings Inc. ("Rideau St. Lawrence"), both nonutility holding companies.²⁴

II. Merger Agreement and Restructuring

National Grid, NiMo, New National Grid, and Grid Delaware entered into an Agreement and Plan of Merger and Scheme of Arrangement dated September 4, 2000 and amended December 1, 2000 ("Merger Agreement"), which contemplates the Restructuring and provides for and governs the Merger. The Merger and Restructuring would be effected through a series of transactions involving special purpose acquisition corporations, temporary intercompany loans (including transitory upstream loans that would not survive the Merger),²⁵ the acquisition of securities, share repurchase or redemptions and other transactions. The Restructuring and Merger are intended to collectively qualify as a tax-free transaction within

transmission line and one 60 hertz transmission line that interconnect the grids in southern Ontario with those in northwestern New York. These utility assets were formerly owned by CNP Limited; on March 31, 1999, CNP Limited transferred its transmission and distribution assets to CNP Inc. to comply with Electricity Act of 1998 and regulation of the OEB.

²⁴ Through subsidiaries, Westario Power distributes electricity to 20,000 customers in the counties of Bruce, Grey and Huron, Ontario, and Rideau St. Lawrence distributes electricity to 6,000 customers in the counties of Leeds-Grenville and Stormont-Dundas, Ontario.

²⁵ Applicants state that upstream loans used to fund the Merger would be unsecured and limited to loans by wholly owned direct or indirect subsidiaries of National Grid and New National Grid, and would not be funded by any affiliated public-utility company subsidiaries. These loans would be used as a mechanism to convey the Merger consideration and the acquired ownership interest in NiMo to the appropriate company in the New National Grid System, and that the loans would permit New National Grid to avail itself of exemptions with respect of taxes that might otherwise arise on implementation of the structure.

the meaning of section 351 of the Internal Revenue Code of 1986, as amended.

The Restructuring would be implemented immediately prior to the Merger, and involves exchanging National Grid's existing shares for shares of New National Grid. Specifically, New National Grid would issue one of its shares in exchange for each outstanding share of National Grid common stock.²⁶ After the Restructuring, National Grid would be a wholly owned subsidiary of New National Grid, and would no longer be the parent company of National Grid USA or any of the Intermediate Holding Companies. Instead, National Grid would be the direct parent company of National Grid Holdings, a FUCO. Correspondingly, National Grid would deregister as a public-utility holding company under the Act and submit a notification on Form U-57 to obtain FUCO status, and New National Grid, as the parent of the Intermediate Holding Companies and National Grid USA, would register under section 5 of the Act. The organization of New National Grid as the new top, registered holding company is designed to provide National Grid the flexibility to increase the cash portion of the Merger consideration without jeopardizing the tax free nature of the transaction for NiMo shareholders who elect to exchange their shares in NiMo for shares in National Grid, should the shareholders in aggregate elect to receive more than one-fifth of the consideration for their NiMo shares in cash.²⁷

Under the Merger Agreement, Grid Delaware would merge into NiMo, with NiMo surviving as direct subsidiary of New National Grid. The Merger Agreement provides that all of the shares of common stock of Grid Delaware issued and outstanding prior to the Merger would be converted into the right to receive common stock of NiMo. Each share of NiMo common stock would be converted into the right to receive the merger consideration in the form of cash, American Depositary Shares ("ADSs") or a combination of cash and ADSs. The per-share merger consideration would be \$19.00 if the Average Price²⁸ is between \$32.50 and

\$51.00.²⁹ Based on National Grid's current share price, the value of the Merger consideration is approximately \$3.1 billion.³⁰ NiMo shareholders may elect to receive their consideration in cash, ADSs or as a combination of both, as long as the aggregate cash consideration paid does not exceed \$1.015 billion.³¹ Subsequently, all equity interests in NiMo would be contributed to National Grid USA.

The Merger would be accounted for under the purchase method of accounting, in accordance with generally accepted accounting principles.³² Applicants state that the common stock shareholders of NiMo and National Grid approved the Merger on January 19 and 29, 2001, respectively. The Merger is contingent on the completion of the sale of Niagara Mohawk's ownership interests in certain nuclear assets discussed above or entry into another arrangement covering those assets.

After the Merger, all of the common stock of NiMo would be owned by National Grid USA. The corporate structure of the current NiMo system would not otherwise change. Applicants state that, after the Merger, Niagara

derived from the Daily Official List of the London Stock Exchange (converted to a United States dollar value using the exchange rate for each date for which the closing price is to be determined as reported in The Financial Times) for twenty trading days selected at random (using mutually agreed upon procedures) in the period of forty consecutive London Stock Exchange trading days ending on the close of business on the tenth London Stock Exchange trading day prior to the election deadline, multiplied by five.

²⁹ In the event that the Average Price is greater than \$51.00, the per-share consideration received by NiMo shareholders would increase by two-thirds of the percentage of the increase in value over \$51.00. In the event that the Average Price is less than \$32.40, the per-share consideration received by NiMo shareholders would decrease by two-thirds of the percentage of the decrease in value below \$32.50.

³⁰ Applicants request authority to obtain more than \$3.1 billion in Merger-related financing because, as discussed above, the Merger consideration may increase if the Average Price of National Grid common stock rises above \$51 per share.

³¹ If cash elections received from NiMo shareholders exceed \$1.015 billion, National Grid has the option, but not the obligation, to increase the cash component of the consideration. If elections for one form of consideration exceed the amount of such form of consideration to be issued in the Merger, all shareholders electing the oversubscribed form of consideration would receive, on a pro rata basis, some of the undersubscribed form of consideration.

³² Under the purchase method of accounting, the purchase price of NiMo, including direct costs of the acquisition, would be allocated to the assets acquired and liabilities assumed based upon their estimated fair values, with the excess, i.e., the difference between the purchase price, representing fair value, and the fair value of the identified assets acquired, recorded as goodwill.

²⁶ Applicants expect that the outstanding special share of National Grid stock would be canceled and replaced with a special share of New National Grid stock.

²⁷ Applicants state that National Grid cannot be eliminated as part of the Restructuring without jeopardizing the tax-free nature of the transaction.

²⁸ The "Average Price" is defined under the Merger Agreement as the average of the closing prices of New National Grid ordinary shares, as

Mohawk would be re-branded "Niagara Mohawk, a National Grid Company."

Applicants state that the combination of NiMo and National Grid would create the ninth largest electric utility in the U.S., with an electric customer base of approximately 3.3 million. They expect that, over the ten year period from 2002 through 2011, Merger-related cost synergies and the sharing of best practices across operations would result in savings of \$895 million before costs to achieve, or approximately \$90 million per year.

III. Financing Transactions

Applicants also request authority to issue and/or sell certain securities to finance the New National Grid system through September 30, 2004 ("Authorization Period"). They request that the system financing parameters imposed under the Prior Order be replaced by the following ones (collectively, "Financing Parameters"):

- All long-term debt or preferred stock issued by New National Grid, National Grid USA, or any of the current public-utility company subsidiaries of National Grid USA and Niagara Mohawk (collectively, "Utility Subsidiaries") in public offerings would be rated at the investment grade level by a nationally recognized statistical rating organization.

- New National Grid would maintain common stock equity as a percentage of total capitalization, measured on a book value basis under generally accepted accounting principles in the United States ("U.S. GAAP"), of at least 28.5% or above at the time of the closing of the Merger and thereafter during the Authorization Period, and thirty percent or above by March 31, 2002.

- National Grid USA, on a consolidated basis, and each of the Utility Subsidiaries (except NEET and Vermont Yankee) on a stand-alone basis, would maintain common stock equity of at least thirty percent of total capitalization.

- The cost of money on New National Grid's debt or preferred stock financings would not exceed the cost of comparable term U.S. treasury securities or government benchmark for the currency concerned plus the margin demanded in the financial markets in a competitive offering by an issuer of such securities with New National Grid's credit rating.

- For debt securities proposed to be issued by the Utility Subsidiaries, the cost of money on debt securities issued to nonassociated would not exceed the cost of comparable term U.S. treasury securities or government benchmark for the currency concerned plus the margin

demand in the financial markets in a competitive offering by an issuer of such securities with the respective Utility Subsidiary's credit rating.

- The cost of money on proposed National Grid USA debt securities or preferred stock would not exceed the cost of comparable term U.S. treasury securities or government benchmark for the currency concerned plus the margin demanded in the financial markets in a competitive offering by an issuer of such securities with National Grid USA's credit rating.

- The underwriting fees, commissions or other similar remuneration paid in connection with the non-competitive issue, sale or distribution of a security would not exceed five percent of the principal or total amount of the security being issued.

A. New National Grid

As described above, in connection with the Merger, NiMo shareholders would receive New National Grid ordinary shares and cash ("Merger Consideration"). To raise the Merger Consideration, Applicants request authority for New National Grid to issue its ordinary shares to NiMo shareholders and, issue and sell debt securities to banks under one or more credit facilities and forward underwriting commitments that would be established prior to completion of the Merger. The aggregate amount of these debt securities, when combined with the value of the ordinary shares issued in connection with the Merger, will not exceed \$4 billion at any one time outstanding.³³

Applicants request authority for New National Grid to issue to nonaffiliates up to an aggregate amount of \$6 billion ("Aggregate Limit") of equity and debt securities at any one time outstanding during the Authorization Period.³⁴ These securities could include ordinary shares, preferred shares, options, warrants, long- and short-term debt (including commercial paper), convertible securities, subordinated debt, bank borrowings and securities with call or put options. Applicants

³³ As discussed above, the value of the Merger Consideration is approximately \$3.1 billion based upon National Grid's current share price. That amount may increase, however, if the Average Price of New National Grid shares increases above fifty-one dollars per share.

³⁴ The Aggregate Limit would apply only to securities issued and outstanding during the Authorization Period. Accordingly, when a security is issued during the Authorization Period and later redeemed or retired during the Authorization Period, the aggregate amount issued and outstanding under the Aggregate Limit would be reduced and additional financing capacity under the Aggregate Limit would be made available.

would issue up to \$4.5 billion in equity securities (including options and warrants) and \$5 billion in debt securities, subject to the Aggregate Limit. The Aggregate Limit would replace the \$4 billion limit authorized in the Prior Order, and does not include the Merger Consideration.³⁵

New National Grid proposes to enter into, perform, purchase and sell financial instruments intended to manage the volatility of currencies and interest rates, including currency and interest rate swaps, caps, floors, collars and forward agreements, and other similar agreements ("Hedging Instruments"). Hedging Instruments may be executed on-exchange ("On-Exchange Trades") with brokers, through the opening of futures and/or options positions, or by opening over-the-counter positions with one or more counterparties ("Off-Exchange Trades"), or a combination of On-Exchange Trades and Off-Exchange Trades. Off-Exchange Trades would be entered into only with associate companies or counterparties whose senior debt ratings are investment grade, as determined by Standard & Poor's, Moody's Investors Service, Inc. or Fitch IBCA, Inc. ("Approved Counterparties").³⁶

Hedging Instruments will qualify for hedge accounting treatment under U.S. GAAP or the United Kingdom ("U.K. GAAP"). If a transaction qualifies for hedge accounting treatment only under U.K. GAAP, New National Grid will reconcile on its financial statements the difference between U.S. GAAP, in accordance with Form 20-F. No gain or loss on a Hedging Instrument entered into by New National Grid will be allocated to National Grid USA or its subsidiaries. Applicants request authority for New National Grid to enter into Hedging Instruments to fix and/or limit the interest rate or currency exchange risk associated with anticipated debt offerings ("Anticipatory Hedges"). For the purpose of Anticipatory Hedges, Hedging Instruments may include the following: forward sales of exchange-traded Government Securities³⁷ futures contracts, Government Securities and/or a forward swap (each, "Forward Sales"), purchases of put options on Government Securities ("Put Options Purchases"), Put Options Purchases in

³⁵ In addition, common shares to be issued in connection with presently outstanding convertible bonds would not count against the Aggregate Limit. See below, at footnote 40.

³⁶ See below, at footnote 41.

³⁷ "Government Securities" would include U.S. Treasury obligations, U.K. Gilts or the appropriate government benchmark security for the currency involved in the hedge.

combination with sales of call options on Government Securities ("Zero Cost Collars"), transactions involving purchases or sales (including short sales) of Government Securities, or combinations of Forward Sales, Put Options Purchases, Zero Cost Collars, and/or other derivative or cash transactions. Neither Hedging Instruments nor Anticipatory Hedges entered into by New National Grid would be subject to the Aggregate Limit.

Applicants request authority for New National Grid to enter into guaranties, obtain letters of credit, enter into guaranty-type expense agreements or otherwise provide credit support with respect to the obligations of the Subsidiaries, to enable those companies to carry on their respective businesses. These guaranties would not be counted against the Aggregate Limit but would instead be subject to a \$2 billion limit, based upon the amount at risk.³⁸ The fee, if any, charged for any guaranty would not exceed the cost of obtaining the liquidity necessary to perform the guaranty for the period of time the guaranty remains outstanding.

B. Subsidiary Financing

Applicants request authority for the Intermediate Holding Companies and National Grid USA to issue and sell securities to (1) their direct and indirect parent companies; and (2) National Grid and its associate company subsidiaries³⁹ (collectively, "FUNCO Subsidiaries"), except that the FUCO Subsidiaries would not purchase equity and convertible debt securities from any of the Intermediate Holding Companies or National Grid USA. Financing between an Intermediate Holding Company and its direct or indirect parent or a FUCO Subsidiary would be on market terms. All interest rates and maturity dates of debt securities issued by National Grid USA to an associate company would be designed to parallel the lower of the effective cost of capital of National Grid USA or New National Grid. All borrowings by the Intermediate Holding Companies and National Grid USA would be unsecured. These securities would be used to finance the operations of the National Grid USA and its subsidiaries.

Applicants request authority for the Intermediate Holding Companies and National Grid USA to acquire securities

from their direct or indirect subsidiary companies. Neither the Intermediate Holding Companies nor National Grid USA, however, would borrow or receive any extension of credit or indemnity from any of their respective direct or indirect subsidiaries. Debt offerings by the Intermediate Holding Companies and National Grid USA would have short, medium and long-term maturities.⁴⁰

Applicants request authority for the Utility Subsidiaries to enter into Hedging Instruments with nonaffiliated Approved Counterparties, to the extent the issuance and sale of these securities is not exempt under rule 52(a) under the Act.⁴¹ These securities would be entered into on the same terms generally applicable to New National Grid.⁴²

Applicants request authority for Niagara Mohawk to issue to associate and nonassociate companies debt securities with maturities of less than one year, in an aggregate amount not to exceed \$1 billion at any one time outstanding.

Applicants request authorization for NiMo to issue and sell securities, other than equity and convertible securities, to associate companies, but not to NiMo's direct or indirect subsidiaries other than special purpose financing subsidiaries. Proceeds from the sales of these securities would be used to finance NiMo's existing business and its respective subsidiaries and future authorized or permitted businesses. All borrowings by NiMo would be unsecured. To the extent that NiMo invests any funds in CNP Limited (its FUCO subsidiary) or its subsidiaries, those amounts would be counted against the overall EWG and FUCO

⁴⁰ Short-term debt would be less than one year in maturity, medium-term debt would have maturities up to five years, and long-term debt would have maturities up to fifty years.

⁴¹ By order dated October 22, 2001, the Commission authorized through May 31, 2003; (1) the Intermediate Holding Companies to enter into currency derivatives with National Grid and its subsidiaries that are outside of the National Grid USA ownership chain, including the FUCO Subsidiaries; (2) National Grid to increase the aggregate amount of convertible bonds that it may issue to \$2 billion; and (3) the Intermediate Holding Companies to enter into currency derivatives with National Grid and the FUCO Subsidiaries. See *National Grid Group plc*, HCAR No. 27455 ("October 2001 Order"). Applicants request that the authority granted in the October 2001 Order be modified to reflect the Reorganization.

⁴² Hedging Instruments entered into by the Utility Subsidiaries would differ from those entered into by New National Grid in that the former would qualify for hedge accounting treatment under U.S. GAAP and, to the extent a Utility Subsidiary incurs a gain or loss on a Hedging Instrument that it has entered into to hedge a currency or interest rate risk associated with a security that such Utility Subsidiary has issued, the gain or loss would be attributed to the Utility Subsidiary.

investment limits applicable to New National Grid.

Applicants request authority for National Grid USA to issue up to an aggregate amount of \$500 million at any one time outstanding of debt securities to third parties through public or private offerings. As mentioned above, all borrowings by National Grid USA would be unsecured and would have the short, medium and long-term maturities described above.

Applicants request authority for the Intermediate Holding Companies, National Grid USA, and NiMo to issue guaranties and other forms of credit support on behalf of their direct and indirect subsidiaries. These guaranties would be subject to a limit of \$1 billion.⁴³ Applicants also request authority for the Nonutility Subsidiaries to enter into guaranties with each other for up to an aggregate amount of \$1 billion, to the extent such transactions are not exempt under rule 45. The fee, if any, charged for any guaranty would not exceed the cost of obtaining the liquidity necessary to perform the guaranty for the period of time the guaranty remains outstanding.

Applicants request authority for Massachusetts Electric, Nantucket, Narragansett, NEPCO, and MA Hydro to continue issuing up to aggregate amounts of \$275 million, \$6 million, \$145 million, \$750 million, \$25 million, respectively, in short term debt securities through the Authorization Period.⁴⁴

C. Money Pool Expansion

Applicants request authority for the Money Pool to be operated as authorized under the Prior Order. Applicants also request authority for NiMo and its current subsidiaries, except for those companies that are exempt telecommunication carriers ("ETCs"), exempt wholesale generators ("EWGs"), and FUCOs, to participate in

⁴³ Applicants state that certain guaranties may be in support of obligations that are not capable of exact quantification. To value these obligations for purposes of the limit, New National Grid would determine the exposure under a guarantee by an appropriate means, including estimating its subsidiary's exposure based on loss experience or projected potential payment amounts.

⁴⁴ The Commission previously granted these companies the requested authorizations. See *National Grid USA*, UCAR No. 27381 (April 19, 2001) (authorizing Massachusetts Electric, Nantucket, and Narragansett to issue up to \$275 million, \$6 million, and \$145 million, respectively, in short-term debt securities through May 31, 2003); *New England Electric System*, HCAR No. 26881 (June 2, 1998) (authorizing NEPCO to issue up to \$750 million in short-term debt securities through October 31, 2001); *New England Electric System*, HCAR No. 26768 (October 29, 1997) (authorizing MA Hydro to issue up to \$25 million in short-term debt securities through October 31, 2001).

³⁸ Guaranties previously issued by National Grid that New National Grid assumes would not count against this limit.

³⁹ As discussed above, after the Restructuring, National Grid would become a FUCO and a holding company over National Grid Holdings, the current FUCO holding company in the National Grid System.

the Money Pool under the same terms and conditions established in the Prior Order. Further, Applicants request authority for all newly formed or acquired or currently non-participating National Grid subsidiary companies (including EWGs and FUCOs, but excluding ETCs) to participate in the Money Pool as lenders only.

IV. Other Requests

As mentioned above, the purchase method of accounting would apply to the Merger. Consequently, the current retained earnings of NiMo and its subsidiaries, the traditional source of dividend payment, would be eliminated and the value of the goodwill would be reflected in their balance sheets as additional paid-in-capital. Applicants request authority for Niagara Mohawk to pay dividends or to acquire, retire or redeem its securities using its capital or unearned surplus as follows: Niagara Mohawk would in any calendar year, limit dividends paid on its common stock to "income available for common dividends"⁴⁵ plus a fixed amount per calendar year.⁴⁶ To the extent that Niagara Mohawk does not pay the maximum dividends allowable, the company would carry the balance forward to subsequent years. Applicants also request authority for NiMo and its nonutility subsidiaries to pay dividends or to acquire, retire or redeem their securities without restriction, to the extent permitted under applicable state and corporate law or applicable financing covenants. Accordingly, Applicants request that the Commission eliminate the restriction established by the Prior Order limiting the payment of dividends by the Utility Subsidiaries to eighty percent of their post-New England Electric System merger earnings before the amortization of goodwill, based on a rolling five-year average.

Applicants request authority to amend the National Grid USA tax allocation agreement, previously approved by the Commission,⁴⁷ to add NiMo and its subsidiaries as members, allowing National Grid General Partnership ("NGGP") to retain the value of the tax deduction associated

with the debt incurred by New National Grid to finance the Merger.

Applicants request authority for NiMo and its wholly owned subsidiaries to increase the amount or change the terms of the authorized capital securities without further Commission approval.⁴⁸ The terms that may be changed include dividend rates, conversion rates and dates, and expiration dates. The changes to capital stock would affect only the manner in which financing is conducted by those companies; the terms of limits proposed by this application or prior Commission orders would not be altered.

Applicants request authorization for NiMo and its subsidiaries to acquire financing entities to facilitate financings by issuing to third parties income preferred securities or other authorized or exempt securities.⁴⁹ Amounts issued by these financing entities to third parties under the Commission's authorization would count against any applicable limits for the immediate parent of that financing entity, but the underlying intrasystem mirror debt and parent guarantee would not count against any financing or guarantee limits.

By the Prior Order, the Commission authorized National Grid to invest up to \$4.406 billion in EWGs and FUCOs through May 31, 2003. Applicants request authority for New National Grid to increase its investments in EWGs and FUCOs through the Authorization Period to no more than \$5.406 billion of its retained earnings.

Applicants request authority for NiMo and its subsidiaries to enter into service agreements with National Grid USA Service Company ("Service Company"), the current service company for the National Grid USA and its subsidiaries (collectively, "National Grid USA Group"), and receive the same services that current members of the National Grid Group receive from Service Company. This affiliate service relationship would follow in all material respects the authority granted in the Prior Order. Applicants state that Service Company would continue to be operated in accordance with the policies and procedures manual previously filed, and the service agreements entered into between Service Company and NiMo

and its subsidiaries would be in the same form as those entered into by the current National Grid USA Group.

Applicants request authority for New National Grid to acquire, directly or indirectly, the equity securities of one or more intermediate subsidiaries ("Intermediate Subsidiaries") organized exclusively for the purpose of acquiring, financing, and holding the securities of one or more existing or future Nonutility Subsidiaries. Intermediate Subsidiaries may also provide management, administrative, project development, and operating services to such entities.⁵⁰ To the extent their provision of those services is not authorized or permitted by rule, regulation, or order of the Commission, applicants request authority for the Intermediate Subsidiaries to contract to provide them.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-27712 Filed 11-2-01; 8:45 am]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-25247; File No. 812-12584]

Golden American Life Insurance Company, et al.

October 30, 2001.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an Order Pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") granting exemptions from sections 2(a)(32) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder.

⁵⁰ "Development Activities" would be limited to due diligence and design review; market studies; preliminary engineering; site inspection; preparation of bid proposals, including, in connection therewith, posting of bid bonds; application for required permits and/or regulatory approvals; acquisition of site options and options on other necessary rights; negotiation and execution of contractual commitments with owners of existing facilities, equipment vendors, construction firms, power purchasers, thermal "hosts," fuel suppliers and other project contractors; negotiation of financing commitments with lenders and other third-party investors; and such other preliminary activities as may be required in connection with the purchase, acquisition, financing or construction of facilities or the acquisition of securities of or interests in new businesses. "Administrative Activities" would include ongoing personnel, accounting, engineering, legal, financial, and other support activities necessary to manage New National Grid's investments in Nonutility Subsidiaries.

⁴⁵ To calculate "income available for dividends," Applicants would add back amounts attributable to the write down of goodwill so that income available for dividends would reflect Niagara Mohawk's income before the deduction for goodwill impairment.

⁴⁶ Applicants propose the following fixed amounts: \$100 million during 2001; \$100 million during 2002; \$80 million during 2003; and \$60 million during 2004.

⁴⁷ See Prior Order.

⁴⁸ By the Prior Order, the Commission authorized National Grid USA, its subsidiaries and the Intermediate Holding Companies, to increase the amount or change the terms of their authorized capital securities without additional Commission approval.

⁴⁹ By the Prior Order, the Commission authorized National Grid, the Intermediate Holding Companies, National Grid USA, and its subsidiaries to organize these types of financing entities.

Applicants: Golden American Life Insurance Company ("Golden American"), Separate Account B of Golden American Life Insurance Company (the "Account"), and Directed Services, Inc. ("DSI")(together, the "Applicants").

SUMMARY OF THE APPLICATION:

Applicants seek an order of the Commission, pursuant to Section 6(c) of the Act to the extent necessary to permit the recapture of certain credits applied to premium payments made in consideration of deferred variable annuity contracts which Golden American intends to issue (the "Contracts") and substantially similar variable annuity contracts that Golden American may issue in the future ("Future Contracts"), as well as any other separate accounts of Golden American and its successors in interest ("Future Accounts") that support in the future variable annuity contracts that are similar in all material respects to the Contracts and principal underwriters of such contracts ("Future Underwriters").

FILING DATE: The application was filed on July 19, 2001, and amended and restated on October 11, 2001, and October 29, 2001.

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 Secretary of the Commission and serving the Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on November 23, 2001, and should be accompanied by proof of service on the Applicant 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 may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549-0609. Applicant, c/o Linda Senker, Esq., Golden American Life Insurance Company, 1475 Dunwoody Drive, West Chester, Pennsylvania 19380. Copies to Stephen E. Roth, Esq., Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Avenue, NW., Washington, DC 20004-2415.

FOR FURTHER INFORMATION CONTACT:

Curtis A. Young, Esq., Senior Counsel, or Lorna J. MacLeod, Branch Chief, Office of Insurance Products, Division of Investment management, at (202) 942-0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the Application. The Application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549-0102 (tel. (202) 942-8090).

Applicants' Representations

1. Golden American is a stock life insurance company originally incorporated under the laws of Minnesota on January 2, 1973, and later redomiciled in Delaware. Golden American is engaged in the business of writing annuities, both individual and group, in all states (except New York) and the District of Columbia. Golden American is a subsidiary of Equitable of Iowa Companies, Inc. ("Equitable of Iowa"). Golden American is ultimately controlled by ING Groep N.V., a global financial services holding company.

2. Golden American established the Account as a segregated investment account under Delaware law. The assets of the Account attributable to the Contracts and any other variable annuity contracts through which interests in the Account are issued are owned by Golden American but are held separately from all other assets of Golden American, for the benefit of the owners of, and the persons entitled to payment under, Contracts issued through the Account. Consequently, such assets are not chargeable with liabilities arising out of any other business that Golden American may conduct. Income, gains and losses, realized or unrealized, from each subaccount of the Account, are credited to or charged against that subaccount without regard to any other income, gains or losses of Golden American. The Account is a "separate account" as defined by Rule 0-1(e) under the Act, and is registered with the Commission as a unit investment trust.

3. The Account currently is divided into a number of subaccounts. Each subaccount invests exclusively in shares representing an interest in a separate corresponding investment portfolio of one of several series-type open-end management investment companies. The assets of the Account support one or more varieties of variable annuity contracts, including the Contracts.

4. Golden American established the Account on July 14, 1988. The Account is registered with the Commission as a unit investment trust and interests in the Account offered through the Contracts have been registered under the Securities Act of 1933 on Form N-4.

5. DSI is a wholly-owned subsidiary of Equitable of Iowa. It serves as the principal underwriter of Golden American separate accounts registered as unit investment trusts under the Act, including the Account, and is the distributor of the variable life insurance contracts and variable annuity contracts issued through such separate accounts, including the Contracts. DSI is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc. (the "NASD").

6. The Contracts make available a number of subaccounts of the Account to which owners may allocate net premium payments and associated bonus credits (described below) and to which owners may transfer contract value. The Contracts also offer fixed-interest allocation options under which Golden American credits guaranteed rates of interest for various periods (including interest crediting mechanisms which entail the imposition of "market value" adjustments under certain circumstances). Transfers of contracts value among and between the subaccounts and, subject to certain restrictions, among and between the subaccounts and the fixed-interest options, may be made at any time from the end of the free look period until the annuity start date. The Contracts offer a variety of fixed and variable annuity payment options to owners. In the event of an owner's death prior to the annuity commencement date, beneficiaries may elect to receive death benefits in the form of one of the annuity payment options instead of a lump sum.

7. Upon application to purchase the Contract, a purchaser would select from among three option packages, Option Package I, II, or III. Each option package determines the minimum initial premium payment required to purchase the Contract, the maximum age at which a purchaser would be able to purchase the Contract, the free withdrawal amount, and the death benefit options available under the Contract. The minimum initial premium of the Contract is \$15,000 (\$1,500 for certain employee benefit plans) under Option Package I and \$5,000 (\$1,500 for certain employee benefit plans) under Option Packages II and III. The Contracts provide for an annual administrative charge of \$30 that Golden American deducts on each Contracts Anniversary and upon a full surrender of a Contract, a daily asset-based administrative charge deducted at an annual rate of 0.15%, along with a daily mortality and expense risk charge deducted from the assets of the Account at annual rates of

1.45% for Option Package I, 1.65% for Option Package II, and 1.80% for Option Package III, of the Account's average daily net assets. The charge for the death benefit is included in the mortality and expense risk charge. The Contract also includes an optional death benefit rider, the earnings multiplier benefit rider for which a charge will be assessed quarterly at an annual rate of 0.25% of Account value not to exceed a guaranteed maximum annual rate of 0.50%. The Contracts also provide for a charge of \$25 for each transfer of contract value in excess of 12 transfers per contract year. An optional bonus credit is available at a cost equivalent to an annual rate of 0.60% of the contract value allocated to the subaccounts for three years following the addition of a bonus credit. The premium credit option charge is also deducted from amounts allocated to the fixed-interest options resulting in a 0.60% reduction in the interest that would otherwise have been credited to those amounts in the fixed-interest options for the three contract years following the addition of a credit. Lastly, the Contracts also have a surrender charge in the form of a contingent deferred sales charge ("CDSC"), which is equal to the percentage of each premium payment surrendered or withdrawn and declines from 6% during the first year of the premium payment to 0% after 3 full years. No CDSC applies to contract value representing a free withdrawal amount and or to contract value in excess of aggregate premium payments (less prior withdrawals of premiums).

8. Owners have the options of investing in a series of the GET Fund. During the five year guarantee period, which represents the duration of a series, an owner who invests in a series of the GET Fund would be assessed an annual charge equal to 0.50% of the average daily net assets allocated to the series.

9. If an owner dies before the annuity start date, the Contracts provide, under most circumstances, for a death benefit payable to a beneficiary, computed as of the date Golden American receives written notice and due proof of death. The death benefit payable to the beneficiary depends on whether the owner selected Option Package I, II, or III. Each option package provides a death benefit upon the death of the owner which death benefit is based upon the highest amount payable under the separate death benefit options available under that option package. The death benefit options available under the option packages include: (1) The Standard Death Benefit; (2) the contract value on the claim date, less

credits applied since or within 12 months prior to death; (3) the Annual Ratchet death benefit; and (4) the 5% Roll-Up death benefit.

10. Golden American offers a bonus credit provision under the Contracts with a recurring bonus credit feature pursuant to which Golden American credits contract value in the subaccounts and the fixed-interest allocations with an amount that is a percentage of contract value. An owner may elect the bonus provision at the time of application. The initial bonus credit applies upon issuance of the contract and is based upon contract value at the time of issuance. On the third contract anniversary and every three contract-years thereafter until the annuitization of the Contract, the owner may elect to renew the bonus credit. At the third contract anniversary and every three contract-years thereafter Golden American would apply a new bonus credit to the Contract. Notice of this election will be sent to applicable owners up to sixty days before the third contract anniversary (and separately, before every third contract anniversary thereafter until annuitization of the Contract). Each new bonus credit would be allocated among an owner's subaccount allocations in proportion to the contract value in each subaccount on such contract anniversary. The initial bonus credit equals 2% of the initial contract value and each subsequent bonus credit, if elected, would equal 2% of the contract value on the applicable contract anniversary. Golden American reserves the right to increase or decrease the amount of the bonus credit or discontinue the bonus credit provision in the future. Applicants also reserve the right to modify the charge for the bonus credit consistent with any increase or decrease in the bonus credit. Golden American will provide owners who elect the bonus credit provision with at least 60 days notice of such change. Such a change will only apply to bonuses credited after the 60-day notice period.

11. Under the bonus credit provision, Golden American recaptures or retains the credited amount in the event that the owner exercises his or her cancellation right during the "free look" period. Also, in computing death benefits, Golden American may recapture credits applied since or within twelve months prior to the date of death. Finally, in the event of a surrender, Golden American will recapture all credits applied during the three years prior to surrender.

12. Under the bonus credit provision, Golden American credits amounts to an owner's contract value either by

"purchasing" accumulation units of an appropriate subaccount or adding to the owner's fixed-interest allocation option values. The initial credit is allocated in proportion to the owner's contract value in the subaccounts and fixed-interest allocations at the time of application of the credit. For bonus credits added after the initial credit, credits are allocated in proportion to the owner's contract value in the subaccounts, but not to any fixed-interest allocations. A designated subaccount will be used if there is no contract value in the subaccounts. The designated subaccount will be identified in the Contract prospectus, and the Owner will receive, along with the Contract prospectus, the prospectus for the underlying fund in which the designated subaccount invests.

13. With regard to variable contract value, several consequences flow from the foregoing. First, increases in the value of accumulation units representing bonus credits accrue to the owner immediately, but the initial value of such units only belongs to the owner when, or to the extent that, each vests. Second, decreases in the value of accumulation units representing bonus credits do not diminish the dollar amount of contract value subject to recapture. Therefore, additional accumulation units must become subject to recapture as their value decreases. Stated differently, the proportionate share of any owner's variable contract value (or the owner's interest in an Account) that Golden American can recapture increases as variable contract under (or the owner's interest in the Account) decreases. This dilutes somewhat the owner's interest in the Account vis-a-vis Golden American and other owners, and in his or her variable contract value vis-a-vis Golden American.

14. Lastly, because it is not administratively feasible to track the unvested value of bonus credits in the Account, Golden American deducts the daily mortality and expense risk charge and the daily administrative charge from the entire net asset value of the Account. As a result, the daily mortality and expense risk charge and the daily administrative charge paid by any owner is greater than that which he or she would pay without the bonus credit.

15. Applicants request that the Commission issue an order pursuant to Section 6(c) of the Act, exempting them as well as Future Accounts and Future Underwriters from the provisions of Sections 2(a)(32) and 37(i)(2)(A) of the Act and Rule 22c-1 thereunder, to the extent necessary to permit the recapture of certain credits applied to premium

payments made in consideration of the Contracts.

Applicant's Conditions

Applicants Agree to the Following Conditions

1. *Election letter.* In those states where it is available, sixty days prior to every third contract anniversary, Golden American will send a letter (the "Letter") to each applicable Owner informing him or her that he or she is eligible to elect to renew the bonus credit under the Contract. The Letter will prominently disclose in concise plain English that (a) the credit is most suitable for Owners who expect to continue their Contracts for three or more years, and (b) if the Contract is surrendered while the bonus remains subject to recapture, then the Owner may be worse off in certain circumstances that if he or she had not elected to renew the bonus credit provision. The letter will disclose exactly how an Owner who surrenders a Contract while the bonus credit remains subject to recapture could be worse off as a result of negative separate account investment performance than if he or she had not elected to receive the bonus credit.

2. *Election.* Golden American will send the Letter and an election form directly to Owners eligible to elect the bonus credit provision. If the Letter is more than two pages in length, Golden American will provide the election form as a separate document that also will prominently disclose in concise plain English the statements required in condition 1 above. Elections to receive bonus credits will be effective only upon receipt by Golden American of an election from Owner. The election may be provided in writing, including via facsimile or other electronic media, or provided through telephonic means evidenced by a tape recording. A Letter will precede any election of the bonus credit, including any election via telephonic means. When receiving by telephone an Owner's election to receive a recurring bonus credit, Golden American telephone representatives will recite to the Owner each of the disclosures set forth in condition 1 above, and will request that the Owner separately acknowledge each such disclosure. Golden American will forward to Owners written confirmation of the recurring bonus credit, including confirmation of recurring bonus credits elected via telephonic means.

3. *Records.* Golden American will maintain the following separately identifiable records in an easily accessible place for review by the

Commission staff: (1) Copies of the form of Letter, the election form, any tape recordings, any written confirmations evidencing a recurring bonus—including a recurring bonus elected by telephone, and any written materials or scripts for presentations by representatives regarding the bonus credit, including the dates used; (2) records showing the number and percentage (on a calendar quarter basis) of eligible Owners that elect the bonus credit; (3) records showing—the name and Contract number of each Owner who elects a bonus credit, that Owner's contract value at the time the bonus credit is elected, the amount of the credit, the Owner's name, address, telephone number and date of birth, the date that the owner signed the election form, the signed election form, and, to the extent Golden American pays a commission (or other compensation) to registered representatives in connection with an Owner's election of a bonus credit, the amount of such commission (or other compensation), and the name of any sales representative involved with the solicitation of the election of the credit who receives any compensation in connection with the Contract after the date of the election of the credit and his or her CRD number, firm affiliation, telephone number, and branch office address; (4) records of persistency information for Contracts whose Owners have elected the bonus credit provisions, including the date(s) of any subsequent surrender or withdrawal of contract value and the amount of any recaptured bonus credit; and (5) logs recording any Owner complaints about the recurring bonus credit provisions, state insurance department inquiries about the same, or litigation, arbitration or other proceedings regarding the bonus credit provisions. The logs will include the date of the complaint (or of commencement of any proceedings), the name and address of the person making the complaint or commencing the proceeding, the nature of the complaint or proceeding and the persons involved in the complaint or proceeding. The foregoing records will be retained for the longer of: (1) Six years after the later of their creation or last use, or (2) two years after the recapture period ends.

Legal Analysis

Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction or any class of persons, securities, or transactions from any provision or provisions of the Act and/or any rule under it if, and to the extent that, such exemption is necessary or appropriate in the public interest and

consistent with the protection of investors and the purpose fairly intended by the policy and provisions of the Act.

1. Subsection (i) of section 27 provides that section 27 does not apply to any registered separate account variable annuity contracts, or to the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of subsection (i). Paragraph (2) provides that it shall be unlawful for a registered separate account or sponsoring insurance company to sell a variable annuity contract supported by the separate account unless such contract is a redeemable security. Section 2(a)(32) defines a "redeemable security" as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

2. Applicants submit that the recapture of bonus credits does not, at any time, deprive an owner of his or her proportionate share of the current net assets of the Account. Until the appropriate recapture period expires, Golden American retains the right to and interest in each owner's contract value representing the dollar amount of any unvested bonus credits. Therefore, Applicants argue, if Golden American recaptures any bonus credit in the circumstances described in the Application, it would merely be retrieving its own assets. Applicants state that Golden American would grant bonus credits out of its general account assets and the amount of the credits (although not the earnings on such amounts) remain Golden American's until such amounts vest with the owner. Thus, Applicants argue that to the extent that Golden American may grant and recapture bonus credits in connection with variable contract value, it does not, at either time, deprive any owner of his or her then proportionate share of an Account's assets.

3. Applicants state that the bonus credit recapture provisions are necessary for Golden American to offer the bonus credits. Applicants argue that it would be unfair to Golden American to permit owners to keep their bonus credits upon their exercise of the Contracts' "free look" provision. Because no CDSC applies to the exercise of the "free look" provision. Applicants state that the owner could obtain a quick profit in the amount of the bonus credit at Golden American's expense by exercising that right. Similarly, the owner could take advantage of the

bonus credit by surrendering the Contract within the recapture period because some of the cost of providing the bonus credit is recouped through charges imposed over a period of years. Likewise, because no additional CDSC applies upon death of an owner, such a death shortly after the award of bonus credits would afford an owner or a beneficiary a similar profit at Golden American's expense.

4. Applicants assert that the dynamics of Golden American's bonus credit provisions do not violate sections 2(a)(32) or 27(i)(2)(A) of the Act. Nonetheless, in order to avoid any uncertainty as to full compliance with the Act, Applicants seek exemptions from these two sections.

5. Section 22(c) of the Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in the redeemable securities of any registered investment company. Rule 22c-1 thereunder imposes requirements with respect to both the amount payable on redemption of a redeemable security and the time such amount is calculated. Specifically, Rule 22c-1, in pertinent part prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security from selling, redeeming or repurchasing any such security, except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption, or of an order to purchase or sell such security.

6. Golden American's recapture of any bonus credit could be viewed as the redemption of such an interest at a price above net asset value. Applicants contend however, that the bonus credits do not violate Rule 22c-1 under the Act. Applicants argue that bonus credit provisions do not give rise to either of the evils that Rule 22c-1 was designed to address. The Rule was intended to eliminate or reduce, as far as was reasonably practicable, the dilution of the value of outstanding redeemable securities of registered investment companies through their sale at a price below net asset value or their redemption at a price above net asset value, or other unfair results, including speculative trading practices.

7. Applicants argue that the evils prompting the adoption of Rule 22c-1 were primarily the result of backward pricing, the practice of basing the price of a mutual fund share on the net asset

value per share determined as of the close of the market on the previous day. Backward pricing permitted certain investors to take advantage of increases or decreases in net asset value that were not yet reflected in the price, thereby diluting the values of outstanding shares.

8. Applicants argue that the proposed bonus credit provisions pose no such threat of dilution. Applicants contend that an owner's interest in his or her contract value or in the Account would always be offered under the Contracts at a price determined on the basis of net asset value. Applicants assert recaptures of bonus credits result in a redemption of Golden American's interest in an owner's contract value or in the Account at a price determined on the basis of the Account's current net asset value and not at an inflated price. Moreover, the amount recaptured will always equal the amount that Golden American paid from its general account for the credits. Similarly, although owners are entitled to retain any investment gains attributable to the bonus credits, the amount of such gains would always be computed at a price determined on the basis of net asset value.

9. Applicants contend that the Rule 22c-1 should have no application to the bonus credit because neither of the harms that it was intended to address arise in connection with the proposed bonus credit provisions. Nonetheless, in order to avoid any uncertainty as to full compliance with the Act, Applicants seek an exemption from Rule 22c-1.

10. Applicants argue that even if the proposed bonus credit provisions would conflict with sections 2(a)(32) or 27(i)(2)(A) of the Act or Rule 22c-1 thereunder, the Commission should grant the exemptions that they request because the bonus credit provisions are generally very favorable and very beneficial for owners. The recapture provisions of the Contracts temper this benefit somewhat, but owners, unless they die, retain the ability to avoid the recapture. Although, there is a downside in declining markets to bonus credits if the owner dies or if the owner exercises his or her cancellation right during the "free look" period or if the owner surrenders the Contract, the bonus credit provisions (including their dynamic elements) are fully disclosed in the prospectus for the Contracts. The recapture provisions do not, on balance, diminish the overall value of the bonus credit provisions.

11. Applicants state that the Commission's authority under section 6(c) of the Act to grant exemptions from various provisions of the Act and rules

thereunder is broad enough to permit orders of exemption that cover classes of unidentified persons. Applicants request an order of the Commission that would exempt them, Golden American's successors in interest, Future Accounts and Future Underwriters from the provisions of sections 2(a)(32) and 27(i)(2)(A) of the Act and Rule 22c-1 thereunder. Applicants submit that the exemption of these classes of persons is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act because all of the potential members of the class could obtain the foregoing exemptions for themselves on the same basis as the Applicants, but only at a cost to each of them that is not justified by any public policy purpose. The requested exemptions would only extend to persons that in all material respects are the same as the Applicants. The Commission has previously granted exemptions to classes of similarly situated persons in various contexts and in a wide variety of circumstances, including class exemptions for recapturing bonus credits under variable annuity contracts.

12. Applicants represent that Future Contracts will be substantially similar in all material respects to the Contracts and that each factual statement and representation about the bonus credit provisions of the Contracts will be equally true of Future Contracts. Applicants also represent that each material representation made by them about the Account and DSI will be equally true of Future Accounts and Future Underwriters, to the extent that such representations relate to the issues discussed in this Application. In particular, each Future Underwriter will be registered as a broker-dealer under the Securities Exchange Act of 1934 and be a NASD member.

Conclusion

Applicants assert that the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 01-27713 Filed 11-2-01; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION**Office of the Secretary****Aviation Proceedings, Agreements Filed During Week Ending October 19, 2001**

The following Agreements were filed with the Department of Transportation under provisions of 49 U.S.C. sections 412 and 414. Answers may be filed within 21 days after the filing of the applications.

Docket Number: OST-2001-10843.

Date Filed: October 15, 2001.

Parties: Members of the International Air Transport Association.

Subject: CTC Comp 0369 data 16 October 2001, Mail Vote 168—Resolution 010tt, Special ECAA Amending/Rescission Resolution, Intended effective date: 1 November 2001 for implementation, 1 February 2002.

Docket Number: OST-2001-10849.

Date Filed: October 15, 2001.

Parties: Members of the International Air Transport Association.

Subject: PTC3 0514 dated 16 October 2001, Mail Vote 154—Resolution 010s, TC3 Special Passenger Amending Resolution between China and Korea, Intended effective date: 30 October 2001.

Docket Number: OST-2001-10863.

Date Filed: October 17, 2001.

Parties: Members of the International Air Transport Association.

Subject: PTC123 0155/0156 dated 24 September 2001, Mail Votes 148/149 (Summary attached), TC123 Mid/South Atlantic Resolutions, PTC123 0162/0163 dated 19 October 2001 (Adoption), Report: PTC123 0160 dated 16 October 2001. Intended effective dates: 1 November 2001, 1 March 2002.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01-27737 Filed 11-2-01; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION**Office of the Secretary****Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending October 19, 2001**

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under subpart B (formerly subpart Q) of the Department

of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period, DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST-1996-2016.

Date Filed: October 15, 2001.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 5, 2001.

Description: Application of Continental Airlines, Inc., pursuant to 49 U.S.C. section 41102 and subpart B, requesting renewal of its Route 739 certificate, authorizing Continental to provide scheduled air transportation of persons, property, and mail between New York/Newark and the coterminal points Sao Paulo and Rio de Janeiro.

Docket Number: OST-1996-1648.

Date Filed: October 18, 2001.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: November 8, 2001.

Description: Application of Continental Airlines, Inc., pursuant to 49 U.S.C. section 41102 and subpart B, for renewal of its Route 733 certificate authorizing Continental to provide scheduled foreign air transportation of persons, property, and mail between a point or points in the United States and a point or points in the United Kingdom, excluding London's Heathrow and Gatwick airports.

Dorothy Y. Beard,

Federal Register Liaison.

[FR Doc. 01-27738 Filed 11-2-01; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION**Office of the Secretary**

[Docket OST-01-9718]

Application of Sum Air Services, Inc. d/b/a Paradise Air for Issuance of Commuter Air Carrier Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause (Order 2001-10-16)

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding that Sum Air Services, Inc. d/b/a Paradise Air is fit, willing, and able, to provide commuter

air carrier service using small aircraft under 49 U.S.C. 41738.

DATES: Persons wishing to file objections should do so no later than November 16, 2001.

ADDRESSES: Objections and answers to objections should be filed in Docket OST-01-9718 and addressed to Department of Transportation Dockets (SVC-124, Room PL-401), 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Janet Davis, Air Carrier Fitness Division (X-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9721.

Dated: October 30, 2001.

Read C. Van De Water,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 01-27739 Filed 11-2-01; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION**Office of the Secretary, Federal Aviation Administration**

[Docket No. OST-20001-9849]

Notice of Market-based Actions To Relieve Airport Congestion and Delay; Indefinite Suspension of the Closing Date of the Comment Period

AGENCY: Office of the Secretary, DOT, Federal Aviation Administration, DOT.

ACTION: Notice to suspend until further notice the closing date of the comment period on market-based actions to relieve airport congestion and delay.

SUMMARY: In a notice published on August 21, 2001, the DOT requested comments on the possible role, feasibility, and effectiveness of using market-based approaches to relieve airline flight delays and congestion at busy airports. The comment period is scheduled to close on November 19, 2001. This notice suspends the closing date of the comment period until further notice.

FOR FURTHER INFORMATION CONTACT: Larry Phillips, Senior Economic Policy Advisor, 202-366-4868 or Nancy Kessler, Senior Attorney-Advisor, 202-366-9301.

SUPPLEMENTARY INFORMATION:**Background**

On August 21, 2001, the DOT issued a "Notice of Market-based Actions to Relieve Airport Congestion and Delay" (66 FR 43947, August 21, 2001). In that

notice, respondents were asked to provide comments, information, and/or data to address questions illustrative of the types of considerations the Department was seeking to evaluate, regarding how market-based approaches, as well as administrative actions, could work to relieve congestion at busy airports, including the design, implementation, and impacts of these approaches or actions.

Suspension of the Closing Date of the Comment Period

The terrorist attacks of September 11, 2001 on the World Trade Center and the Pentagon caused the FAA to temporarily cease all non-military flights in the United States and required airports and airlines to adopt certain security measures prior to the resumption of commercial service. In response to the new security requirements and lowered passenger demand, several airlines have reduced the number of aircraft operations below previously planned levels throughout the national airport system. These factors, at least in the short-run, have contributed to a significant decrease in airport congestion at formerly busy airports.

In these circumstances, the Department has determined that it would be reasonable and in the public interest to suspend until further notice the closing date of the comment period for the notice 66 FR 43947, August 21, 2001. At the appropriate time, the Department will publish an advance notice giving the new closing date for comments.

Issued on October 31, 2001 in Washington, DC.

Susan McDermott,

Deputy Assistant Secretary for Aviation and International Affairs, Department of Transportation.

Louise Maillett,

Acting Assistant Administrator for Policy, Planning, and International Aviation, Federal Aviation Administration.

[FR Doc. 01-27740 Filed 11-2-01; 8:45 am]

BILLING CODE 4910-62-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Number NHTSA-2001-10866]

Reports, Forms, and Recordkeeping Requirements

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

ACTION: Request for comment on collections of information.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the National Highway Traffic Safety Administration (NHTSA) is planning to submit the following Information Collection Request (ICR) to the Office of Management and Budget (OMB): Exemption from the Make Inoperative Prohibition, Modifier Identification and Consumer Notification, OMB Control Number 2127-New. Before submitting the ICR to OMB for review and approval, NHTSA is soliciting comments on specific aspects of the information collection contained in the final rule of February 27, 2001 (66 FR 12638), "Exemption from the Make Inoperative Prohibition."

DATES: Comments must be received on or before January 4, 2002.

ADDRESSES: Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted to U.S. Department of Transportation Dockets, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the collection of information for which a comment is provided, by referencing its OMB Control Number. It is requested, but not required, that one original plus two copies of the comments be provided. The Docket Section is open on weekdays from 10:00 a.m. to 5:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Gayle Dalrymple, Telephone: (202) 366-5559. Fax: (202) 493-2739.

SUPPLEMENTARY INFORMATION:

Affected Entities: Businesses that modify vehicles so that the vehicles may be used by persons with disabilities.

Title: Exemption from the Make Inoperative Prohibition.

I. Background

On February 27, 2001 NHTSA published a final rule (66 FR 12638) to facilitate the modification of motor vehicles so that persons with disabilities can drive or ride in them as passengers. In that final rule, the agency issued a limited exemption from a statutory provision that prohibits specified types of commercial entities from either removing safety equipment or features installed on motor vehicles pursuant to the Federal motor vehicle safety standards or altering the equipment or features so as to adversely affect their performance. The exemption is limited in that it allows repair businesses to modify only certain types of Federally-required safety equipment and features, under specified circumstances. The regulation is found at 49 CFR part 595 Subpart C—Vehicle Modifications to Accommodate People with Disabilities.

This final rule included two new "collections of information," as that term is defined in 5 CFR part 1320 *Controlling Paperwork Burdens on the Public*: modifier identification and a document to be provided to the owner of the modified vehicle stating the exemptions used for that vehicle and any reduction in load carrying capacity of the vehicle of more than 100 kg (220 lbs).

II. Modifier Identification

Modifiers who take advantage of the exemption created by this rule are required to furnish NHTSA with a written document providing the modifier's name, address, and telephone number, and a statement that the modifier is availing itself of the exemption. The rule requires:

S595.6 Modifier Identification

(a) Any motor vehicle repair business that modifies a motor vehicle to enable a person with a disability to operate, or ride as a passenger in, the motor vehicle and intends to avail itself of the exemption provided in 49 CFR 595.7 shall furnish the information specified in paragraphs (a)(1) through (3) of this section to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

(1) Full individual, partnership, or corporate name of the motor vehicle repair business.

(2) Residence address of the motor vehicle repair business and State of incorporation if applicable.

(3) A statement that the motor vehicle repair business modifies a motor vehicle to enable a person with a disability to operate, or ride as a passenger in, the motor vehicle and intends to avail itself of the exemption provided in 49 CFR 595.7.

(b) Each motor vehicle repair business required to submit information under paragraph (a) of this section shall submit the information not later than August 27, 2001. After that date, each motor vehicle repair business that modifies a motor vehicle to enable a person with a disability to operate, or ride as a passenger in, the motor vehicle and intends to avail itself of the exemption provided in 49 CFR 595.7 shall submit the information required under paragraph (a) not later than 30 days after it first modifies a motor vehicle to enable a person with a disability to operate, or ride as a passenger in, the motor vehicle. Each motor vehicle repair business who has submitted required information shall keep its entry current, accurate and compete by submitting revised information not later than 30 days after the relevant changes in the business occur."

This requirement is a one-time submission unless changes are made to the business as described in paragraph (b). NHTSA estimates that there are currently 400 businesses making modifications to motor vehicles to accommodate persons with disabilities. Of those 400, we estimate 85 percent

will need to use the exemptions provided by 49 CFR 595.7 (340 businesses). We estimate that the burden hours to meet the requirement of paragraph (a) will be a one-time expenditure of 56.8 hours nationwide in 2001:

$340 \text{ businesses} \times 10 \text{ minutes/business} = 56.8 \text{ hours.}$

We estimate the material cost associated with this one-time submission to be 44 cents per responding business, or \$149.60 nationwide. After the initial submission there will be an annual burden for businesses that begin using the exemptions, or make changes to the information required in paragraph (a). We estimate that five percent of the 340 businesses using the exemptions (85% of 400) will experience these changes annually. This will cause an annual burden of 2.8 hours and \$7.48 in each year after 2001.

Burden means the total time, effort, or financial resources expended by person to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instruction; 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; and transmit or otherwise disclose the information.

We seek comment on:

1. Is our estimate of 400 businesses engaged in vehicle modification to accommodate people with disabilities correct?
2. Are we correct in assuming that a maximum of 85 percent of those 400 businesses, or 340 businesses, will need to use the exemptions provided by 49 CFR 595.7?
3. Are our estimates of the burden hours and material cost of compliance with 49 CFR 595.6 reasonable?

III. Identification of Which Portions of the Exemption Are Being Used

Modifiers who avail themselves of the exemptions in 49 CFR 595.7 are required to keep a record, for each applicable vehicle, listing which standards, or portions thereof, no longer comply with the Federal motor vehicle safety standards and to provide a copy to the owner of the vehicle modified (see 49 CFR 595.7 (b) and (e) as published in the final rule).

We estimate that:

1. There are approximately 2,300 vehicles modified for persons with disabilities per year by 400 businesses,
2. If 85 percent of the 400 businesses use the exemptions provided by 49 CFR 595.7, those 340 businesses will modify 1955 vehicles annually, and
3. The burden for producing the record required by 49 CFR 595.7 in accordance with paragraph (e) for those vehicles will be 652 hours per year nationwide.

In the final rule we anticipated that the least costly way for a repair business to comply with this portion of the new rule would be to annotate the vehicle modification invoice as to the exemption, if any, involved with each item on the invoice. The cost of preparing the invoice is not a portion of our burden calculation, as that preparation would be done in the normal course of business. The time needed to annotate the invoice, we estimate, is 20 minutes. Therefore, the burden hours for a full year are calculated as:

$1,955 \text{ vehicles} \times 20 \text{ minutes/vehicle} = 651.7 \text{ hours.}$

For 2001 the burden will be reduced because the rule did not become effective until April 30. Therefore, the annual burden will be reduced by 4/12 to 217.2 hours for 2001.

This burden includes the calculation required by 49 CFR 595.7(e)5, but not the gathering of the information required for the calculation. That information would be gathered in the normal course of the vehicle modification. The only extra burden required by the new rule is the calculation of the reduction in loading carrying capacity and conveying this information to the vehicle owner. Again we are assuming that annotation on the invoice is the least burdensome way to accomplish this customer notification.

There will be no additional material cost associated with compliance with this requirement since no additional materials need be used above those used to prepare the invoice in the normal course of business. We are assuming it is normal and customary in the course of vehicle modification business to prepare an invoice, to provide a copy of the invoice to the vehicle owner, and to keep a copy of the invoice for five years after the vehicle is delivered to the owner in finished form.

We seek comment on whether our assumptions about the following are reasonable:

1. The document required by 49 CFR 595.7(b) and specified in paragraph (e)

will need to be prepared for approximately 1,955 vehicles modified nationwide per year,

2. Annotation of each vehicle modification invoice as to which exemptions were used will take an average of 20 minutes, and

3. It is normal in the course of vehicle modification business to prepare an invoice, to provide a copy of the invoice to the vehicle owner, and to keep a copy of the invoice for five years after the vehicle is delivered to the owner in finished form.

IV. Summary

The estimated burden for modifiers wishing to use the new make inoperative exemptions allowed by 49 CFR 595.7 to identify themselves to NHTSA according to 49 CFR 595.6 was calculated as follows:

2001

Respondents 340.0
Responses $\times 1.0$
Hrs/response $\times 0.167$
2001 burden = 56.8 hours
and
\$/response $\times 0.44 = \$149.60$

Years after 2001

Respondents 17.0
Responses $\times 1.0$
Hrs/response $\times 0.167$
2001 burden = 2.8 hours
and
\$/response $\times 0.44 = \$7.48$

The estimated burden for preparing the document required by 49 CFR 595.7(b) and specified in paragraph (e) was calculated as follows:

2001

Respondents 340.0
Av. # Responses $\times 1.92$
Hrs/response $\times 0.333$
2001 burden = 217.2 hours

Years after 2001

Respondents 340.0
Av. # Responses $\times 5.75$
Hrs/response $\times 0.167$
Annual burden = 2.8 hours
Total reporting burden for 2001 is: $57 + 217 = 274$ hours, and \$149.60.
Total reporting burden for years after 2001 is: $3 + 652 = 655$ hours, and \$7.48.

Issued on: October 31, 2001.

Stephen R. Kratzke,
Associate Administrator for Safety
Performance Standards.

[FR Doc. 01-27735 Filed 11-2-01; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34109]

**Oakdale Traction Corporation—
Acquisition and Operation
Exemption—Union Pacific Railroad
Company**

Oakdale Traction Corporation (OTC), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from Union Pacific Railroad Company (UP) and operate a 1.12-mile line of railroad that extends between milepost 123.35 and milepost 124.47, at Oakdale, Stanislaus County, CA (Oakdale line).¹

While Mr. and Mrs. Brichetto, now OTC, may have acquired the Oakdale line on June 27, 2001, the exemption that provides the regulatory approval for this transaction did not become effective until October 23, 2001, 7 days after the filing of the verified notice of exemption by OTC. OTC states that it will commence operating the Oakdale line upon receiving its first request for rail service but not sooner than October 23, 2001.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34109 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, Esq., 208 South LaSalle Street, Suite 1890, Chicago, IL 60604-1194.

¹ According to the verified notice of exemption, John Brichetto and Jacqueline Brichetto (Mr. and Mrs. Brichetto) acquired the Oakdale line for rail use from UP by a quitclaim deed on June 27, 2001. OTC states that Mr. and Mrs. Brichetto evidently were unaware of the requirement that they needed Board approval under 49 U.S.C. 10901, or an exemption therefrom under 49 CFR 1150.31, to acquire the Oakdale line. OTC maintains that, upon learning of that requirement, Mr. and Mrs. Brichetto incorporated OTC and conveyed the Oakdale line to it. OTC notes that the Oakdale line is the remaining segment of a 53-mile line of railroad formerly owned by UP's predecessor, the Southern Pacific Transportation Company, that extended between Stockton, CA, and Montpelier, CA (Stockton-Montpelier line). OTC states that its assessment of railroad map information indicates that, except for the Oakdale line, the Stockton-Montpelier line was abandoned sometime between 1975 and 1982.

Board decisions and notices are available on our website at www.stb.dot.gov.

Decided: October 29, 2001.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01-27733 Filed 11-2-01; 8:45 am]

BILLING CODE 4915-00-P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket BTS-2001-10909]

**Notice of Request To Renew the
Approval of Information Collections:
OMB No. 2139-0002 and 2139-0004
(Financial and Operating Statistics for
Motor Carriers of Property)**

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice and request for comments.

OMB Control Numbers: 2139-0002 (Form QFR) and 2139-0004 (Form M).

SUMMARY: This notice announces that the Bureau of Transportation Statistics (BTS) intends to request the Office of Management and Budget (OMB) to renew approval for two information collections, the Quarterly Report of Class I Motor Carriers of Property (Form QFR) and Annual Report of Class I and Class II Motor Carriers of Property, (Form M). The information collections are necessary to ensure that motor carriers comply with financial and operating statistics requirements as prescribed in the BTS regulations (49 CFR 1420). This notice is required by the Paperwork Reduction Act.

DATES: January 4, 2002.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management System (DMS). You may submit your comments by mail or in person to the Docket Clerk, Docket No. BTS-2001-10909, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL-401, Washington, DC 20590-0001. The DMS is open for examination and copying, at the above address, from 9 a.m. to 5 p.m., Monday through Friday, except federal holidays.

If you wish to file comments using the Internet, you may use the DOT DMS website at <http://dmses.dot.gov>. Please follow the online instructions for submitting an electronic comment. Comments should identify the docket number and be submitted in duplicate. If you would like the Department to

acknowledge receipt of your comment, you must submit a self-addressed stamped postcard on which the following statement is made: Comments on Docket BTS-2001-10909. The Docket Clerk will date stamp the postcard prior to returning it to you via the U.S. mail.

FOR FURTHER INFORMATION CONTACT:

Paula R. Robinson, Compliance Program Manager, K-27, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590; (202) 366-2984; Fax: (202) 366-3364; e-mail: paula.robinson@bts.gov.

SUPPLEMENTARY INFORMATION:**I. The Data Collection**

The Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35; as amended) and 5 CFR part 1320 require each Federal agency to obtain an OMB approval to continue an information collection activity for which the agency received prior approval. BTS is seeking OMB approval for the following two BTS information collection activities whose prior OMB approvals are near the expiration date:

(1) *Title:* Quarterly Report of Class I Motor Carriers of Property. OMB Control No. 2139-0002.

Form No.: BTS Form QFR.

Type of Review: Extension of a currently approved collection.

Respondents: Class I Motor Carriers of Property.

Number of Respondents: 1,000 (per quarter).

Estimated Time Per Response: 1.8 hours (27 minutes per quarter).

Expiration Date: March 31, 2002.

Frequency: Quarterly.

Total Annual Burden: 1,800 hours.

(2) *Title:* Annual Report of Class I and Class II Motor Carriers of Property. OMB Control No. 2139-0004.

Form No.: BTS Form M.

Type of Review: Extension of a currently approved collection.

Respondents: Class I and Class II Motor Carriers of Property.

Number of Respondents: 3,000 (per year).

Estimated Time Per Response: 9 hours.

Expiration Date: March 31, 2002.

Frequency: Annually.

Total Annual Burden: 27,000 hours.

Background

The Quarterly Report of Class I Motor Carriers of Property (Form QFR) and Annual Report of Class I and Class II Motor Carriers of Property (Form M) are mandated reporting requirements for for-hire motor carriers. Motor carriers required to comply with the BTS

regulations are classified on the basis of their annual gross carrier operating revenues (including interstate and intrastate). Under the financial and operating statistics (F&OS) program the BTS collects balance sheet and income statement data along with information on tonnage, mileage, employees, transportation equipment, and other related data. The data and information collected is made publicly available and used by the BTS to determine a motor carrier's compliance with the F&OS program requirements prescribed in the BTS regulations (49 CFR 1420). The regulations were formerly administered by Interstate Commerce Commission (ICC) and later transferred to the U.S. Department of Transportation on January 1, 1996, by the ICC Termination Act of 1995 (the Act), Public Law 104-88, 109 Stat. 803 (1995) (codified at 49 U.S.C. 14123).

II. Request for Comments

BTS requests comments on any aspects of these information collections, including (1) The accuracy of the estimated burden; (2) ways to enhance the quality, usefulness, and clarity of the collected information; and (3) ways to minimize the collection burden without reducing the quality of the information collected including additional use of automated collection techniques or other forms of information technology.

Electronic Access and Filing

You may submit or retrieve comments online through the Docket Management System (DMS) at <http://dmses.dot.gov>. Please include the docket number appearing in the heading of this document. Acceptable formats include: MS Word (Versions 95 to 97), MS Word for Mac (Versions 6 to 8), Rich Text File (RTF), American Standard Code Information Interchange (ASCII)(TXT), Portable Document Format (PDF), and WordPerfect (Versions 7 to 8). The DMS is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site. You may also download an electronic copy of this document from the DOT Docket Management System on the Internet at <http://dmses.dot.gov>.

Issued in Washington, DC.

Russell B. Capelle, Jr.,

Assistant BTS Director for Motor Carrier Information, Department of Transportation.
[FR Doc. 01-27736 Filed 11-2-01; 8:45 am]

BILLING CODE 4910-FE-P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 25, 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 December 5, 2001 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506-0009.

Form Number: TD F 90-22.1.

Type of Review: Extension.

Title: Financial Recordkeeping and Reporting of Currency and Foreign Financial Accounts.

Description: The Bank Secrecy Act, Public Law 90-508, authorizes the Secretary of the Treasury to require financial institutions and individuals to keep records and file reports that the Secretary determines to have a high degree of usefulness in criminal, tax, and regulatory matters.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institution.

Estimated Number of Recordkeepers: 13,000,000.

Estimated Burden Hours Per Recordkeeping:

Form and/or CFR part	Title	Response time
IRS Form 4789; 31 CFR 103.22(b)(1), 103.27(a), 103.27(d), and 103.28.	Reports of Transactions in Currency	5 minutes.
IRS Form 8362; 31 CFR 103.22(b)(2), 103.27(a), 103.27(d), and 103.28.	Reports of Transactions in Currency	19 minutes (per respondent), 5 minutes (per recordkeeper).
TD 90-22.53; 31 CFR 103.22(d), 103.27(a), and 103.27(d).	Transactions of Exempt Person	1 hour, 22 minutes.
Customs Form 4790; 31 CFR 103.23 and 103.27.	Reports of Transportation of Currency or Monetary Instruments.	11 minutes.
TD F 90-22.1; 31 CFR 103.24, 103.27(d), 103.32.	Report of Foreign Bank and Financial Accounts; and Reports of Foreign Financial Accounts.	10 minutes (per respondent), 5 minutes (per recordkeeper).
31 CFR 103.25	Reports of Transactions with Foreign Agencies.	1 hour.
31 CFR 103.26 and 103.33(d)	Reports of Certain Domestic Coin and Currency Transactions.	19 minutes (per respondent), 5 minutes (per recordkeeper).
31 CFR 103.29 and 103.38	Purchases of Bank Checks and Drafts, Cashier's Checks, Money Orders and Traveler's Checks.	7 hours, 30 minutes.
31 CFR 103.33: 103.33(a)-(c)	Records to be Made and Retained by Financial Institutions.	50 hours.
103.33(e)-(f)		16 hours.
103.33(g), 103.38		12 hours.
31 CFR 103.34 and 103.38	Additional Records to be Made and Retained by Banks.	100 hours.
31 CFR 103.35 and 103.38	Additional Records to be Made and Retained by Brokers or Dealers in Securities.	100 hours.
31 CFR 103.36: 103.36(a)&(b)(1)-(8)	Additional Records to be Made and Retained by Casinos.	100 hours.
103.36(b)(9), 103.36(b)(11)		7 hours, 30 minutes.

Form and/or CFR part	Title	Response time
103.36(c), 103.38	Additional Records to be Made and Retained by Currency Dealers and Exchangers.	4 hours.
31 CFR 103.37 and 103.38	Nature of Records and Retention Period	16 hours.
31 CFR 103.38	Special Rules or Casinos	100 hours.
31 CFR 103.64, 103.36(b)(10), and 103.38	Administrative Rulings	1 hour.
31 CFR 103.81–87		

Frequency of Response: Annually.
Estimated Total Recordkeeping Burden: 10,942,392 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. 01–27649 Filed 11–2–01; 8:45 am]
BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

October 25, 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 December 5, 2001 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1612.
Regulation Project Number: REG–209830–96 Final.
Type of Review: Extension.
Title: Estate and Gift Tax Marital Deduction.

Description: The information requested in regulation section 20.2056(b)–7(d)(3)(ii) is necessary to provide a method of estates of decedents whose estate tax returns were due on or before February 18, 1997, to obtain an extension of time to make the qualified terminable interest property (QTIP) election under section 2056(b)(7)(B)(v).

Respondents: Individuals or households.
Estimated Number of Respondents: 1.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: Other (once).
Estimated Total Reporting Burden: 1 hour.
Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,
Departmental Reports Management Officer.
 [FR Doc. 01–27650 Filed 11–2–01; 8:45 am]
BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Notice 98–52

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Notice 98–52, Cash or Deferred Arrangements; Nondiscrimination.

DATES: Written comments should be received on or before January 4, 2002 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the notice should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Cash or Deferred Arrangements; Nondiscrimination.

OMB Number: 1545–1624.

Notice Number: Notice 98–52.

Abstract: This notice provides guidance to plan administrators, plan sponsors, etc., regarding nondiscriminatory safe harbors with respect to Internal Revenue Code sections 401(k)(12) and 401(m)(11), as amended by the Small Business Job Protection Act of 1996. The safe harbor provisions pertain to the actual deferral percentage test and the actual contribution percentage test for cash or deferred arrangements and for defined contribution plans. To take advantage of the safe harbor provisions, plan sponsors must amend their plans to reflect the new law and must provide plan participants with an annual notice describing the benefits available under the plan.

Current Actions: There are no changes being made to the notice at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, and not-for-profit institutions.

Estimated Number of Respondents: 60,000.

Estimated Time Per Respondent: 1 hour, 20 minutes.

Estimated Total Annual Burden Hours: 80,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the

information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information

technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 29, 2001.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 01-27741 Filed 11-2-01; 8:45 am]

BILLING CODE 4830-01-P



Federal Register

**Monday,
November 5, 2001**

Part II

Environmental Protection Agency

**Office of Environmental Justice Small
Grants Program—Application Guidance FY
2002; Notice**

ENVIRONMENTAL PROTECTION AGENCY**[FRL-7097-5]****Office of Environmental Justice Small Grants Program—Application Guidance FY 2002****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

SUMMARY: This guidance outlines the purpose, goals, and general procedures for application and award under the Fiscal Year (FY) 2002 (October 1, 2001–September 30, 2002) Environmental Justice Small Grants Program. For FY 2002, the EPA will make available approximately \$1,500,000 in grant funds to eligible organizations (pending availability of funds); \$500,000 of this amount is available for Superfund projects only.

DATES: The application must be delivered by close of business Friday, February 21, 2002 to your appropriate EPA regional office (listed in section III) or postmarked by midnight Friday, February 21, 2002.

ADDRESSES: For specific application delivery please contact the appropriate EPA regional office listed in section III.

FOR FURTHER INFORMATION CONTACT: Sheila Lewis, Senior Program Analyst, EPA Office of Environmental Justice, (202) 564-0152.

SUPPLEMENTARY INFORMATION:*This Guidance Includes the Following*

- I. Scope and Purpose of the Environmental Justice Small Grants Program
- II. Eligible Applicants and Activities
- III. Application Requirements
- IV. Process for Awarding Grants
- V. Expected Time-frame for Reviewing and Awarding Grants
- VI. Project Period and Final Reports
- VII. Fiscal Year 2003 Environmental Justice Small Grants Program
- Appendix A: Standard Forms 424 and 424A and Completed Sample Forms
- Appendix B: Copy of 40 CFR 30.27 "Allowable Costs"
- Appendix C: Guidance on Lobbying Restrictions
- Appendix D: Tips on Preparing an Application
- Appendix E: State Single Points of Contact
- Appendix F: Additional Government Application Forms

Translations Available

The Spanish translation of this application is found at the back of this document. Please note the forms are translated into Spanish but MUST be completed in English.

I. Scope and Purpose of the OEJ Small Grants Program

The purpose of this grant program is to provide financial assistance to eligible community groups (i.e., community-based/grassroots organizations, churches, or other nonprofit organizations with a focus on community-based issues) and federally recognized tribal governments that are working on or plan to carry out projects to address environmental justice issues. Preference for awards will be given to community-based/grassroots organizations that are working on local solutions to local environmental problems. Funds can be used to develop a new activity or substantially improve the quality of existing programs that have a direct impact on affected communities. All awards will be made in the form of a grant not to exceed one year.

Background

In its 1992 report, "Environmental Equity: Reducing Risk for All Communities," the EPA found that minority and/or low-income populations may experience higher than average exposure to toxic pollutants than the general population. The EPA established the Office of Environmental Justice (OEJ) in 1992 to help these communities identify and assess pollution sources, to implement environmental awareness and training programs for affected residents, and to work with community stakeholders to devise strategies for environmental improvements.

In June of 1993, OEJ was delegated granting authority to solicit, select, supervise, and evaluate environmental justice-related projects, and to disseminate information on the projects' content and effectiveness. Fiscal year (FY) 1994 marked the first year of the OEJ Small Grants Program. The chart below shows how the grant monies have been distributed since FY 1994.

Fiscal Year	Amount (\$)	Number of Awards
1994	500,000	71
1995	3,000,000	175
1996	2,800,000	152
1997	2,700,000	139
1998	2,500,000	123
1999	1,455,000	95
2000	899,000	61
2001	1,300,000	79

How Does EPA Define Environmental Justice Under the Environmental Justice Small Grants Program?

Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, culture, education, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no one group of people, including racial, ethnic, or socioeconomic groups, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal environmental programs and policies. Meaningful

involvement means that: (1) Potentially affected community residents have an appropriate opportunity to participate in decisions about a proposed activity that will affect their environment and/or health; (2) the public's contribution can influence the regulatory agency's decision; (3) the concerns of all participants involved will be considered in the decision-making process; and (4) the decision-makers seek out and facilitate the involvement of those potentially affected.

II. Eligible Applicants and Activities*A. Who May Submit Applications and May Applicants Submit More Than One?*

Any affected, non-profit community organization¹ or federally recognized tribal government may submit an application upon publication of this solicitation. Applicants must be non-profit to receive these federal funds. State-recognized tribes or indigenous peoples' organizations can apply for grant assistance if they meet the definition of a nonprofit organization. "Non-profit organization" means any corporation, trust, association, cooperative, or other organization that: (1) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest; (2) is not organized primarily for profit; and (3) uses its net proceeds to maintain, improve, and/or expand its operations. Non-profit status may be demonstrated through designation by the Internal Revenue Service as a 501(c) organization or evidence that a state recognizes the organization's non-profit status. While state and local governments and academic institutions are eligible to receive grants, preference will be given to non-profit, community-based/grassroots organizations and federally recognized tribal governments. Preference may be given to those organizations that have not received previous grants under the Environmental Justice Small Grants Program. Individuals are not eligible to receive grants.

The Environmental Justice Small Grants Program is a competitive process. To prevent preferential treatment to any single potential applicant, the Agency will offer training and/or conference calls on grant application guidelines. We encourage you to participate so that you can have your questions answered in a public forum. Call your Regional office to inquire about the scheduled dates of the special training and conference calls.

The EPA will consider only one application per applicant for a given project. Applicants may submit more than one application if the applications are for separate and distinct projects or activities. Applicants that previously received small grant funds may submit an application for FY 2002. Every application for FY 2002 is evaluated based on the merit of the proposed project in comparison to other FY 2002 applications. Past performance may be considered during the ranking and evaluation process for those applicants who have received previous grants.

¹ As a result of the Lobbying Disclosure Act of 1995, EPA (and other federal agencies) may not award grants to non-profit, 501(c)(4) organizations that engage in lobbying activities.

B. What Types of Projects Are Eligible for Funding?

While there are many applications submitted from community groups for equally worthwhile projects, the EPA is emphasizing the need for two types of projects, multimedia and research. Multimedia projects address pollution in more than one environmental medium (e.g., air, water, etc.). Projects which are research-oriented and specific to hazardous substances are considered for funding available under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). This Act is often referred to as "Superfund." With the exception of grants awarded with Superfund appropriations, the Office of Environment Justice Small Grants Program awards grants on a multi-media basis.

Focus Area for Bonus Points

The Office of Environmental Justice which manages the Agency's national grants program would like to elicit grant applications in two specific areas. The Office has asked the National Environmental Justice Advisory Council to hold two public meetings focusing on: (a) Fish consumption, water quality, and environmental justice; and (b) innovative technologies for pollution prevention. Thus, as a result, we are encouraging applicants to focus their projects on one of these two topics and will add up to ten (10) bonus points for applications concerning one of these two topics.

To be considered for funding, the application must meet the criteria under either Item 1 or Item 2 below:

1. Multi-Media Requirements (use two)

Recipients of these funds must implement projects that address pollution in more than one environmental medium (e.g., air, water). To show evidence of the breadth of the project's scope, the application must identify at least two environmental statutes that the project will address. To be eligible for funding, your project must include activities outlined in the following environmental statutes:

A. Statutes

(1) Clean Water Act, section 104(b) (3): conduct and promote the coordination of research, investigations, experiments, training, demonstration, surveys, and studies relating to the causes, extent, prevention, reduction, and elimination of water pollution.

(2) Safe Drinking Water Act, section 1442(b) (3): develop, expand, or carry out a program (that may combine training, education, and employment) for occupations relating to the public health aspects of providing safe drinking water.

(3) Solid Waste Disposal Act, section 8001(a): conduct and promote the coordination of research, investigations, experiments, training, demonstrations, surveys, public education programs, and studies relating to solid waste (e.g., health and welfare effects of exposure to materials present in solid waste and methods to eliminate such effects).

(4) Clean Air Act, section 103(b) (3): conduct research, investigations,

experiments, demonstrations, surveys, and studies related to the causes, effects (including health and welfare effects), extent, prevention, and control of air pollution.

(5) Toxic Substances Control Act, section 10(a): conduct research, development, monitoring, public education, training, demonstrations, and studies on toxic substances.

(6) Federal Insecticide, Fungicide, and Rodenticide Act, section 20(a): conduct research, development, monitoring, public education, training, demonstrations, and studies on pesticides.

(7) Marine Protection, Research, and Sanctuaries Act, section 203: conduct research, investigations, experiments, training, demonstrations, surveys, and studies relating to the minimizing or ending of ocean dumping of hazardous materials and the development of alternatives to ocean dumping.

B. Goals for Multi-Media Projects

In addition to the requirements outlined above, the application must also include a description of how an applicant plans to meet at least two of the three program goals listed below. See section III "Application Requirements" for more details.

(1) Identify necessary improvements in communication and coordination among all stakeholders, including existing community-based/grassroots organizations and local, state, tribal, and federal environmental programs. Facilitate communication and information exchange, and create partnerships among stakeholders to address disproportionate, high and adverse environmental exposure (e.g., workshops, awareness conferences, establishment of community stakeholder committees);

(2) Build community capacity to identify local environmental justice problems and involve the community in the design and implementation of activities to address these concerns. Enhance critical thinking, problem-solving, and active participation of affected communities. (E.g., train-the-trainer programs).

(3) Enhance community understanding of environmental and public health information systems and generate information on pollution in the community. If appropriate, seek technical experts to demonstrate how to access and interpret public environmental data (e.g., Geographic Information Systems (GIS), Toxic Release Inventories (TRI) and other databases).

2. Requirements for Research Grants Funded Under CERCLA

Recipients of these funds must implement projects that are specifically research oriented and specific to hazardous substances. The EPA's grant regulations define "research" as "systematic study directed toward fuller scientific knowledge or understanding of the subject studied," 40 CFR 30.2(dd). The EPA has interpreted "research" to include studies that extend to socioeconomic, institutional, and public policy issues as well as the "natural" sciences. Your research project *MUST* meet the following criteria:

A. Eligibility

(1) CERCLA, section 311(c) authorizes EPA to fund research grants. Therefore, Superfund grants can only be awarded when the project is of a research nature. Research must relate to the detection, assessment, and evaluation of the effects on and risks to human health from hazardous substances and the detection of hazardous substances in the environment.

(2) Applicants must demonstrate that the research project relates to "hazardous substances" as that term is defined by CERCLA 101 (14). There is a list of hazardous substances at 40 CFR 302.4 which, while not exclusive, does provide useful guidance.

(3) Research funded under CERCLA 311(c) cannot relate to petroleum products excluded from the definition of hazardous substances found at CERCLA 101(14).

(4) The project must be of a research nature only, i.e., survey, research, collecting and analyzing data which will be used to expand scientific knowledge or understanding of the subject studied. Research projects, however, need not be limited to academic studies.

Projects which expand the scientific knowledge or understanding, of a community, about hazardous substances issues, that effect their community, can be funded as EJ Superfund grants.

(5) The project cannot carry out training activities, other than training in research techniques. In other words CERCLA 311(c) research projects cannot be designed as outreach, technical assistance, or public education activities.

(6) The project can include conferences only if the purpose of the conference is to present research results or to gather research data.

B. Goal for Research Projects

In addition to the special research requirements for Superfund grants under CERCLA outlined above, the application must include a description of how the research projects can serve as models for other communities when confronted with similar problems. See section III "Application Requirements" for more details.

Please Note

(1) If your project includes scientific research and/or data collection, you must be prepared to submit a Quality Assurance Plan (QAP) to your EPA Project Officer prior to the beginning of the research. Multi media projects may also require a Quality Assurance Plan.

(2) CERCLA grants are financed with Superfund appropriations and must be limited to research grants under CERCLA 311(c). *Do not propose projects which include activities under the "multi-media" authorities described in section 1, above, to carry out a Superfund research project.*

The issues discussed above may be defined differently among applicants from various geographic regions, including areas outside the continental U.S. (Alaska, American Samoa, Guam, Hawaii, Puerto Rico, and the U.S. Virgin Islands). Each application should define its issues as they relate to the specific project. The narrative/work plan must include a succinct explanation of how the project may serve as a model in other settings

and how it addresses a high-priority environmental justice issue. The degree to which a project addresses a high-priority environmental justice issue will vary and is defined by applicants according to their local environmental justice concerns.

C. How Much Money May Be Requested, and Are Matching Funds Required?

The ceiling in federal funds for an individual grant is \$20,000. Applicants are *not* required to provide matching funds.

D. Are There Any Restrictions on the Use of the Federal Funds?

Yes. EPA grant funds can only be used for the purposes set forth in the grant agreement, and be consistent with the statutory authority for the award. Grant funds from this program cannot be used for matching funds for other federal grants, lobbying, or intervention in federal regulatory or adjudicatory proceedings. In addition, the recipient may not use these federal assistance funds to sue the federal government or any other government entity. Refer to 40 CFR 30.27, entitled "Allowable Costs" (see Appendix B). The scope of environmental justice grants may not include construction, promotional items (e.g., T-shirts, buttons, hats), and furniture purchases.

III. Application Requirements

A. What Is Required for Applications?

Proposals from eligible organizations *must* have the following:

1. Application for Federal Assistance (SF 424) the official form is required for all federal grants that requests basic information about the grantee and the proposed project. The applicant must submit the original application, and one copy, signed by a person duly authorized by the governing board of the applicant. Please complete part 10 of the SF 424 form, "Catalog of Federal Domestic Assistance Number" with the following information: 66.604—Environmental Justice Small Grants Program. See Appendix A for a copy of this form and a completed sample.

2. The Federal Standard Form (SF 424A) and budget detail, which provides information on your budget. For the purposes of this grant program, complete only the non shaded areas of SF 424A. See Appendix A for a copy and completed sample of a budget detail. Budget figures/projections should support your work plan/narrative. The EPA portion of each grant will not exceed \$20,000. Therefore, your budget should reflect this limit on federal funds.

3. A narrative/work plan of the proposal is not to exceed five pages. Applications may not be considered if they exceed five single pages. A narrative/work plan describes the applicant's proposed project. The pages of the work plan must be letter size (8½ x 11 inches), with normal type size (12 characters per inch), and at least 1" margins.

The narrative/work plan is one of the most important aspects of your application and (assuming that all other required materials are submitted) will be used as the primary basis for selection. Work plans must be submitted as follows:

- a. A one page summary that:

- Identifies the environmental justice issue(s) to be addressed by the project;
- Identifies the Environmental Justice community/target audience;
- Identifies the environmental Statutes/ Acts addressed by the project; and
- Identifies the program goal that the project will meet and how it will meet them.

- b. A concise introduction that states the nature of the organization (i.e., how long it has been in existence, if it is incorporated, if it is a network, etc.), how the organization has been successful in the past, purposes of the project, the environmental justice community/target audience, projects completion plans/time frames, and expected results.

- c. A concise project description that describes how the applicant is community-based and/or plans to involve the target audience in the project and how the applicant plans to meet at least two of the three program goals outlined in Section IIB: "Environmental Justice Small Grants Program Goals." Additional credit will not be given for projects that fulfill more than two goals.

- d. A conclusion discussing how the applicant will evaluate and measure the success of the project, including the anticipated benefits and challenges in implementing the project.

- e. An appendix with resumes of up to three key personnel who will be significantly involved in the project.

4. Letter(s) of commitment. If your proposed project includes the significant involvement of other community organizations, your application must include letters of commitment from these organizations.

Applications that do not include the information listed above in items 1–3 and item 4, if applicable, will not be considered for an award.

Please note: Your application to this EPA program may be subject to your state's intergovernmental review process and/or the consultation requirements of section 204, Demonstration Cities and Metropolitan Development Act. Check with your state's Single Point of Contact to determine your requirements. Some states do not require this review. Applicants from American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands should also check with their Single Point of Contact. A list of the states Single Point of Contact is provided in Appendix E and you may also call your EPA regional contact (listed below) or EPA Headquarters Grants Policy, Information and Training Branch at (202) 564–5325 for additional information. Federally recognized tribal governments are not required to comply with this procedure.

B. When and Where Must Applications be Submitted?

The applicant must submit/mail one signed original application with required attachments and one copy to the primary contact at the EPA regional office listed below. The application must be delivered by close of business Friday, February 21, 2002 to your appropriate EPA regional office (listed below) or postmarked by midnight

Friday, February 21, 2002. Contact your regional office for a copy of the application guidance.

Regional Contact Names and Addresses

Region 1 Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Primary Contact: Ronnie Harrington (617) 918–1703, harrington.veronica@epa.gov, USEPA Region 1 (SAA), 1 Congress Street—11th Floor, Boston, MA 02203–0001

Secondary Contact: Pat O'Leary (617) 565–3834, oleary.pat@epa.gov

Region 2 New Jersey, New York, Puerto Rico, U.S. Virgin Islands

Primary Contact: Natalie Loney (212) 637–3639, loney.natalie@epa.gov, USEPA Region 2, 290 Broadway, 26th Floor, New York, NY 10007

Secondary: Terry Wesley (212) 637–3576, wesley.terry@epa.gov

Region 3 Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia

Primary Contact: Reginald Harris (215) 814–2988, harris.reginald@epa.gov, USEPA Region 3 (3DA00), 1650 Arch Street, Philadelphia, PA 19103–2029

Region 4 Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee

Primary Contact: Gloria Love (404) 562–9672, love.gloria@epa.gov USEPA Region 4, 61 Forsyth Street, Atlanta, GA 30303–8960

Secondary: Cynthia Peurifoy (404) 562–9649, peurifoy.cynthia@epa.gov

Region 5 Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin

Primary Contact: Margaret Millard (312) 353–1440, millard.margaret@epa.gov, USEPA Region 5 (T–165), 77 West Jackson Boulevard, Chicago, IL 60604–3507

Secondary: Karla Owens (312) 886–5993, owens.karla@epa.gov

Region 6 Arkansas, Louisiana, New Mexico, Oklahoma, Texas

Primary Contact: Nelda Perez (214) 665–2209, perez.nelda@epa.gov, USEPA Region 6, Fountain Place, 12th Floor, 1445 Ross Avenue (RA–D), Dallas, Texas 75202–2733

Secondary Contact: Olivia Balandran (214) 665–7257, balandran.olivia-r@epa.gov

Region 7 Iowa, Kansas, Missouri, Nebraska

Primary Contact: March Runner (913) 551–7898 or 1–800–223–0425, runner.march@epa.gov, USEPA Region 7, 901 North 5th Street (ECORA), Kansas City, KS 66101

Secondary Contact: Althea Moses (913) 551–7649 or 1–800–223–0425, moses.althea@epa.gov

Region 8 Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming

Primary Contact: Nancy Reish (303) 312–6040, reish.nancy@epa.gov, USEPA Region 8 (8ENF–EJ), 999 18th Street, Suite 500, Denver, CO 80202–2466

Secondary: Jean Belille (303) 312–6556,

belille.jean@epa.gov

Region 9 Arizona, California, Hawaii,
Nevada, American Samoa, Guam

Primary Contact: Willard Chin (415) 744-
1204, *chin.willard@epa.gov*, USEPA
Region 9 (A-2-2), 75 Hawthorne Street,
San Francisco, CA 94105

Secondary: EJ Information Line (415) 744-
1565

Region 10 Alaska, Idaho, Oregon,
Washington

Primary Contact: Victoria Plata (206) 553-
8580, *plata.victoria@epa.gov*, USEPA
Region 10 (CEJ-163), 1200 Sixth Avenue,
Seattle, WA 98101

Secondary: Mike Letourneau (206) 553-1687,
letourneau.mike@epa.gov

IV. Process For Awarding Grants

A. How Will Applications be Reviewed?

The EPA regional offices will review, evaluate, and select grant recipients. Applications will be screened to ensure that they meet all eligible activities and requirements described in Sections II and III. Applications will be disqualified if they do not meet these eligibility standards. Applications will also be evaluated by regional review panels based on the criteria outlined below.

1. Threshold Criteria. Applications that propose projects that are inconsistent with the EPA's statutory authority or the goals for the program are ineligible for funding and will not be evaluated and ranked. Regional offices will contact applicants whose proposals do not meet the threshold requirements to determine whether the proposal can be revised to meet the threshold requirements.

2. Evaluation Criteria. Proposals will be ranked using the following criteria:

- a. Responsiveness of the Work plan to Environmental Justice issues affecting the community to be served.
- b. Effectiveness of the project design.
- c. Clarity of the Measures of Success.
- d. Qualifications of Project Staff.
- e. Bonus points for projects from focus area topics.

B. How Will the Final Selections be Made?

After the individual projects are reviewed and ranked, the EPA regional officials will compare the best applications and make final selections. Additional factors that the EPA will take into account include geographic and socioeconomic balance, diverse nature of the projects, cost, and projects whose benefits can be sustained after the grant is completed. Regional Administrators will select the final grants.

Please note that this is a very competitive grant's program. Limited funding is available and many grant applications are expected to

be received. Therefore, the Agency cannot fund all applications. If your project is not funded, a listing of other EPA grant programs may be found in the Catalog of Federal Domestic Assistance. This publication is available on the internet at www.cdfa.gov and at local libraries, colleges, or universities.

C. How Will Applicants be Notified?

After all applications are received, the regional EPA offices will mail acknowledgments to applicants in their regions. Once applications have been recommended for funding, the EPA Regions will notify the finalists and request any additional information necessary to complete the award process. The finalists will be required to complete additional government application forms prior to receiving a grant, such as the EPA Form SF-424B (Assurances—Non-Construction Programs) and EPA Form 5700-48, the Certification Regarding Debarment, Suspension, and Other Responsibility Matters. The federal government requires all grantees to certify and assure that they will comply with all applicable federal laws, regulations, and requirements. The EPA Regional Environmental Justice Coordinators or their designees will notify those applicants whose projects are not selected for funding.

V. Expected Time-Frame For Reviewing and Awarding Grants

October 30, 2001 FY 2002 OEJ Small Grants Program Application Guidance is available and published in the **Federal Register**.

November 5, 2001 to February 15, 2002

Eligible grant recipients develop and complete their applications.

February 21, 2002 Applications must be delivered by close of business Friday, February 21, 2002 to your appropriate EPA regional office (listed in section III) or postmarked by midnight Friday, February 21, 2002.

February 22, 2002 to April 29, 2002 EPA regional program officials review and evaluate applications and select grant finalists

April 30, 2002 to July 26, 2002 Applicants will be contacted by the Region if their July 26, 2002 application is being considered for funding. Additional information may be required from the finalists, as indicated in section IV. The EPA regional grant offices process grants and make awards.

September 26, 2002 EPA expects to release the national announcement of the FY 2002 Environmental Justice Small Grant Recipients.

VI. Project Period and Final Reports

Activities must be completed and funds spent within the time frame specified in the

grant award, usually one year. Project start dates will depend on the grant award date (most projects begin in August or September). The recipient organization is responsible for the successful completion of the project. The recipient's project manager is subject to approval by the EPA project officer.

However, the EPA may not identify any particular person as the project manager.

All recipients must submit final reports for EPA approval within ninety (90) days of the end of the project period. Specific report requirements (e.g., Final Technical Report and Financial Status Report) will be described in the award agreement. The EPA will collect, review, and disseminate grantees' final reports to serve as model programs.

For further information about this program, please visit the EPA's web site at www.epa.gov/oeca/ej/ or call our hotline at 1-800-962-6215 (available in Spanish).

VII. Fiscal Year 2003 Environmental Justice Small Grants Program

A. How Can I Receive Information on the Fiscal Year 2003 (October 1, 2002 to September 30, 2003) Environmental Justice Small Grants Program?

If you wish to be placed on the national mailing list to receive information on the FY 2003 Environmental Justice Small Grants Program, email your request along with your name, organization, address, and phone number to lewis.sheila@epa.gov or mail your request along with your name, organization, address, and phone number to: U.S. Environmental Protection Agency, Environmental Justice Small Grants Program (2201A), FY 2003 Grants Mailing List, Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, 1 (800) 962-6215.

If you wish to receive information on local Environmental Justice programs, you may mail or email your request along with your name, organization, address, and phone number to the appropriate regional office listed in this application.

Thank you for your interest in our Small Grants Program and we wish you luck in the application process.

Barry E. Hill,

Director, Office of Environmental Justice.

Appendix A—Standard Forms 424 and 424A

Grant Application Packages are available on <http://www.epa.gov/ogd/hqgrant/> in Adobe pdf format or WordPerfect format. To view the pdf file, you'll need the Adobe Acrobat plug-in for your browser.

BILLING CODE 6560-50-P

APPLICATION FOR FEDERAL ASSISTANCE		2. DATE SUBMITTED		Applicant Identifier	
1. TYPE OF SUBMISSION Application ☐ Construction ☐ Non-Construction Preapplication ☐ Construction ☐ Non-Construction		3. DATE RECEIVED BY STATE		State Application Identifier	
		4. DATE RECEIVED BY FEDERAL AGENCY		Federal Identifier	
5. APPLICANT INFORMATION					
Legal Name:			Organizational Unit:		
Address (give city, county, state, and zip code):			Name and telephone number of the person to be contacted on matters involving this application (give area code)		
6. EMPLOYER IDENTIFICATION (EIN): 			7. TYPE OF APPLICANT: (enter appropriate letter here) _____ A. State H. Independent School District B. County I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify): _____		
8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es): ☐ A. Increase Award ☐ C. Increase Duration Other Specify: _____ ☐ B. Decrease Award ☐ D. Decrease Duration					
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE: _____			11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: 		
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): 					
13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICT OF:			
Start Date	End Date	a. Applicant:		b. Project	
15. Estimated Funding:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESSES FOR REVIEW ON: _____ DATE _____ b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW			
a. Federal	\$	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ YES If "Yes" attach an explanation. ☐ NO			
b. Applicant	\$				
c. State	\$				
d. Local	\$				
e. Other	\$				
f. Program Income	\$				
g. TOTAL	\$				
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.					
a. Typed Name of Authorized Representative.			b. Title:		c. Telephone Number
d. Signature of Authorized Representative					e. Date Signed

BUDGET INFORMATION - Non-Construction Programs							OMB Approval No. 0348-0044
SECTION A - BUDGET SUMMARY							
Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget			
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)	
1.		\$	\$	\$	\$	\$	
2.							
3.							
4.							
5. TOTALS		\$	\$	\$	\$	\$	
SECTION B - BUDGET CATEGORIES							
6. OBJECT CLASS CATEGORIES	GRANT PROGRAM, FUNCTION OR ACTIVITY					Total (5)	
	(1)	(2)	(3)	(4)	(5)		
a. Personnel	\$	\$	\$	\$	\$	\$	
b. Fringe Benefits							
c. Travel							
d. Equipment							
e. Supplies							
f. Contractual							
g. Construction							
h. Other							
i. Total Direct Charges (sum of 6a-h)							
j. Indirect Charges							
k. TOTALS (sum of 6i and 6j)	\$	\$	\$	\$	\$	\$	
7. Program Income		\$	\$	\$	\$	\$	

Previous Edition Usable

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Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF 424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0043), Washington, DC 20503

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

This is a standard form used by applicants as a required face sheet for pre-applications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

- | Item: | Entry: | Item: | Entry: |
|-------|--|-------|--|
| 1. | Self-explanatory. | 12. | List only the largest political entities affected (e.g., State counties, cities). |
| 2. | Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). | 13. | Self explanatory. |
| 3. | State use only (if applicable). | 14. | List the applicant's Congressional District and any District(s) affected by the program or project. |
| 4. | If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. | 15. | Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. |
| 5. | Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. | 16. | Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. |
| 6. | Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. | 17. | This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. |
| 7. | Enter the appropriate letter in the space provided. | 18. | To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) |
| 8. | Check appropriate box and enter appropriate letter(s) in the space(s) provided:
_____ "New" means a new assistance award.
- "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
- "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. | | |
| 9. | Name of Federal agency from which assistance is being requested with this application. | | |
| 10. | Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. | | |
| 11. | Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. | | |

INSTRUCTIONS FOR THE SF-424A

Public reporting burden for this collection of information is estimated to average 180 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0044), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which required Federal authorization in annual or other funding period increments. In the latter case, Section A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories show in Lines a - k of Section B.

Section A. Budget Summary Lines 1 - 4, Columns (a) and (b)

For applications pertaining to a *single* federal grant program (Federal Domestic Assistance Catalog number) and *not* requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1 - 4, Columns (c) through (g).

For *new* applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For *continuing grant program* applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For *supplemental grants and changes to existing grants*, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 - Show the totals for all columns used.

Section B. Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1 - 4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function, or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i - Show the totals of Lines 6 a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A (continued)

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 - Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agency should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16-19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

APPLICATION FOR FEDERAL ASSISTANCE		2. DATE SUBMITTED 2/20/01	Applicant Identifier
1. TYPE OF SUBMISSION		3. DATE RECEIVED BY STATE	State Application Identifier
Application ☐ Construction ☐ Non-Construction	Preapplication ☐ Construction ☐ Non-Construction	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier
5. APPLICANT INFORMATION			
Legal Name: G.W. Doe Community Center		Organizational Unit:	
Address (give city, county, state, and zip code): 111 Anystreet Town, Ohio 00000		Name and telephone number of the person to be contacted on matters involving this application (give area code) G.W. Doe (111) 000-0000	
6. EMPLOYER IDENTIFICATION (EIN): 1 2 - 3 4 5 6 7 8 9		7. TYPE OF APPLICANT: (enter appropriate letter here) _____ A. State H. Independent School District B. County I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify): _____	
8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es): A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other Specify: _____		9. NAME OF FEDERAL AGENCY:	
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 6 6 --- 6 0 4 Environmental Justice Small TITLE: Grants Program		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Town Water Quality Project	
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): City of Town, Ohio			
13. PROPOSED PROJECT: 06/01/01		14. CONGRESSIONAL DISTRICT OF:	
Start Date 06/01/01	End Date 05/31/02	a. Applicant: 02	b. Project 01, 02, 03
15. Estimated Funding:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
a. Federal	\$ 14,958	a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESSES FOR REVIEW ON: DATE 12/20/95	
b. Applicant	\$	b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372	
c. State	\$	☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
d. Local	\$	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?	
e. Other	\$	☐ YES If "Yes" attach an explanation. ☐ NO	
f. Program Income	\$		
g. TOTAL	\$ 14,958		
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.			
a. Typed Name of Authorized Representative. G. W. Doe		b. Title: Executive Director	c. Telephone Number (111) 000-0000
d. Signature of Authorized Representative G. W. Doe		e. Date Signed 2/15/01	

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Standard Form 424 (REV 7-97)
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sample

BUDGET INFORMATION - Non-Construction Programs							OMB Approval No. 0348-0044
SECTION A - BUDGET SUMMARY							
Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget			
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)	
1.		\$	\$	\$	\$	\$	
2.							
3.							
4.							
5. TOTALS		\$	\$	\$	\$	\$	
SECTION B - BUDGET CATEGORIES							
6. OBJECT CLASS CATEGORIES		GRANT PROGRAM, FUNCTION OR ACTIVITY			Total (5)		
		(1)	(2)	(3)		(4)	
a. Personnel		\$5,800.00	\$	\$	\$	\$5,800.00	
b. Fringe Benefits		986.00				986.00	
c. Travel		600.00				600.00	
d. Equipment		2,223.00				2,223.00	
e. Supplies		500.00				500.00	
f. Contractual		3,149.00				3,149.00	
g. Construction							
h. Other		1,700.00				1,700.00	
i. Total Direct Charges (sum of 6a-h)							
j. Indirect Charges							
k. TOTALS (sum of 6i and 6j)		\$	\$	\$	\$	\$	
7. Program Income		\$	\$	\$	\$	\$	

Standard Form 424A (Rev. 7-97)
Prescribed by OMB Circular A-102

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BUDGET DETAIL

I. Personnel:	
0.5 FTE Community Outreach Worker @\$10.00/hour	\$3,400.00
0.2 FTE Project Coordinator @\$12.00/hour	1,400.00
0.2 FTE Office Manager @\$7.00/hour	1,000.00
Total	5,800.00
II. Fringe Benefits at 17%:	
0.5 FTE Community Outreach Worker	578.00
0.2 FTE Project Coordinator	238.00
0.2 FTE Office Manager	170.00
Total	986.00
III. Travel: Local Travel @\$0.26/mile	600.00
IV. Equipment: Audio Visual and Projector Rental Type-writer/PC	2,223.00
V. Supplies:	
Paper	250.00
Pencils/Pens	100.00
Folders	150.00
Total	500.00
VI. Other: Printing, Postage, Telephone	1,700.00
VII. Contractual: XYZ Engineering Company	3,149.00
Grand total	14,958.00

Appendix B—40 CFR 30.27 “Allowable Costs”

[Code of Federal Regulations] [Title 40,
Volume 1, Part 1 to 49]
[Revised as of July 1, 2000]

From the U.S. Government Printing Office
via GPO Access

[CITE: 40CFR30.27] [Page 311]

TITLE 40—PROTECTION OF
ENVIRONMENT
CHAPTER I—ENVIRONMENTAL
PROTECTION AGENCY

**PART 30—UNIFORM ADMINISTRATIVE
REQUIREMENTS FOR GRANTS AND
AGREEMENTS WITH INSTITUTIONS
OF HIGHER EDUCATION, HOSPITALS,
AND OTHER NON-PROFIT
ORGANIZATIONS—Table of Contents**

Subpart C—Post-Award Requirements**§ 30.27 Allowable costs.**

(a) For each kind of recipient, there is a set of Federal principles for determining allowable costs. Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs. Thus, allowability of costs incurred by State, local or federally-recognized Indian tribal

governments is determined in accordance with the provisions of OMB Circular A-87, “Cost Principles for State and Local Governments.” The allowability of costs incurred by non-profit organizations is determined in accordance with the provisions of OMB Circular A-122, “Cost Principles for Non-Profit Organizations.” The allowability of costs incurred by institutions of higher education is determined in accordance with the provisions of OMB Circular A-21, “Cost Principles for Educational Institutions.” The allowability of costs incurred by hospitals is determined in accordance with the provisions of appendix E of 45 CFR part 74, “Principles for determining Costs Applicable to Research and Development Under Grants and Contracts with Hospitals.” The allowability of costs incurred by commercial organizations and those non-profit organizations listed in Attachment C to Circular A-122 is determined in accordance with the provisions of the Federal Acquisition Regulation (FAR) at 48 CFR part 31. In addition, EPA’s annual Appropriations Acts may contain restrictions on the use of assistance funds. For example, the Acts may prohibit the use of funds to support intervention in Federal regulatory or adjudicatory proceedings.

(b) EPA will limit its participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient’s contractors or subcontractors to the maximum daily rate for level 4 of the Executive Schedule unless a greater amount is authorized by law. (Recipient’s may, however, pay consultants more than this amount.) This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed; recipients will pay these in accordance with their normal travel reimbursement practices. Contracts with firms for services which are awarded using the procurement requirements in this part are not affected by this limitation.

Appendix C—Guidance on Lobbying Restrictions

The purpose of this guidance is to remind nonprofit organizations, universities, and other non-government recipients of EPA grants² that, with very limited exceptions, you may not use Federal grant funds or your cost-sharing funds to conduct lobbying activities. The restrictions on lobbying are explained in Office of Management and

² The term “grant” as used in this guidance refers to grants and cooperative agreements.

Budget (OMB) Circular No. A-21, “Cost Principles for Educational Institutions,” 61 F.R. 20880 (May 8, 1996),³ and OMB Circular No. A-122, “Cost Principles for Nonprofit Organizations; ‘Lobbying’ Revision,” 49 F.R. 18260 (April 27, 1984). As a recipient of EPA funds, you must be aware of and comply with these restrictions.⁴

The general objective of the restrictions is to prohibit the use of appropriated funds for lobbying, publicity, or propaganda purposes designed to support or defeat legislation. The restrictions do not affect the normal sharing of information or lobbying activities conducted with your own funds (so long as they are not used to match the grant funds).

Unallowable Lobbying Activities

Under Circulars A-21 and A-122, the costs of the following activities are unallowable:

(1) Contributions, endorsements, publicity or similar activities intended to influence Federal, State or local elections, referenda, initiatives or similar processes.

(2) Direct and indirect financial or administrative support of political parties, campaigns, political action committees, or other organizations created to influence elections. Recipients may help collect and interpret information. These efforts must be for educational purposes only, however, and cannot involve political party activity or steps to influence an election.

(3) Attempts to influence the introducing, passing, or changing of Federal or State legislation through contacts with members or employees of Congress or State legislatures, including attempts to use State and local officials to lobby Congress or State legislatures. For example, you may not charge a grant for your costs of sending information to Members of Congress to encourage them to take a particular action. Also prohibited are contacts with any government official or employee to influence a decision to sign or veto Federal or State legislation. The restriction does not address lobbying at the local level.

(4) Attempts to influence the introducing, passing, or changing of Federal or State legislation by preparing, using, or distributing publicity or propaganda, i.e., grass roots lobbying efforts to obtain group action by members of the public, including attempts to affect public opinion and encourage group action. For example, the costs of printing and distributing to members

³ Grants awarded before May 8, 1996, are subject to the previous version of Circular No. A-21, but the provisions on lobbying have remained essentially unchanged.

⁴ This guidance does not address the restrictions on lobbying contained in 40 CFR Part 34, the EPA regulations implementing section 319 of Pub.L. No. 101-121, known as “the Byrd Amendment,” generally prohibit recipients of Federal grants, contracts, and loans from using Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific grant, contract, or loan. Part 34 includes detailed certification and disclosure requirements. This guidance also does not address section 18 of the Lobbying Disclosure Act of 1995, Pub. L. No. 104-65, which provides that organizations described in section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible for Federal grants or loans.

of the public or the media a report produced under a grant, if intended to influence legislation, are unallowable.⁵

(5) Attending legislative sessions or committee hearings, gathering information about legislation, and similar activities, when intended to support or prepare for unallowable lobbying.

Exceptions

There are three exceptions to this list of unallowable lobbying activities in Circulars A-21 and A-122. These exceptions do not necessarily make the cost of these activities allowable; they make the costs potentially allowable. Allowability will be determined based on whether the costs in a particular case are reasonable, necessary, and allocable to the grant.

The first exception is for technical and factual (not advocacy) presentation to Congress, a State legislature, member, or staff, on a topic directly related to performance of the grant, in response to a request (not necessarily in writing) from the legislative body or individual. For requests that are not made in writing, recipients should make a note for their files documenting the requests. The information presented must be readily available and deliverable. Costs for travel, hotels, and meals related to the presentation are generally unallowable unless related to testimony at a regularly scheduled Congressional hearing at the written request of the chairperson or ranking minority member of the congressional committee.

The second exception is for actions intended to influence State legislation in order to directly reduce the actual cost of performing the Federal grant project or to protect the recipient's authority to perform the project. The exception does not apply to actions intended merely to shift costs from one source to another. For example, in response to Federal funding cutbacks, a Federally-funded recipient lobbies for *State* funds to replace or reduce the Federal share of project costs for next year. The cost of that lobbying activity would not be allowable because its purpose is not to directly reduce the actual cost of performing the work but merely to shift from Federal funding to State funding.

Finally, Circulars A-21 and A-122 allow lobbying costs if they are specifically authorized by law.

Indirect Cost Rate

When you seek reimbursement for indirect costs (overhead), you must identify your total lobbying costs in your indirect cost rate proposal so that the Government can avoid subsidizing lobbying. This is consistent with the circulars' requirement of disclosure of the

costs spent on all unallowable activities. This requirement is necessary so that when the Government calculates the amount of an organization's indirect costs that it will pay. It does not include the costs of unallowable activities that the organization happens to count as indirect costs

Enforcement

In cases of improper lobbying with grant funds, EPA may recover the misspent money, suspend or terminate the grant, and take action to prevent the recipient from receiving any Federal grants for a certain period. Your project officer is available to handle any questions or concerns.

Appendix D—Tips on preparing an Environmental Justice Grant Application

This information is intended to help you put together a competitive proposal for the Environmental Protection Agency's (EPA) Environmental Justice Small Grants Program. Please read the Application Guidance carefully—this document is intended to enhance *not replace* the official FY 02 Guidance.

- Target your audience carefully
 - Identify a specific group or community to work with to develop a program that will give the highest return for your dollars invested.
- Build partnerships and alliances
 - You are strongly encouraged to enlist project involvement from community groups with similar or related goals and secure their commitment of services and/or dollars. Be sure to document this by obtaining letter(s) of commitment for your application. Initiate the partnerships early in your planning, since building alliances can take time and effort.
- Do some homework

Allow time to review the literature on environmental justice issues both within EPA and the community you work in or with. Find out what materials exist on the subject and the procedures you are planning to include in your work plan. Use this information to back up your project plans or to explain how your group activities are unique and/or creative.

- Develop a project evaluation technique
 - Define as carefully and precisely as possible what you want to achieve with this project and how you will test its success. Ask yourself: "what do you expect to be different once the project is complete?" Outline a plan you will use to measure the success of your activities/project.
- Develop a timeline or project accomplishment schedule

List the major tasks that you will complete to meet the goals of the project. Break these broad goals into smaller tasks and lay them out in a schedule over the twelve months of the grant period. Determine and identify in the proposal the total estimated cost for each task. You may estimate this cost by the number of personnel, materials, and other resources you will need to carry out the tasks.

- Develop a project budget with the federal portion up to \$15,000 for non-Superfund or \$20,000 for Superfund projects

The EPA portion of this grant should not exceed \$15,000 for non-Superfund or \$20,000

for Superfund projects. Divide your budget into categories such as personnel salaries/fringe benefits, travel, equipment, supplies, contract costs, other.

- Stay within the format
 - This makes it easier for the reviewer to read and therefore, understand your work plan. Please refer to the application requirements (pages 7-9).
- Communicate the nature of your project accurately, precisely, and concisely.
 - Describe exactly what you propose to do, how you are going to do it, when you are going to do it, who will benefit, and how you will know you are successful. Indicate not only what you propose but what expertise your group has for completing the project (include resumes).

Evaluation of Your Proposal

Your proposal will be evaluated by a committee of EPA Headquarters and Regional environmental justice personnel of diverse personal and professional backgrounds. Final selection is based on a variety of factors, including geographic and socioeconomic balance, diversity, cost of the project and how well the partnership benefits can be sustained after the grant is completed. Below are some common strengths and weaknesses we see in proposals.

Common Strengths

- Project proposal developed solidly from within the community.
- Broad based community support for a project that has the potential to positively affect local people.
- Project identifies established community advisory board or community group who will be involved in the project.
- Good partnership with industry, community, and environmental groups. Good coordination with a variety of community groups.
- Proposal does a good job of outlining a complex problem and approach to solving it—does not overlook any major issues or key players.
- Clear identification and background description of population to be served.
- Proposal identifies specific outputs, target accomplishments, and estimated budgets for each goal, and target dates for completion.
- Proposed project builds on existing projects or programs.
- The scope of the project can be completed in a funding year.
- Proposal clearly describes how the project will achieve the program goal(s) outlined on pages 5 and 6 of the application guidance.
- Proposal includes innovative ideas and creative thinking about how to motivate and involve youth in the communities where they live.
- Proposal includes honest discussion of challenges involved.

If applying for a Superfund project, the proposal discusses why their project is for "research" to assure it meets statutory requirements.

⁵ Circular A-122 addresses public information service costs that do not relate to lobbying. Attachment B to the Circular, at paragraph 36, makes allowable, with prior approval of the Federal agency, costs associated with pamphlets, news releases and other forms of information services if their purpose is: to inform or instruct individuals, groups or the general public; to interest individuals or groups in participating in a service program of the recipient; or to disseminate the results of sponsored and non-sponsored activities.

Common Weaknesses

- Application did not include information specifically requested in the application guidance.

- Community members do not appear to be an integral part of the project planning process.

- Not specific enough about what EPA funds will be used for. If the proposal is for a project that has a budget of more than \$20,000, proposal must indicate whether other funding has been secured.

- Applicant is not a non-profit organization (see application guidance page 3).

- Program may be too ambitious for one year.

- Project funds conferences or dialogues to discuss EJ issues but does not fund activities that make direct changes in a community.

- Immediacy of need is not established.
- Methods of evaluating the success of the project unclear.

- Failure to mention other groups that applicant will work with or to secure letters of commitment.

- Proposal seeks support for developing general environmental program with little mention of environmental justice issues. The link between goals of EPA's environmental justice program and the project is not clearly stated.

- Discussion of overall mission and goals of the organization but not enough detail on how the specific project and activities will help achieve the goals.

If you are seeking other sources of funding for your project, or should your EPA application not receive funding, the document below could prove useful:

Grant Funding For Your Environmental Education Program: Strategies and Options

Prepared by The North American Association for Environmental Education in cooperation with U.S.EPA. Available for \$5.00 from NAAEE, Publications Office, P.O. Box 400, Troy, OH 45373

Appendix E—State Single Points of Contact

Your application to this EPA program may be subject to your state's inter-governmental review process and/or consultation requirements under section 204, Demonstration Cities and Metropolitan Development Act. Listed below are the Single Point-of-Contacts for the states and U.S. territories with a designated Single Point-of-Contact. Please check the list to see if such review is required in your state or territory. Those stated and U.S. territories that are not listed do not have an established single point-of-contact. For further information regarding Single Points-of-Contact, please call EPA at 202-564-5362. Please also note that federally recognized tribal organizations are not required to comply with this procedure.

ARIZONA

Ms. Joni Saad, Arizona State Clearinghouse, 3800 North Central Avenue, Fourteenth Floor, Phoenix, AZ 85012, Phone: 602.280.1315, Fax: 602.280.8144

ARKANSAS

Mr. Tracy L. Copeland, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, 1515 West Seventh Street, Room 412, Little Rock, AR 72203, Phone: 501.682.1074, Fax: 501.682.5206, tlcopeland@dfa.state.ar.us

CALIFORNIA

Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Room 121, Sacramento, CA 95814, Phone: 916.323.7480, Fax: 916.323.3018

DELAWARE

Charles H. Hopkins, Executive Department, Office of Budget, 540 S. Dupont Highway, 3rd Floor, Dover, DE 19901, Phone: 302.739.3323, Fax: 302.739.5661, chopkins@state.de.us

DISTRICT OF COLUMBIA

Luisa Montero-Diaz, Office of Partnerships and Grants Development, Executive Office of the Mayor, District of Columbia Government, 441 4th Street, NW, Suite 530 South, Washington, D.C. 20001, Phone: 202.727.8900, Fax: 202.727.1652, opgd.eom@dc.gov

FLORIDA

Jasmine Raffington, Florida State Clearinghouse, Department of Community Affairs, 2555 Shumard Oak Blvd., Tallahassee, FL 32399-2100, Phone: 850.922.5438, Fax: 850.414.0479, clearinghouse@dca.state.fl.us

GEORGIA

Mr. Tom Reid, III, Coordinator, Georgia State Clearinghouse, 270 Washington Street, SW, Eighth Floor, Atlanta, GA 30334, Phone: 404.656.3855, Fax: 404.656.7901, gach@mail.opb.state.ga.us

ILLINOIS

Ms. Virginia Bova, Single Point of Contact, Department of Commerce and Community Affairs, James R. Thompson Center, 100 West Randolph, Suite 3-400, Chicago, IL 60601, Phone: 312.814.6028, Fax: 312.814.8485, vbova@commerce.state.il.us

INDIANA

Ms. Frances E. Williams, State Budget Analyst, 212 State House, Indianapolis, IN 46204, Phone: 317.232.5619, Fax: 317.233.3323

IOWA

Mr. Steven R. McCann, Division for Community and Rural Development, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, IA 50309, Phone: 515.242.4719, Fax: 515.242.4809, steve.mccann@ided.state.ia.us

KENTUCKY

Mr. Ronald W. Cook, Office of the Governor, Department of Local Government, 1024 Capital Center Drive, Suite 340, Frankfort, KY 40601-8204, Phone: 502.573.2382, Fax: 502.573.2512,

ron.cook@mail.state.ky.us

LOUISIANA

Ms. Theresa Stevens, Executive Management Officer, Louisiana Department of Environmental Quality, P.O. Box 82231, Baton Rouge, LA 70884-2231, Phone: 225.7655.0733

MAINE

Ms. Joyce Benson, State Planning Office, 184 State Street, 38 State House Station, Augusta, ME 04333, Phone: 207.284.3261, Fax: 207.284.6489, joyce.benson@state.me.us

MARYLAND

Linda Janey, Manager, Clearinghouse and Plan Review Unit, Maryland Office of Planning, 301 West Preston Street, Room 1104, Baltimore, MD 21201-2305, Phone: 410.767.4490 Fax: 410.767.4480, linda@mail.op.state.md.us

MICHIGAN

Mr. Richard Pfaff, Southeast Michigan Council of Governments, 535 Griswold, Suite 300, Detroit, MI 48226, Phone: 313.961.4266, Fax: 313.961.4869, rpaff@semocog.org

MISSISSIPPI

Ms. Cathy Mallette, Clearinghouse Officer, Department of Finance and Administration, 1301 Woolfolk Building, Suite E 501, North West Street, Jackson, MS 39201, Phone: 601.359.6762, Fax: 601.359.6758

MISSOURI

Ewell Lawson, Federal Assistance Clearinghouse, Office of Administration, P.O. Box 809, Truman Building, Room 840, Jefferson City, MO 65102, Phone: 573.751.4834, Fax: 573.522.4395, igr@mail.oe.state.mo.us

NEVADA

Heather Elliott, Department of Administration, State Clearinghouse 209, E. Musser Street, Room 200, Carson City, NV 89701, Phone: 775.684.0209, Fax: 775.684.0260, helliott@govmail.state.nv.us

NEW HAMPSHIRE

Mr. Jeffery H. Taylor, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, 2 1/2 Beacon Street, Concord, NH 03301, Phone: 603.271.2155, Fax: 603.271.1728, jtaylor@oosp.state.nh.us

NEW MEXICO

Mr. Ken Hughes, Local Government Division, Bataan Memorial Building, Room 201, Santa Fe, NM 87503, Phone: 505.827.4370, Fax: 505.827.4948, khughes@dfa.state.nm.us

NEW YORK

New York State Clearinghouse, Division of the Budget, State Capital, Albany, NY 12224, Phone: 518.474.1605, Fax: 518.486.5617

NORTH CAROLINA

Jeanette Furney, Department of

Administration, 1302 Mail Service Center, Raleigh, NC 27699-1302, Phone: 919.807.2323, Fax: 919.733.9571, jeanette.furney@ncmail.net

RHODE ISLAND

Kevin Nelson, Department of Administration, Statewide Planning Program, One Capitol Hill, Providence, RI 02908-5870, Phone: 401.222.2093, Fax: 401.222.2083, knelson@doa.state.ri.us

SOUTH CAROLINA

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Appendix F—Additional Government Application Forms

OMB Approval No. 0348-0040

ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

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Note:

Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of the project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 795), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age;
- (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provision of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a-7), the Copeland Act (40 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplain in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.)
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

U.S. Environmental Protection Agency

**CERTIFICATION REGARDING
DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY
MATTERS**

The prospective participant certifies to the best of its knowledge and belief that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

Typed Name & Title of Authorized Representative

Signature of Authorized Representative

Date

____ I am unable to certify to the above statements. My explanation is attached.



Federal Register

**Monday,
November 5, 2001**

Part III

Department of Commerce

Bureau of the Census

**Report of the Executive Steering
Committee for Accuracy and Coverage
Evaluation Policy and Statement of the
Acting Director of the U.S. Census Bureau
on Adjustment for Non-Redistricting Uses;
Notice**

DEPARTMENT OF COMMERCE**Bureau of the Census****[Docket Number 011026262-1262-01]****RIN Number 0607-XX66****Report of the Executive Steering Committee for Accuracy and Coverage Evaluation Policy and Statement of the Acting Director of the U.S. Census Bureau on Adjustment for Non-Redistricting Uses****AGENCY:** Bureau of the Census.**ACTION:** Notice of report and statement of Acting Director of the Census Bureau regarding adjustment decision.

SUMMARY: This notice provides the Executive Steering Committee on Accuracy and Coverage Evaluation Policy (ESCAP) report and the statement of the Acting Director of the Census Bureau regarding the potential application of statistically adjusted data from Census 2000 for the following uses: (1) As controls to produce estimates from the Census 2000 long form (sample) data, (2) as demographic survey controls, and (3) as the base for producing post-censal estimates. The ESCAP report and statement of the Acting Director are attached as exhibits to the **SUPPLEMENTARY INFORMATION** section of this notice. In addition to publication in the **Federal Register**, the report is posted on the Census Bureau Web site at <<http://www.census.gov/dmd/www/EscapRep2.html>>, and the Acting Director's statement is available electronically at <<http://www.census.gov/Press-Release/www/2001/cooper.pdf>>.

FOR FURTHER INFORMATION CONTACT: John H. Thompson, Principal Associate Director for Programs, U.S. Census Bureau, FB-3, Room 2037, Washington, DC 20233. Telephone: 301 (457)-3946; fax: 301 (457)-3024.

SUPPLEMENTARY INFORMATION:**Background Information**

The decennial census is mandated by the United States Constitution (Article I, Section 2, Clause 3) to provide the population counts needed to apportion the seats in the U.S. House of Representatives among the states. By December 28, 2000, the Census Bureau fulfilled its constitutional duty by delivering to the Secretary of Commerce the state population totals used for congressional apportionment. In accordance with the January 25, 1999, Supreme Court ruling, *Department of Commerce v. House of Representatives*, 119 S.Ct. 765 (1999), the Census Bureau did not use statistical sampling to

produce the state population totals used for congressional apportionment.

However, the Census Bureau has examined the use of statistical sampling to produce statistically adjusted Census 2000 data for nonapportionment purposes. Pursuant to Title 15, Code of Federal Regulations, Part 101, issued by the Secretary of Commerce (66 FR 11232, February 23, 2001), the Acting Director of the Census Bureau submitted his recommendation, based upon the ESCAP's March 1, 2001 report, regarding the methodology to be used in producing the tabulations of population reported to states and localities pursuant to 13 U.S.C., Section 141(c) (data used for congressional and state and local legislative redistricting), to the Secretary of Commerce (66 FR 14003, March 8, 2001). The Secretary then made the final determination regarding statistical adjustment of the redistricting data (66 FR 14520, March 13, 2001).

After the issuance of the March 1, 2001, ESCAP report ("Recommendation Concerning the Methodology to be Used in Producing the Tabulations of Population Reported to States and Localities Pursuant to 13 U.S.C., Section 141(c)"), the Committee reconvened to examine the potential use of the statistically adjusted data for nonredistricting purposes—namely, as controls to produce estimates from the Census 2000 long form (sample) data, as demographic survey controls, and as the base for producing post-censal estimates. The ESCAP used analysis from reports on topics chosen for their usefulness in informing its recommendation regarding the suitability of using the statistically adjusted data for these nonredistricting purposes. The Committee also drew upon work from other Census Bureau staff, as appropriate. This notice provides the Committee's report and the Acting Director's statement regarding his determination of the appropriateness of statistical adjustment of the Census 2000 data for these purposes.

Dated: October 30, 2001.

William G. Barron, Jr.,*Acting Director, Bureau of the Census.*

October 16, 2001.

Memorandum for Kathleen B. Cooper, Under Secretary for Economic Affairs
From: William G. Barron, Jr., Acting Director
Subject: Notification of Decision

I am attaching the recommendation of the Executive Steering Committee for A.C.E. Policy (ESCAP) on whether the Accuracy and Coverage Evaluation Survey should be used to adjust Census 2000 data for non-redistricting purposes. As in March, I asked ESCAP to provide a recommendation because I rely on the knowledge, experience, and technical expertise of the Committee and

Census Bureau staff who have worked extremely hard with tremendous dedication and expertise through every phase of Census 2000.

After assessing considerable new evidence, ESCAP now recommends that unadjusted Census 2000 data be used for non-redistricting purposes. The effect of this new evidence is that the A.C.E. overstated the net undercount by at least 3 million persons. The cause of this error was that the A.C.E. failed to measure a significant number of census erroneous enumerations, many of which were duplicates. This level of error in the A.C.E. measurement of net coverage is such that the A.C.E. results cannot be used in their current form. This finding of substantial error, in conjunction with remaining uncertainties, necessitates that revisions, based on additional review and analysis, be made to the A.C.E. estimates before any potential uses of these data can be considered.

As a member of ESCAP and as Acting Director, I concur with and approve the Committee's recommendation that unadjusted data be used for non-redistricting purposes and have decided that the Census Bureau will release the remaining Census 2000 data products, post-censal estimates, and survey controls using unadjusted data. It is possible that further research and analysis could yield revised A.C.E. estimates, and that these revised estimates could be used to improve estimates developed as part of the Census Bureau's annual population adjustments for survey controls and other purposes.

Report of the Executive Steering Committee for Accuracy and Coverage Evaluation Policy on Adjustment for Non-Redistricting Uses

October 17, 2001

Recommendation

The Executive Steering Committee for A.C.E. Policy (ESCAP) recommended on March 1, 2001 that unadjusted census data be used for redistricting. After assessing considerable new evidence, ESCAP now recommends that unadjusted Census 2000 data also be used for non-redistricting purposes. The effect of this new evidence is that the Accuracy and Coverage Evaluation (A.C.E.) overstated the net undercount by at least 3 million persons. The cause of this error was that the A.C.E. failed to measure a significant number of census erroneous enumerations, many of which were duplicates. This level of error in the A.C.E. measurement of net coverage is such that the A.C.E. results cannot be used in their current form. This finding of substantial error, in conjunction with remaining uncertainties, necessitates that revisions, based on additional review and analysis, be made to the A.C.E. estimates before any potential uses of these data can be considered. The Census Bureau will release the remaining Census 2000 data products, post-censal estimates, and survey controls using unadjusted data. It is, however, reasonable to expect that further research and analysis may lead to revised A.C.E. estimates that can be used to improve future post-censal estimates.

The ESCAP review confirmed the finding in the first ESCAP Report that most Census 2000 and A.C.E. operations were of high quality. The evaluations continue to demonstrate that improvements were achieved over both the 1990 census and the 1990 coverage measurement survey. Important new information and methods are now available for assessing the A.C.E. and Census 2000. As will be discussed in more detail below, final analysis of this new information is still in progress. However, the Census Bureau believes that this analysis will confirm that Census 2000 made substantial gains in reducing the total net undercount, as well as reducing net differential undercount. Most of the A.C.E. operations were also seen to be well conducted, producing valuable information that, when combined with the other evaluation findings, provides important new research data. The ESCAP feels confident that its research program will enhance the evaluations of Census 2000, contribute to planning for the 2010 census, and, with further analysis, potentially improve future the post-censal estimates.

The ESCAP's primary concern in its March decision was that fundamental differences between the Demographic Analysis (DA) estimates and the A.C.E. estimates could not be explained. The estimates differed widely, both for the total national population and for important population groups. The Committee investigated this inconsistency extensively but could not adequately explain it in the time available for the March decision. The Committee concluded in March that the inconsistency must have resulted from one or more of three possible scenarios. The first scenario was that all available 1990 census data, including the census results, the coverage measurement survey, and the demographic analysis estimates, significantly understated the Nation's population, but that Census 2000 found this previously unenumerated population. The second scenario was that demographic analysis underestimated population growth between 1990 and 2000. The third scenario was that the A.C.E. overestimated the Nation's population, raising the possibility of an undiscovered problem in the A.C.E. or census methodology.

The Census Bureau's extensive research over the past eight months has been directed at examining demographic analysis, the A.C.E., and Census 2000. Demographic analysis research examined historic levels of the components of population change to address the possibility that the 1990 demographic analysis estimates understated the national population (the first scenario). This analysis did not reveal any significant problems. The Census Bureau investigated the second scenario by revising the preliminary estimates of international migration, and hence the foreign-born population, using actual Census 2000 long form data. The Census Bureau also consulted with outside experts on this work. These studies resulted in revisions to the "Base DA" that was initially examined as part of the March 2001 decision. The revisions reflected a larger growth in the foreign-born population during the last decade. The current revised demographic analysis

estimates are much closer to the Alternative DA considered during the March deliberations. The A.C.E. and demographic analysis evaluations, when analyzed together, explain many of the inconsistencies.

With regard to the third scenario, the ESCAP's review of the accuracy of the A.C.E. and Census 2000 was based on a number of evaluation studies, including reinterview studies, re-processing studies, and computer searches for duplicate enumerations. This research found that the A.C.E. did not account for a large number of Census 2000 duplicates, leading to an overstatement of the Census 2000 net undercount. As described previously, this finding, in conjunction with the revisions to demographic analysis, explains to a large degree the discrepancies between the A.C.E. and demographic analysis. The significance of the error in the A.C.E. treatment of duplicates compels the recommendation that the current A.C.E. estimates cannot be used to adjust the Census 2000 data.

The ESCAP notes that its extensive evaluation program has provided information that was unavailable for previous decennial censuses. This important new information was the result of outstanding and innovative work on the part of many Census Bureau employees. Additionally, the Committee notes that some of the information resulted from new methodologies not available in prior censuses. Census 2000 was the first census to capture name information in a way that permits nationwide computer matching. The evaluation results, including the new tool of name matching, will be extremely valuable for evaluating the accuracy of Census 2000, planning for the 2010 census, and potentially for improving future post-censal estimates. Both census taking and coverage measurement are processes that evolve and improve with each census. The Census 2000 experience will help refine both census and coverage measurement processes for future censuses.

While the ESCAP has recommended against use of the adjusted data, the A.C.E.'s original objective of addressing the differential undercount must still be pursued. The totality of the evidence considered by the Committee leads it to believe that while Census 2000 successfully lowered the historical pattern of the differential undercount, it did not eliminate it. The Census Bureau believes that the net undercount remains disproportionately distributed among renters and minority populations. With further research, it is reasonable to expect that new information can be used to produce revised A.C.E. estimates. These revised estimates may then be employed to improve post-censal population estimates by reducing remaining differential coverage error. It is also expected that planning for the 2010 census will greatly benefit from these findings, with improved operations to identify and remove duplicates and refined methods to improve the accuracy of all census operations. The Census Bureau will continue research to design improved operations, including coverage measurement studies, for future censuses and surveys.

Executive Summary

After assessing considerable new evidence, the second ESCAP Committee (ESCAP II) has recommended that unadjusted Census 2000 data also be used for non-redistricting purposes. New evidence indicates that the Accuracy and Coverage Evaluation (A.C.E.) overstated the net undercount by at least 3 million persons, and that the cause of this error was the A.C.E.'s failure to measure a significant number of census erroneous enumerations, many of which were duplicates. This level of error in the A.C.E. measurement of net coverage is such that the A.C.E. results cannot be used in their current form. This finding of substantial error, in conjunction with remaining uncertainties, necessitates that revisions, based on additional review and analysis, be made to the A.C.E. estimates before any potential uses of these data can be considered. The Census Bureau will release the remaining Census 2000 data products, post-censal estimates, and survey controls using unadjusted data. It is, however, reasonable to expect that further research and analysis may lead to revised A.C.E. estimates that can be used to improve future post-censal estimates.

ESCAP II has also confirmed the finding in the first ESCAP Report that most Census 2000 and A.C.E. operations were of high quality. More recent evaluations continue to demonstrate that improvements were achieved over both the 1990 census and the 1990 coverage measurement survey. Important new information and methods are now available for assessing the A.C.E. and Census 2000. As will be discussed in more detail below, final analysis of the effects of this new information is still in progress. However, the Census Bureau believes that this analysis will confirm that Census 2000 made substantial gains in reducing the total net undercount, as well as the net differential undercount. Most of the A.C.E. operations were also seen to be well conducted, producing valuable information that, when combined with the other evaluation findings, provides important new research data. The ESCAP feels confident that the Census Bureau's continuing research program will enhance the evaluations of Census 2000, contribute to planning for the 2010 census, and, with further analysis, potentially improve the post-censal estimates.

The ESCAP's primary concern in its March decision was that demographic analysis and the A.C.E. estimates differed widely, both for the total national population and for important population groups. The Committee concluded in March that the inconsistency must have derived from one or more of three possible scenarios. The first scenario was that all available 1990 census data, including the 1990 census, the 1990 coverage measurement survey, and the 1990 demographic analysis estimates significantly understated the Nation's population, while Census 2000 included portions of this previously unenumerated population. The second scenario was that demographic analysis estimates underestimated population growth between 1990 and 2000. The third scenario was that the A.C.E. overestimated the Nation's population, raising the possibility of an undiscovered problem with the A.C.E. or

census methodology. The ESCAP also identified additional technical concerns that are documented in the previous report.

Areas of Research

In the months since the ESCAP I Report, the Committee embarked on a second round of deliberations to address the concerns identified in the report and to enable the Census Bureau to recommend whether Census 2000 data should be adjusted for future uses. The future uses in consideration included the post-censal population estimates, demographic survey controls, and the production of Census 2000 long form data products. The ESCAP I Committee did not have current results for certain measures of A.C.E. accuracy, and was forced to use 1990 data on potential A.C.E. errors. The ESCAP therefore directed and documented that a number of evaluations be conducted to inform the deliberations. Some of the evaluations were designed to provide current measures of accuracy for the various components of error. These evaluations involved additional technical research, field work, and data processing, as well as new computer matching and simulation research. The evaluations include:

Demographic Analysis (DA) Research

The DA research program examined historical levels of the components of population change to address the possibility that the 1990 DA estimates understated the Nation's population and that demographic analysis did not capture the full population growth in the last decade. The Census Bureau consulted with outside demographic experts to plan and conduct its research program, focusing on the methodologies and underlying estimates of the components of population change. The research activities concentrated on two major areas—international migration and the robustness of the DA estimates.

Measurement of Erroneous Enumerations, Including Duplication

Erroneous enumerations refer to individuals who should not be included in the census counts because they are duplicated, fictitious, or live someplace other than where they were enumerated. While the ESCAP I Report did not identify erroneous enumerations as an area of concern, Census Bureau researchers quickly noted that Census 2000 erroneous enumerations differed substantially from 1990 measures in ways that were not readily understood. Studies included the Measurement Error Reinterview/Evaluation Followup (hereinafter called the EFU) and the Person Duplication Studies. EFU results were used to determine how well the A.C.E. identified erroneous enumerations. The EFU was based on a reinterview of a sample drawn from the A.C.E. clusters. The Person Duplication Studies used computer matching techniques to identify Census 2000 duplicate enumerations throughout the United States, and to determine whether the A.C.E. estimates had correctly accounted for these duplications. These studies used computer matching methods not available in earlier censuses.

Measurement of Census Omissions

Census omissions refer to individuals who should have been counted in the census but were not. The A.C.E. methodology must accurately account for both erroneous enumerations, as described above, and census omissions. The A.C.E. identifies omissions by matching an independent sample to the census. The accuracy of this measurement of omissions thus depends on the accuracy of the matching, as well as the accuracy of the information collected by the independent sample. Census omissions were evaluated in the Matching Error Study, in which expert matchers re-matched a sample of the A.C.E. to determine the accuracy of the A.C.E. matching process. Omissions were also evaluated in the EFU described above to measure the accuracy of the A.C.E. information on Census Day residence, including whether persons had moved since Census Day.

Missing Data Studies

Missing data occurs in the A.C.E. if, after all attempts, there remain persons for whom complete data are not available, including demographic characteristics such as age or race. Missing data also includes the status of whether a person matched, was a resident on Census Day, or was correctly enumerated. The latter types of missing data can seriously affect the accuracy of coverage measurement surveys such as the A.C.E. The A.C.E. used a statistical model to account for the effects of missing data. The ESCAP directed the development of alternative missing data models to assess the effect on the estimates of using different assumptions to predict the effects of missing data.

Balancing Error

The previous ESCAP report indicated concerns with balancing error. Balancing error occurs when the method used to determine the number of omissions is different from the method used to determine which records are correctly included in the census. The specific concern was that the area for matching to find omissions was different from the area used to determine erroneous enumerations. The ESCAP posited various scenarios that could explain the concerns with balancing error, ranging from small to very serious effects on the A.C.E. estimates. In order to investigate these concerns, additional field operations were conducted.

Synthetic Error Study

The A.C.E. estimation methodology produced estimated coverage correction factors which were carried down within the post-strata in a process referred to as synthetic estimation. The key assumption underlying synthetic estimation is that net census coverage is relatively uniform within the post-strata. Failure of this assumption leads to synthetic error. The Census Bureau is concerned with synthetic error since it may affect the accuracy of small area estimates and cannot be directly estimated. ESCAP I examined the effects of synthetic error by studying "artificial populations," populations created with surrogate variables that are known for the entire population, and

are developed to reflect the distribution of net coverage error. ESCAP II directed the preparation of additional artificial populations.

Evaluation Results

Demographic analysis research examined historical levels of the components of population change to address the possibility that the 1990 demographic analysis estimates understated the national population (the first scenario). This analysis did not reveal any significant problems. The Census Bureau investigated the second scenario by revising the estimates of international migration using preliminary Census 2000 long form data, and estimates of the numbers of births, using more current assumptions about birth registration. The Census Bureau also consulted with outside experts on this work. This analysis resulted in revisions to the Base DA that was initially examined as part of the ESCAP I decision. The revisions reflected a larger growth in the foreign-born population during the last decade. The current Revised DA estimates considered by ESCAP II are much closer to the Alternative DA considered during the ESCAP I deliberations. Many of the inconsistencies previously noted are removed when the Revised DA estimates are viewed in light of the A.C.E. evaluations. The Revised DA national estimate of 281.8 million for the U.S. resident population is 2.2 million higher than the Base DA and about 0.6 million lower than the Alternative DA. The Revised DA net undercount rate of 0.12 percent compares to a net overcount of 0.65 percent implied by the Base DA, and a net undercount of 0.32 percent using the Alternative DA.

Erroneous Enumerations

The studies examining the accuracy of the measurement of erroneous enumerations initially found serious errors that would have resulted in a large overstatement of the population by the A.C.E. The seriousness of these findings prompted the Committee to direct further work to make sure that the findings were correct. This additional review indicated that a significant problem existed with the measurement of erroneous enumerations, but also indicated that the study findings were subject to uncertainties resulting from a large number of cases left unresolved or conflicting. The Person Duplication Studies added additional information underscoring the seriousness of the errors in measuring erroneous enumerations. These duplication studies found that the A.C.E. had seriously understated the level of erroneous enumerations because of incompletely measuring census duplications, and that the EFU had not accounted for a significant part of this understatement. They also helped to explain some of the uncertainty that arose from the rework of the EFU. The net effect of these studies was the conclusion that the A.C.E. overstated the level of undercount by at least 3 million persons. The level of this error is such that the ESCAP determined that the unadjusted data should be used.

Census Omissions

With regard to studies of census omissions, the Matching Error Study indicated that the

A.C.E. overstated the net undercount due to P-sample matching error by about 385,000. The EFU indicated that a substantial number of movers were changed to nonmovers and vice versa. The net effect of these mover status changes suggests an overestimate of the match rate and therefore an understatement in the A.C.E. estimates of about 450,000. At the national level there is therefore a small net effect of about 65,000 on the accuracy of the measurement of census omissions. However, more research must be conducted to further study these effects.

Missing Data

The Committee examined a variety of alternative models to account for the effects of missing data. These models gave a wide range of results, implying widely varying effects on the A.C.E. estimates. The data examined by the Committee make clear that alternative missing data models both understated and overstated the effects of missing data on the A.C.E. estimates, depending on the choice of model. The Committee ultimately viewed the choice of model as an increase in the uncertainty associated with the A.C.E. results, but did not find evidence of bias resulting from this choice of model. This uncertainty should be considered in further analysis of the A.C.E. estimates.

Balancing Error

ESCAP I's concern with balancing error has for the most part been resolved, as further research indicated that the previously observed discrepancy did not appreciably influence the A.C.E. estimates.

Total Error Model

ESCAP I used a total error model to consolidate its research and to produce an overall assessment of A.C.E. accuracy. ESCAP II directed that an updated model be prepared to account for information from the new evaluation studies. The timing of some of the new evaluations, along with the complexities of both the studies and the A.C.E. design, did not allow preparation of an updated model that would incorporate all errors that impact the A.C.E. estimates. As discussed more fully in the body of the report, the ESCAP could not develop or verify a new total error model that would take into account all of the errors discovered in the EFU, Matching Error Study, and Person Duplication Studies. Even without the information from an updated total error model, however, it was clear to the Committee that the magnitude of the discovered errors precluded a recommendation in favor of the adjusted data.

Synthetic Error

Consideration of the synthetic error studies requires the completion of the total error model and will be included in the continued research.

Other Concerns

Additional studies allayed other concerns about the A.C.E. and the census. Studies revealed no evidence of significant contamination bias. The Committee

concluded that the effect of excluding reinstated census people from the A.C.E. was minimal. The Committee further concluded that the kind, level and pattern of whole person imputation in Census 2000 did not call the A.C.E. results into question.

Next Steps

While the ESCAP has recommended against use of the adjusted data, the A.C.E.'s original objective of addressing the differential undercount must still be pursued. The totality of the evidence considered by the Committee leads it to believe that while Census 2000 successfully lowered the historical pattern of the differential undercount, it did not eliminate it. The net undercount remains disproportionately distributed among renters and minority populations. With further research, it is reasonable to expect that new information can be used to produce revised A.C.E. estimates. The evaluation results, including the new measurement tool of name matching, will be extremely valuable for evaluating the accuracy of Census 2000, planning for the 2010 census, and potentially for improving the post-censal estimates. Both census taking and coverage measurement are processes that evolve and improve with each census. The Census 2000 experience will help refine both census and coverage measurement processes for future censuses.

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ESCAP II Report

Introduction

Background

On March 1, 2001, the Acting Director of the Census Bureau recommended to the

Secretary of Commerce that unadjusted census data be used as the Census Bureau's official redistricting data. This recommendation was in accord with the recommendation of the Executive Steering Committee for A.C.E. Policy (ESCAP). The ESCAP¹ was unable to conclude, based on information available at the time, that adjusted Census 2000 data were more accurate for redistricting. The ESCAP I Report is available on the Census Bureau's website, along with a voluminous Administrative Record supporting this recommendation.

The primary issue that precluded ESCAP I from recommending use of the adjusted data was the unexplained difference between the A.C.E. and Demographic Analysis estimates of the population. Demographic analysis (DA) initially estimated the national total population to be below the census count, while the A.C.E. estimated the population to be above the census count. This discrepancy raised the significant possibility of an undetected problem with the A.C.E. or the census. ESCAP I also identified concerns with balancing and synthetic estimation error as potential problems in the adjusted data. The Committee directed the preparation of an extensive evaluation program to inform its deliberations relating to the proposed use of adjusted data for nonredistricting purposes.

ESCAP II Proceedings

In the months since the ESCAP I Report, the Committee has embarked on a second round of deliberations to address the concerns identified in the report and to enable the Census Bureau to recommend whether the adjusted Census 2000 data should be used for nonredistricting purposes. These evaluations, the ESCAP II report series, set forth the underlying data that support the Committee's findings. The future uses in consideration include post-censal population estimates, demographic survey controls, and the census long form data products. Some of the required evaluations involved additional research, including additional field work and matching work.

ESCAP II considered a wide variety of research and analyses, and heard presentations of the reports on the attached list (Attachment 1). Some of these presentations provided background information to help the Committee interpret the results of other studies, while others bore directly on the adjustment recommendation. While the Committee considered and deliberated on all of the listed reports, this discussion will focus on those most directly relevant to the comparative accuracy of the adjusted and unadjusted data. This research was conducted over many months and represents diligent and thorough statistical and demographic analysis.²

¹ For clarity, the Committee that produced the March 1, 2001, ESCAP Report is sometimes referred to herein as "ESCAP I" and the March 1 report as the "ESCAP I Report." The Committee that has been meeting since March 1, 2001, is referred to as "ESCAP II."

² The ESCAP II Report Series does not represent the entirety of the Census Bureau's evaluation of Census 2000. The Census Bureau's formal Census

The Associate Director for Decennial Census originally chartered the ESCAP on November 26, 1999, and charged the Committee to "advise the Director in determining policy for the A.C.E. and the integration of the A.C.E. results into the census for all purposes except Congressional reapportionment." Although there was a change in the Associate Director for the Decennial Census position in June 2001, ESCAP II continued to be chaired by John Thompson to maintain continuity. The ESCAP resumed meeting on March 7, 2001, and met a total of 32 times, sometimes with more than one meeting per day. The ESCAP represents a body of senior career Census Bureau professionals, with advanced degrees in relevant technical fields and/or decades of experience in the federal statistical system. All are highly competent to evaluate the relative merits of the A.C.E. data versus the census data and are recognized for their extensive contributions to the professional community.

As in the ESCAP I process, the early sessions were primarily educational, designed to inform Committee members of the research operations and to present general information about non-redistricting uses of the data. The second phase involved presentation by knowledgeable employees of the new data and analyses as they became available. The Committee reviewed the data and analyses, sometimes asking staff to provide additional and new information. The third phase was deliberation, where the Committee members met privately. The final and briefest stage was review, where Committee members commented on the draft report. Again, as in the ESCAP I process, minutes were prepared for all sessions, except for the final ones, which were private deliberations.

During the education and evidence presentation phases, the Chair generally arranged presentations on major issues, issues that he identified on his own initiative or on the suggestion of Committee members. During the evidence presentation stage, authors of the analysis reports presented their data and conclusions to the Committee. The deliberation and review phases were less structured with various members raising topics for discussion and asking for evidence. No formal vote was held; this Report reflects a consensus of the ESCAP.

Non-Redistricting Uses of the Data

The ESCAP's recommendation covers the three non-redistricting uses of census data: post-censal estimates, demographic survey controls, and Census 2000 long form products. Certain Census Bureau data products have already been issued using only the unadjusted data, including the Census 2000 Redistricting Data Summary File, Demographic Profiles, Congressional District Demographic Profiles, Summary File 1 Data, and reports in the Census 2000 Brief Series.³

Post-censal estimates are made by updating the most recent census base with estimates of

population change (births, deaths, and net migration). As directed by the Census Act, the Census Bureau prepares post-censal estimates at the national, state, and county level every year, and at the functioning governmental unit level every other year.⁴ These estimates have a variety of uses, most notably in funding allocations, as the basis for sample survey controls, and as denominators for many important statistics.

The accuracy of the post-censal estimates for funding allocations is critical, as about \$200 billion are allocated based on these data each year. Medicaid (Title XIX) is the largest program to distribute federal funding based on population estimates, distributing over \$100 billion each year based on the post-censal estimates. Community Development Block Grants from the Department of Housing and Urban Development, and Title I Basic, Concentration, and Targeted Grants from the Department of Education are two additional federal programs that use post-censal estimates as factors in their funding formulas to distribute federal monies. The individual states also have within-state fund allocation programs, many of which use post-censal estimates to allocate funds to sub-state areas.

Many federal agencies use post-censal estimates as denominators to produce per capita statistics. Examples are per capita income, crime statistics, incidence of certain health conditions, birth rates, and mortality rates. The numerators of these statistics can be obtained at various points in time throughout the decade. In the absence of updated information, calculating these kinds of statistics on a static 2000 denominator would be misleading; therefore, many federal agencies use post-censal estimates of population.

Demographic survey controls are used by many national sample surveys to transform the data they collect into nationally representative estimates. The most notable is the Current Population Survey, or CPS, which is used to calculate the monthly unemployment rate. Sample surveys generally have poorer coverage than a census; therefore, in order to improve the accuracy of estimates from a sample survey, the survey estimates are controlled to independent measures of the number of people in certain age, sex, race, and Hispanic origin groups, such as the post-censal estimates.

The ESCAP Committee also considered whether adjusted or unadjusted Census 2000 data should be used for the controls for estimates based on data from the Census 2000 long form. The long form collects more extensive characteristic data from a sample of about seventeen percent of the population. Long form data are used to provide local communities with data on education, employment, housing, and various other social and demographic characteristics essential to efficient planning. Additionally, the long form provides the detailed local demographic and social characteristics used in some federal formula allocation programs. In order to produce estimates for the country as a whole from this sample, Census 2000 data from the short form items are used as controls.

ESCAP II Research

In the months since the ESCAP I Report, the Committee embarked on a second round of deliberations to address the concerns identified in the report and to enable the Census Bureau to recommend whether adjusted Census 2000 data should be applied for non-redistricting uses. ESCAP II, therefore, directed the preparation of a number of evaluation studies, as described in detail in Attachment 2. Research centered around four areas, demographic analysis, the A.C.E., Census 2000, and synthetic error. The results of this research are set forth below.

Demographic Analysis

ESCAP I's primary concern was that DA estimates were inconsistent with A.C.E. estimates. The Census Bureau expected, based on past experience, that demographic analysis would posit a higher estimate of the total population than the A.C.E. because of the presence of correlation bias, and that the two estimates would agree generally on the coverage of certain populations. Instead, the Base DA estimates were lower than both the Census 2000 population counts and the A.C.E. estimates. In response, the Census Bureau developed its Alternative DA estimates by doubling the unauthorized immigration assumed to have occurred during the 1990's. Doing so yielded a number of foreign born for 2000 that was roughly consistent with that reported by the March 2000 Current Population Survey.⁵ The Alternative DA estimates were, however, still significantly lower than the A.C.E. estimates. The Alternative DA indicated that Census 2000 undercounted the population by 0.32 percent, while the A.C.E. produced a net undercount estimate of 1.15 percent.⁶

ESCAP I concluded that the inconsistency in the estimates of the total national population must have derived from one or more of three possible explanations. The first explanation was that all available 1990 census data, including the census results, the 1990 coverage measurement survey, and the 1990 DA estimates, significantly understated the Nation's population, but that Census 2000 found this previously un-enumerated population. The second explanation was that DA underestimated population growth between 1990 and 2000. The third explanation was that the A.C.E. overestimated the Nation's population. ESCAP II directed that further research on demographic analysis be conducted. It focused on two main topics: international migration and measurement of vital events like births and deaths.

International Migration

Assumptions regarding international migration were the most uncertain component in the demographic analysis estimates completed by March 1, 2001.

⁵ The March Current Population Survey was reweighted using the Census 2000 counts by age, race, sex, and Hispanic origin for this comparison.

⁶ This figure differs from the 1.18 percent usually quoted for the A.C.E. because the A.C.E. and DA estimate different populations. DA estimates the total population, while the A.C.E. estimates the household population, which excludes group quarters.

2000 Evaluation Program provides a comprehensive evaluation of all Census operations and programs. The reports in the ESCAP II series are only those necessary to inform the ESCAP's recommendation.

³ These models can be found at <http://factfinder.census.gov>.

⁴ 13 U.S.C. 181.

Although the research agenda for the March through October period focused primarily on those components of international migration that are less well measured (e.g., emigration, temporary migration, and unauthorized migration), the work also included research into legal immigration and the demographic characteristics of migrants used in the March 2001 DA estimates.

Part of the analysis involved discussions with independent experts on demographic analysis and international migration. The purpose of a March 20, 2001, was to explain how the DA estimates differed from the A.C.E. estimates, and to discuss how to prioritize short-term and long-term research activities. Attendees included experts from the statistical community, academia, state agencies, the Census Bureau's advisory committees, professional organizations, and international organizations. A nearly unanimous recommendation from these experts was to focus on assumptions and estimates of the components of international migration, as these numbers were subject to the most uncertainty. Because of scheduling conflicts, two smaller meetings with other migration experts were held at the annual meeting of the Population Association of America on March 29–30, 2001.

Expert advice was sought again, on September 24, 2001, after completion of the original research activities (validation of the 1990 estimates and updated 2000 estimates) that produced the revised DA estimates. Although these experts generally agreed with the methodology used to calculate components of international migration, they had concerns about the assumptions regarding the undercount of international migrants. Specifically, they believed the undercount assumption of 15 percent for unauthorized migrants, which was incorporated in the Revised DA, was probably too high, especially given the A.C.E. undercounts for other hard-to-enumerate groups. In addition, they urged renaming the residual migrant category as the residual foreign-born, or separating the residual foreign born into known components ("quasi-legal" migrants) and the implied unauthorized migrant population. Both of these suggestions were incorporated into a subsequent sensitivity analysis.

The sensitivity analysis of assumptions about coverage of various components of the

foreign-born population showed that the total number of foreign born did not vary enough to have much effect on the DA estimate of the total population. For example, the lower bound assumption of 3.3 percent net undercount of the foreign-born equated to a population of 281.3 million, or more than 3 million people lower than the A.C.E. total population. The upper bound assumption of 6.7 percent was consistent with a population of 282.5 million—still more than 2 million lower than the A.C.E. total population. These results led the Census Bureau to conclude that the Revised DA was an appropriate benchmark for assessing Census 2000 and the A.C.E. estimates.

Measurement of Vital Events

Other research examined the remaining assumptions underlying the DA components of change, including the birth, death, and Medicare components. Although estimates of deaths and the size of the elderly population did not change much, the estimates of historical births changed because of this research. The principal outcome was a revision in the assumptions about registration completeness of births since 1968. The previous DA estimates assumed that all births in years since 1968 (the last year of testing birth registration completeness) were registered at the same percent (99.2 percent). For the Revised DA estimates, registration completeness gradually reached 100 percent by 1985 (the first year natality statistics were reported electronically from all the States), and remained at 100 percent through 2000. This revision lowered the estimated number of births for 1968–2000 by 715,000 (which lowered the Revised DA estimate of the total population in 2000 by the same amount).⁷

Results of Revised DA

The research undertaken between March and October allayed two fundamental concerns: first, the possibility that the Alternative DA did not capture the full growth of the population between 1990 and 2000, and second, the possibility that the 1990 DA was lower than the true population. In fact, the cumulative effect of the research on immigration, births, and deaths led to

Revised DA estimates that were only slightly different from the Alternative DA. In other words, the inconsistency between the Alternative DA and the A.C.E. estimates was not the result of unexplained problems in DA. These results, in combination with other evidence, led the ESCAP to conclude that the A.C.E. overestimated the Nation's total population.

More specifically, the Revised DA lowered the net undercount rates from 1.85 to 1.65 percent in 1990, and from 0.32 to 0.12 percent in 2000, but did not alter the DA finding that the net undercount rate in 2000 was substantially lower than in 1990.⁸ The Revised DA continued to measure a lower net undercount than the A.C.E., and in fact was very close to the Alternative DA estimate used by ESCAP I in March. The Revised DA estimated a net undercount of 0.3 million, or 0.12 percent, compared with the A.C.E. estimate of a net undercount of 3.3 million, or 1.15 percent. Population totals from the Base DA, Alternative DA, and Revised DA, along with the Census 2000 counts and the A.C.E. estimates, are shown in Table A. The corresponding numerical and percentage undercounts are shown in Figure 1.

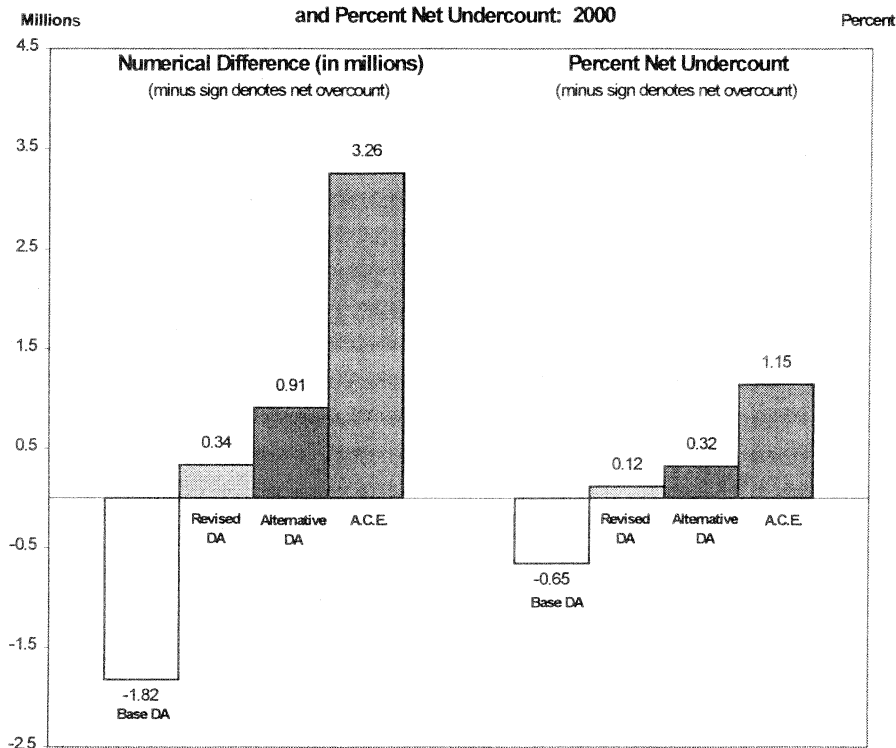
TABLE A.—RESIDENT POPULATION TOTALS FROM CENSUS 2000, DEMOGRAPHIC ANALYSIS, AND THE A.C.E.: APRIL 1, 2000

Source	Total population
Base DA (March)	279,598,121
Census 2000	281,421,906
Revised DA (September)	281,759,858
Alternative DA (March)	282,335,711
A.C.E.	284,683,782

⁷ ESCAP II Report No. 1, "Demographic Analysis Results."

⁸ ESCAP II Report No. 1, "Demographic Analysis Results."

Figure 1. - Numerical Difference Between Census 2000 and Census Bureau Estimates Based on Demographic Analysis and the Accuracy and Coverage Evaluation (A.C.E.), and Percent Net Undercount: 2000



As shown in Table B below, the Revised DA implied a greater reduction than the A.C.E. in net undercount in Census 2000 compared with the 1990 census. Under the revised DA, the net undercount rate was reduced by 1.53 percentage points, from 1.65 percent in 1990 to 0.12 percent in 2000. In contrast, the A.C.E. estimate of 1.15 percent net undercount in 2000 was 0.43 percentage points lower than the 1.58 percent in 1990. Additionally, both DA and the A.C.E. measured a reduction in the net undercount rates of Black and nonBlack children

compared with 1990. Both methods also measured a reduction in the net undercount rates of adult Black men and women.

The revised DA and A.C.E. estimates continued to disagree in that DA found a reduction in the net undercount rates of nonBlack men and women in Census 2000 compared with the rates of previous censuses. The A.C.E. indicated no change or a slight increase in undercount rates for nonBlack adults as a group.

Demographic analysis also provided evidence that correlation bias was not

reduced between 1990 and 2000.

Comparisons of the DA and A.C.E. sex ratios (men per 100 women) showed that correlation bias in the survey estimates was not reduced for Black men between 1990 and 2000. The A.C.E. sex ratios for Black adults were much lower than the expected sex ratios based on DA, implying that the A.C.E. did not capture the high undercount rate of Black men relative to Black women. The size of this bias was about the same as in the 1990 coverage measurement survey.

TABLE B.—ESTIMATES OF PERCENT NET UNDERCOUNT, BY RACE, SEX, AND AGE: 1990 AND 2000
[a minus sign denotes a net overcount]

Category	Revised demographic analysis		PES/A.C.E.	
	1990	2000	PES 1990	A.C.E. 2000
Total	1.65	0.12	1.58	1.15
Black	5.52	2.78	4.43	2.07
0-17	5.27	1.30	7.05	2.92
Male, 18+	9.57	7.67	3.76	2.10
Female, 18+	2.05	0.75	2.64	1.28
NonBlack	1.08	-0.29	1.18	1.01
0-17	1.12	0.54	2.46	1.27
Male, 18+	1.74	0.29	1.19	1.43
Female, 18+	0.44	-1.02	0.34	0.44

Source: U.S. Census Bureau.

Note: Estimates by race shown for 2000 are based on the "average" of Model 1 and Model 2, as described in ESCAP II Report No. 1, "Demographic Analysis Results."

Research to Evaluate the A.C.E. and Census 2000

A number of the studies described more fully in Attachment 2 evaluate the accuracy of the A.C.E. and Census 2000. The A.C.E. is composed of two samples, the E-sample, which measures erroneous enumerations, and the P-sample, which measures census omissions. The E-sample is also used to estimate the number of census persons who do not have sufficient information to be used in A.C.E. matching and followup operations. The Dual System Estimates (DSEs) are computed by combining E-sample estimates of erroneous enumerations and insufficient information with P-sample estimates of omission. Therefore it is critical that the E-sample correctly account for erroneous enumerations and that the P-Sample correctly account for omissions. The evaluations were designed to measure the accuracy of both the P- and E-Samples.

Three studies in particular produced substantial new information for ESCAP II: the Matching Error Study, the Evaluation Followup (EFU), and the Person Duplication Studies.

*Matching Error Study*⁹

The Matching Error Study provided the P-sample matching error rate and the E-sample processing error rate. Expert matchers clerically rematched all of the people in a one-fifth subsample of the A.C.E. clusters to determine the best match code. This information was compared to match codes assigned in production of the actual A.C.E. estimates.

*Evaluation Followup*¹⁰

The EFU consisted of a reinterview of households in the same one-fifth subsample of A.C.E. clusters used in the Matching Error Study, with additional subsampling. EFU results helped determine the accuracy of the production data processed and collected in the P- and E-Samples. The EFU interview results were used to measure the accuracy of the classification of correct and erroneous census enumerations as determined by the E-Sample. The results were also used to measure the accuracy of the P-Sample data regarding mover status and Census Day residence.

*Person Duplication Studies*¹¹

The Person Duplication Studies took advantage of the fact that Census 2000 was the first census to record name information

in the data capture system in a way that permits computer matching. This new methodology permitted the Census Bureau to direct a nationwide computer matching operation to measure the level of duplication in the census. These studies also examined how well the A.C.E. accounted for these duplicates. While the A.C.E. matched respondents in the same block and surrounding blocks, this new tool permitted the Census Bureau to search for duplicates throughout the country. The Person Duplication Studies involved only computer matching, as the Census Bureau lacked the resources and time to match to the entire country using both computer and clerical matching. The computer matching thus understated the actual level of duplication. These studies also compared the results of the EFU with the Person Duplication Studies to determine whether the EFU correctly measured these duplications.

Some of the error components produced in these studies suggest that the A.C.E. overestimated the net undercount while others suggest the net undercount was underestimated. The results of these studies are discussed below, and are the basis for the recommendation that the adjusted data not be used due to a significant problem in the measurement of erroneous enumerations resulting in an overstatement of the net undercount by at least 3 million people.

Measurement of Erroneous Enumerations, Including Duplicates

The evaluations of the accuracy of the A.C.E. indicated that the A.C.E. did not measure a significant portion of the Census 2000 erroneous enumerations. The measurement of erroneous enumerations is critical to both the national net undercount and to sub-national estimates. The effect of this error resulted in the A.C.E. significantly overstating the net Census 2000 undercount by at least 3 million people, with an approximate range of 3 to 4 million. The significance of this error was such that the ESCAP recommended that the unadjusted data be used for Census 2000 non-redistricting purposes.

The EFU and the Person Duplication Studies described above provided the most significant information regarding the measurement of erroneous enumerations. The initial EFU results gave evidence of a significant understatement in the A.C.E. measurement of erroneous enumerations. Because of the significance of the understatement, the EFU was extensively reviewed. The revised EFU again also indicated a significant problem with understating the level of erroneous enumerations, and resulted in a high level of cases left unresolved or conflicting. The Person Duplication Studies found that a significant number of duplicate enumerations were not measured by the A.C.E., and that the EFU did not pick up significant portions of this error. The Person Duplication Studies also resolved a portion of the cases left unresolved or conflicting by the EFU Review.

The EFU initially found a 3.5 percent change in enumeration status from that measured by A.C.E. production. A total of about 2,800,000 production "correct

enumerations" (SE 223,000) were re-coded as "erroneous enumerations," while about 900,000 production "erroneous enumerations," (SE 99,000) were re-coded as "correct enumerations."¹² The net difference found by the EFU was 1,900,000. The EFU also included about 4,500,000 cases (SE 353,000) that could not be resolved. This study indicted that, at a minimum, the A.C.E. overstated the level of net undercount by about 2 million people.

Because of the EFU's potentially significant implications for the A.C.E. estimates, ESCAP decided that further EFU analysis was needed. Accordingly, more highly trained matching analysts from the National Processing Center (NPC) directly reviewed a subsample of the EFU and production cases. Matching analysts are employees at NPC with many years of training in matching, some with over 20 years of experience, who supervise and perform quality assurance for all the A.C.E. matching operations.

This additional review confirmed that there were errors in the A.C.E.'s identification of erroneous enumerations. A total of about 1,800,000 enumerations (SE 189,000) that were coded as correct in production were subsequently coded erroneous in the evaluation, while the number of enumerations coded as erroneous in production that were then coded as correct in the review was about 361,000 (SE 46,000).¹³ Consequently, the net difference in the "correct enumeration" to "erroneous enumeration" and "erroneous enumeration" to "correct enumeration" cells was estimated at 1,450,000, rather than the initial level of 1,900,000. However, the review identified over 15 million cases which could not be resolved or for which conflicting results were observed. Depending on assumptions that could be made regarding the enumeration status of these cases, the overstatement of the net undercount could range from about 1.45 million to up to 5.9 million people.¹⁴

The Person Duplication Studies found that a significant number of duplicate enumerations were not correctly measured by the A.C.E. or by the EFU. Furthermore, when the Person Duplication Studies results are combined with the EFU results, some of the unresolved and conflicting cases can be explained. Based on this work, more refined ranges for the level of the A.C.E. overstatement were developed. Direct estimates were produced from the Person Duplication Studies that indicated that the level of A.C.E. error not measured was about 3 million persons. In addition, it is also expected that further refinements to the treatment of the unresolved and conflicting cases would lead to about an additional 800,000 errors. Thus, the approximate range of the potential overstatement of the net undercount was reduced to between 3 and 4 million persons.

⁹ ESCAP II Report No. 7, "Accuracy and Coverage Evaluation Matching Error."

¹⁰ ESCAP II Report No. 3, "Evaluation Results for Changes in A.C.E. Enumeration Status," ESCAP II Report No. 4, "A.C.E. Erroneous Enumeration Errors: Analysis of Census Discrepant Persons," ESCAP II Report No. 16, "Evaluation Results for Changes in Mover and Residence Status in the A.C.E.," and ESCAP II Report No. 24, "Results of the Person Followup and Evaluation Follow-up Forms Review."

¹¹ ESCAP II Report No. 6, "Census Person Duplication and the Corresponding A.C.E. Enumeration Status," ESCAP II Report No. 9, "Evidence of Additional Erroneous Enumerations from the Person Duplication Study," and ESCAP II Report No. 20, "Person Duplication in Census 2000."

¹² ESCAP II Report No. 3, "Evaluation Results for Changes in A.C.E. Enumeration Status."

¹³ ESCAP II Report No. 24, "Results of the Person Followup and Evaluation Followup Forms Review."

¹⁴ ESCAP II Report No. 24, "Results of the Person Followup and Evaluation Followup Forms Review."

Finally, the EFU provided information regarding whether the A.C.E. accurately measured Census 2000 discrepant enumerations.¹⁵ This study showed that the net effect of erroneously identifying discrepant persons as correct enumerations in production and vice versa is an overstatement of about 6,000 correct enumerations in production, with a standard error of about 30,000.¹⁶ This difference is statistically insignificant.

Measurement of Census Omissions

Measurement of census omissions is based on the P-Sample. Therefore, accurate matching of the P-sample to the census, and the correct classification of mover status and Census Day residence, are important components of the P-Sample. Information about the accuracy of the matching was produced by the Matching Error Study. Information about the accuracy of the classification of movers and Census Day residence was derived from the EFU.

The Matching Error Study indicated that the level of matching error from the P-Sample would result in about a 385,000 overstatement of the net undercount.¹⁷

The EFU demonstrated that misclassification of movers in the A.C.E. may have resulted in an understatement of about 450,000 in the net undercount.¹⁸ It should be noted that this final effect was the result of significant changes in mover status. These changes involved a large number of movers becoming nonmovers and vice versa. The EFU indicated that about 4.5 million people classified as "movers" in production became "nonmovers," and that about 2.4 million people classified as "nonmovers" in production became "movers." At the national level there is therefore a small net effect of about 65,000 on the accuracy of the measurement of census omissions. However, more research must be conducted to further study these effects.

The ESCAP was concerned about the EFU measurement of movers who became nonmovers, specifically about whether the EFU measured too few movers, due to its questionnaire design. To be classified a nonmover, the EFU required less detailed information than needed to be classified a mover. An examination of the bias caused by mover status changes indicates that the effect of mover-to-nonmover changes was greater in absolute value than the effect of nonmover-to-mover changes. Therefore, if there was an over reporting of nonmovers in the EFU, the effect would be to lower the measured net bias described above. Additional work must

clearly be conducted to clarify this information. Furthermore, even though the net effects of these errors cancel at the national level, assessment of the subnational effects also requires further research.

Correlation Bias

Correlation bias refers to the tendency for people enumerated in the census to be more likely to be included in the A.C.E. than those missed in the census. Correlation bias usually results in a downward bias in the DSE. This type of bias can result from causal dependence, that is, the tendency of some people to be more likely to be included in the A.C.E. because they had been included in the census, or vice versa, or from heterogeneity. Heterogeneity bias can arise because different people within poststrata both have different chances of being counted in the census and different chances of being included in the A.C.E. To cause a bias, these chances must be correlated, for example, those likely to be missed by the census are also most likely to be missed by the A.C.E. ESCAP I assessed possible correlation bias in the A.C.E. estimates by comparing the A.C.E. and DA results. Correlation bias estimates available for the March ESCAP recommendation used DA estimates as of February 26, 2001. ESCAP II directed that the correlation bias estimates be recomputed to use the Revised DA estimates and other newly available data. Revised correlation bias estimates were computed and discussed by the Committee.

Like ESCAP I, ESCAP II was faced with the fact that while correlation bias exists, it is difficult to quantify. Correlation bias is an important component of assessing the A.C.E.'s accuracy because assumptions regarding correlation bias have a large effect. ESCAP II considered several models of correlation bias, including whether correlation bias should be assumed only for the Black population, whether the Hispanic population should be assumed to have the same degree of correlation bias as the Black population, and whether correlation bias should be assumed to be the same for owners and renters. Correlation bias would mean that the A.C.E. estimates of total population were too low by about 750,000 to 1.3 million, depending on which model for correlation bias is assumed.¹⁹ Currently the Census Bureau has no means of incorporating these net biases in the production DSEs.

A.C.E. Missing Data

Missing data occurs in the A.C.E. if, after all followup attempts, there remain households that were not interviewed, or households with some portions of the person data missing, such as age or race. Sometimes the missing item involves the status of whether a person matched, was a resident on Census Day, or was correctly enumerated. Statistical models are used to account for missing data. ESCAP I viewed the rates of occurrence of unresolved A.C.E. cases for match status, correct enumeration status, and mover status as low enough to preclude serious biases in the A.C.E. results. ESCAP II directed development of additional missing

data models to assess the effect on the estimates of using alternative models.

The treatment of missing data can have a large effect on the A.C.E. estimates under certain assumptions. ESCAP II examined a variety of models to predict the effects of missing data. Seven basic methods for addressing the components of missing data in the A.C.E. estimates were considered in various combinations. Each resulting alternative model was used to compute new DSE. The alternatives considered indicated that the choice of missing data model can have a significant effect on the resulting estimates of coverage error, causing the DSEs to be over- or under-stated. The Census Bureau chose to represent the effects of these alternative models in the form of increased uncertainty in the A.C.E. estimates.

The DSEs that resulted from the alternative models were used to calculate a measure of variation similar to a sampling error. This research found that non-sampling variability from the use of alternative missing data models was considerable. At the national level, the overall magnitude of the variation resulting from all combinations of the alternative missing data models (about 530,000) was higher than the DSE sampling error (about 380,000).²⁰ When some alternative models were excluded, the standard deviation was of approximately the same magnitude as the DSE sampling error, but there is no evidence to suggest that the measure of variation based on all methods is unreasonable. In fact, arguments could be made that this measure understates the actual levels of variation due to missing data because it assumes that the alternatives considered were randomly distributed around an average, that is, each alternative was equally likely.

ESCAP II also examined information describing the level and distribution of A.C.E. missing data compared to the 1990 coverage measurement survey. The purpose of this review was to put the levels of missing data in context with 1990, and to add to the understanding of the alternative missing data model analysis previously described. The 2000 unresolved rates were slightly higher than those in 1990, but were not initially viewed as high enough to cause major concern. The alternative model analysis indicated that missing data had a more significant effect than anticipated, possibly due to changes in the methods for incorporating movers into the DSE, or to a more diverse set of alternative models.

Balancing Error

The ESCAP I Report had identified balancing error as a potential problem, noting that the A.C.E. found 3 million more matches in surrounding blocks than correct enumerations, a result which could have affected the accuracy of the estimates. The A.C.E. matching is carried out in a defined search area consisting of the A.C.E. sample blocks (clusters) and a targeted area of blocks surrounding or bordering the A.C.E. blocks. Significant differences were discovered between the number of matches and correct

¹⁵ Discrepant results include falsification (the amount is uncertain), but do not include honest mistakes made by the interviewers or respondents. A person is classified as discrepant during the matching operation if three knowledgeable respondents indicate not knowing him or her in either the EFU or production interview.

¹⁶ ESCAP II Report No. 4, "A.C.E. Erroneous Enumerations Errors: Analysis of Census Discrepant Persons."

¹⁷ ESCAP II Report No. 7, "Accuracy and Coverage Evaluation Matching Error."

¹⁸ ESCAP II Report No. 16, "Evaluation Results for changes in Mover and Residence Status in the A.C.E."

¹⁹ ESCAP II Report No. 10, "Estimation of Correlation Bias in 2000 A.C.E. Estimates Using Revised Demographic Analysis Results."

²⁰ ESCAP II Report No. 12, "Analysis of Missing Data Alternatives."

enumerations found in the surrounding blocks. Various scenarios were identified that could explain the difference, and ESCAP II directed that evaluations be conducted to investigate the source of this difference, identify the scale of any error, and assess whether its magnitude could significantly affect the accuracy of the adjusted data. This analysis necessitated additional field work.

The evaluations indicated that the causes of the discrepancies were for the most part related to a scenario that does not significantly affect the resulting DSEs. That is, most of the 3 million difference was attributable to the A.C.E. listing housing units in the blocks surrounding the sample blocks, which had little, if any, effect on the DSE. The evaluations did, however, detect about 246,000 A.C.E. people (SE 82,000) located out of the surrounding blocks.²¹ The evaluations also estimated that an additional 195,000 people (SE 56,000) were incorrectly identified as having been correctly enumerated, but although they were found to have been out of the search area. The effect of these errors is an approximate overstatement of the net undercount by about 450,000 persons. It appeared that a portion of these errors were also included in the results of the EFU and Matching Error Study. While some additional work is required to completely resolve the potential effects of balancing error, the ESCAP believes that most of the previous concerns regarding balancing error have been addressed.

Conditioning

Conditioning, or contamination bias, refers to the situation where the A.C.E. influenced the census. ESCAP I assumed in its deliberations that any effects of conditioning or contamination bias were minimal, and could be ignored. This assumption was based on previous experiences in the 1990 census. Evidence presented to ESCAP II confirmed that contamination bias was not a problem in Census 2000, as research did not identify any evidence of its presence.²²

Reinstated Late Additions

While ESCAP I did not identify Census 2000 late additions as a source of error, levels of these additions were significantly higher than in the 1990 census. Late additions refer to persons included in the final census count who were excluded from A.C.E. matching and dual system estimation because of their late inclusion. For Census 2000, the late additions consisted exclusively of housing units that were temporarily removed from the census because they were suspected to duplicate other housing units, but which were later (after the A.C.E. matching process started) reinstated into the final census after further research. ESCAP I determined that if the reinstated people were a small percentage of the correct enumerations in the census, or if their A.C.E. coverage rate was similar to the A.C.E. coverage rate for census people included in A.C.E., then there would be a

minimal effect on the DSEs.²³ To validate this assumption, additional research was conducted.

Based on this additional work, ESCAP II concluded that the effect of excluding reinstated census people from the A.C.E. was minimal. The A.C.E. coverage rate may have been overestimated by 0.034 to 0.082 percentage points.²⁴ This result confirmed the assumption, previously made in the ESCAP I Report, that the effect of the reinstated people on the DSEs would be small.

Census 2000 Imputations

Census 2000 experienced a higher rate of whole person imputations than in the 1990 census. Whole person imputations were excluded from A.C.E. matching activities, but reflected in the census coverage error as measured by the A.C.E. ESCAP I was concerned that information was not available at the time to validate that the whole person imputations were explainable by Census 2000 design features (and thus should have no discernible impact on the A.C.E.). ESCAP II concluded that the kind, level, and pattern of whole person imputations in Census 2000 raised no additional issues relative to the accuracy of the A.C.E. adjustment.

Approximately 5.77 million persons had all their characteristics (short form data items) imputed in Census 2000, compared to 1.97 million persons in the 1990 census. Approximately 1.2 million of these persons were added to the census count through a count imputation process. The remaining 4.6 million persons were counted directly through the census enumeration process, but had all their person characteristics imputed because information about them was substantially missing from the census records.²⁵ Research into the sources of the whole person imputations identified that changes in the census design contributed to the level of housing units requiring imputation. Furthermore, the count imputation rate was comparable to the rate experienced in the 1970 and 1980 censuses.

Characteristics of the imputed persons were also examined. The age, race and sex characteristics of the population requiring some form of imputation was similar to the data-defined population with the exception of the age category under 18. The relatively higher percent of the population under age 18 in the imputed population was due to the high proportion of younger people in the "within household" category and reflected the fact that large households (greater than 6) were likely to have children not able to be accommodated by the 6-person mail-return form, and thus require imputation.²⁶

²³ Howard Hogan (March 2001). "Accuracy and Coverage Evaluation Survey: Effect of Excluding 'Late Census Adds,'" DSSD Census 2000 Procedures and Operations Memorandum Series No. Q-43.

²⁴ ESCAP II Report No. 21, "Analysis of Census Imputations."

²⁵ ESCAP II Report No. 21, "Analysis of Census Imputations."

²⁶ ESCAP II Report No. 22, "Characteristics of Census Imputations."

Total Error Model and Loss Function Analysis

The total error model is designed to incorporate the results of the evaluations to produce a composite estimate of the bias and variability (both sampling and non-sampling) in the A.C.E. These measures are used to correct the A.C.E., thus producing measures of the "true" population that can be used to assess the accuracy of the adjusted and unadjusted census data. The total error model produces measures of this "true" population in the form of target populations which are based on various assumptions because the truth is not known.²⁷ The total error model used by ESCAP I relied in part on 1990 data, as complete Census 2000 evaluations of the A.C.E. were not then available. This preliminary model adapted the 1990 total error model to the Census 2000 environment. For the current deliberations, the ESCAP II wanted to base recommendations on current data. Therefore, development of a new total error model was undertaken to incorporate the results of the Census 2000 evaluations. The complexities of the revised EFU study and the A.C.E. design did not allow for the development and validation of a new total error model. Therefore, the ESCAP has had to rely on the individual evaluations described above. It is also apparent that a significant amount of additional research and development will be necessary before a complete total error model is available. ESCAP II believes that the information currently available is strong enough to preclude the use of adjusted data for any further Census 2000 purposes, but that future research may lead to improved A.C.E. estimates, that could, in turn, be used to improve the post-censal estimates.

Synthetic Estimation

The A.C.E. estimation methodology produces estimated coverage correction factors for each post-stratum. These factors were carried down within the post-strata in a process referred to as synthetic estimation. The key assumption underlying synthetic estimation is that net census coverage is relatively uniform within the post-strata. Failure of this assumption leads to synthetic error. Synthetic error affects both the adjusted and unadjusted census results. ESCAP I analyzed the effects of synthetic error by using artificial populations, which are populations created with surrogate variables to reflect the distribution of net coverage error. Additional synthetic estimation analysis for ESCAP II focused on expanding the scope of the earlier artificial population work.

ESCAP II continues to be concerned with synthetic error because it is not included directly in the total error model. However, as the synthetic error analysis must be considered in conjunction with loss function analysis based on the total error model, there is no need to consider the effects of synthetic error at this point.

²⁷ Mulry, Mary H. and Spencer, Bruce D. (March 2001), ESCAP II Report No. B-19*, "Overview of Total Error Modeling and Loss Function Analysis," DSSD Census 2000 Procedures and Memorandum Series No. B-19*.

²¹ ESCAP II Report No. 2, "Evaluation of Lack of Balance and Geographic Errors Affecting Person Estimates."

²² ESCAP II Report No. 14, "Conditioning of Census 2000 Data Collected in Accuracy and Coverage Evaluation Block Clusters."

Conclusion

ESCAP II recommends that unadjusted Census 2000 data be used for non-redistricting purposes. The Committee was persuaded by new evidence indicating that the A.C.E. overstated the net undercount by at least 3 million individuals as a result of the survey's failure to measure a significant number of census erroneous enumerations. However, the Committee believes that, while Census 2000 successfully lowered the differential undercount, it did not eliminate it. Therefore, the Census Bureau will conduct further research and analyses to attempt to produce revised A.C.E. estimates that can be used to improve future post-censal estimates.

The ESCAP II recommendation, if accepted, means that Census 2000 long form results will be weighted with unadjusted

population counts, and that post-censal population estimates and survey controls will also rely on unadjusted data. The Census Bureau will continue research on the issues discovered with the A.C.E., particularly the issue of census duplicates and their estimation or detection. It is quite possible that this research will develop methods to improve future population estimates by combining information from the census, A.C.E., and the A.C.E. evaluations, including the Person Duplication Studies. Post-censal estimates and survey controls are updated annually, offering the opportunity to incorporate improvements. Even if the research does not lead to improved post-censal estimates, it will still further our understanding of the nature of census duplications and other erroneous

enumerations, and the problems with their estimation by the A.C.E. This knowledge will be vitally important to the planning of the 2010 census and to the improvement of future coverage surveys.

Both census taking and coverage measurement are processes that evolve and improve with each census. The Census 2000 experience will help refine both census and coverage measurement processes for future censuses.

Attachments

1. List of ESCAP II Reports
2. Analysis Plan for Further ESCAP Deliberations Regarding the Adjustment of Census 2000 Data for Future Uses
3. Field Operations to Answer the Concerns about Lack of Balance

ATTACHMENT 1.—ESCAP II REPORTS

Report No.	Title	Author/Presenter
1	ESCAP II: Revised Demographic Analysis Results	J. Gregory Robinson.
2	ESCAP II: Evaluation of Lack of Balance and Geographic Errors Affecting Person Estimates.	Tamara Adams, Xijian Liu.
3	ESCAP II: Evaluation Results for Changes in A.C.E. Enumeration Status	David A. Raglin, Elizabeth A. Krejsa.
4	ESCAP II: A.C.E. Erroneous Enumerations errors: Analysis of Census Discrepant Persons.	Elizabeth A. Krejsa.
5	ESCAP II: E-Sample Erroneous Enumerations	Roxanne Feldpausch.
6	Census Person Duplication and the Corresponding A.C.E. Enumeration Status	Roxanne Feldpausch.
7	ESCAP II: Accuracy and Coverage Evaluation Matching Error	Susanne L. Bean.
8	Accuracy of the 2000 Census and A.C.E. Estimates Based on Updated Error Components—Total Error Model.	Rita J. Petroni.
9	Evidence of Additional Erroneous Enumerations from the Person Duplication Study.	Robert E. Fay.
10	ESCAP II: Estimation of correlation Bias in 2000 A.C.E. Estimates Using Revised Demographic Analysis Results.	William R. Bell.
11	ESCAP II: Analysis of Unresolved Codes in Person Matching	Xijian Jim Liu, John A. Jones, Roxanne Feldpausch.
12	ESCAP II: Analysis of Missing Data Alternatives for the Accuracy and Coverage Evaluation.	Don Keathley, Anne Kearney, William R. Bell.
13	ESCAP II: Effect of Excluding Reinstated Census People from the A.C.E. Person Process.	David A. Raglin.
14	Conditioning of Census 2000 Data Collected in Accuracy and Coverage Evaluation Block Clusters.	Katie Bench.
15	ESCAP II: Analysis of Movers	Xijian J. Liu, Rosemary L. Byrne, Lynn M. Imel.
16	ESCAP II: Evaluation Results for Changes in Mover and Residents Status in the A.C.E.	David A. Raglin, Elizabeth A. Krejsa.
17	ESCAP II: Census 2000 Housing Unit Coverage Study	Diane F. Barrett, Michael Beaghen, Damon Smith, Joseph Burcham.
18	ESCAP II: P-sample Nonmatch Analysis	Glenn Wolfgang, Tamara Adams, Peter Davis, Xijian Liu, Phawn Stallone.
19	ESCAP II: Analysis of Non-Matches and Erroneous Enumerations Using Logistic Regression.	Michael Beaghen, Roxanne Feldpausch, Rosemary Byrne.
20	ESCAP II: Person Duplication in Census 2000	Thomas Mule.
21	ESCAP II: Analysis of Census Imputations	Fay F. Nash.
22	ESCAP II: Characteristics of Census Imputations	Signe I. Wetrogan, Arthur R. Cresce.
23	ESCAP II: Sensitivity Analysis for the Assessment of the A.C.E. Synthetic Assumption.	Richard Griffin, Donald Malee.
24	ESCAP II: Results of the Person Followup and Evaluation Followup Forms Review.	Elizabeth A. Krejsa, Tamara Adams.

July 26, 2001.

Attachment 2—Analysis Plan for Further ESCAP Deliberations Regarding the Adjustment of Census 2000 Data for Future Uses

Background

On March 1, 2001, The Census Bureau issued the Executive Steering Committee for A.C.E. Policy (ESCAP) recommendation that

the Census 2000 Redistricting Data not be adjusted based on the Accuracy and Coverage Evaluation (A.C.E.) program data. The ESCAP was unable to conclude, based on information available at the time, that the adjusted Census 2000 data were more accurate for redistricting.

By mid-October, the Census Bureau will recommend whether Census 2000 data

should be adjusted for future uses, such as the census long form data products, post-censal population estimates and Census Bureau demographic survey controls. In order to inform this decision, further research will be conducted generating data for ESCAP's review. The analyses will focus on resolving the concerns that ESCAP identified during its deliberations for the redistricting adjustment decision. This document describes the research agenda and is organized by the topic areas of concern.

The broad, overarching concern was that the Demographic Analysis and the A.C.E. estimates of the population were inconsistent. Even though alternative demographic estimates were produced by varying the assumptions underlying the Demographic Analysis, the highest reasonable estimate indicated that Census 2000 undercounted the population by 0.32 percent, while the A.C.E. produced a net undercount estimate of 1.15 percent.²⁸ In previous censuses since 1960, the Demographic Analysis estimates were used to evaluate decennial census coverage. The estimate derived through the 1990 coverage measurement survey was reasonably consistent with the 1990 Demographic Analysis estimate of the total population. When the corresponding estimates for Census 2000 were found to reflect substantial differences in the population estimates, this concerned the ESCAP. Four scenarios were identified that could explain this result:

- The 1990 census coverage measurement survey (Post Enumeration Survey), 1990 Demographic Analysis estimates, and the 1990 census may have understated the Nation's population, while Census 2000 included portions of this previously unidentified population.
- Demographic Analysis estimates might not have captured the full growth between 1990 and 2000, specifically due to static assumptions about critical components of international migration such as unauthorized migration, temporary migration, and emigration.
- Census 2000, as adjusted by the A.C.E., might overestimate the Nation's population. This situation raises the possibility of an undiscovered problem with the A.C.E. or Census 2000 methodology.

- A combination of these explanations.

To address these possibilities, further research is required into the quality of the three independent measures of the population—the Demographic Analysis estimate, the A.C.E. estimate and the census count itself. Specifically, research will address whether the Demographic Analysis estimate was too low and/or whether the adjusted estimate was too high. The latter situation could have occurred if either the A.C.E. did not measure the coverage error accurately or the census count had coverage error reflected by components not measured by the A.C.E.

In addition, the ESCAP was concerned about two other issues related to the A.C.E.

estimates—balancing error and synthetic error. Balancing error occurs in the A.C.E. when cases are handled differently in the two independent samples (the P- and E-samples) when identifying gross omissions and erroneous enumerations. This is explained more fully under section B.1.a below. Synthetic error reflects the extent that net census coverage within a post-stratum is not relatively uniform. Uniformity of coverage is the underlying assumption of the synthetic estimation process of carrying coverage correction factors down to the block level. The concerns regarding synthetic error are described more fully in section D below.

The analysis agenda is organized around four basic areas of research: 1) recalculation of Demographic Analysis estimates using new migration assumptions as well as new birth and death data, 2) A.C.E. issues, including balancing error, 3) Census 2000 issues and 4) synthetic error.

A. Demographic Analysis (DA) Research

This area of research addresses the discrepancy of the demographic analysis data and the A.C.E. adjusted estimates of population. Specifically, this area of research will reexamine the historic levels of the components of population change to address the scenarios dealing with the possibility that the 1990 Demographic Analysis estimates understated the Nation's population and that demographic analysis did not capture the full growth between 1990 and 2000. Consultation with demographic experts inside and outside the Census Bureau has led to a research program consisting of a variety of research projects focused on the methodologies and underlying estimates of the components of population change. The research activities are concentrated in two areas:

1. International Migration

Assumptions regarding international migration are the most uncertain component of the demographic analysis estimates. The international migration component represents a combination of several components. Some of these components, e.g. legal immigration, are measured through continuous administrative data. For other components, e.g. temporary migration, emigration, and unauthorized migration, we do not have administrative data to provide continuous and current measurements. In the past, we have relied upon the most recent decennial data to develop a once a decade measure of these components. Thus, for the 1990 to 2000 decade, we would have relied upon the measurement from the 1990 census to develop an estimate for the 1990 to 2000 decade.

This work will involve examining preliminary data from the Census 2000 long form and the Census 2000 Supplementary Survey (C2SS) to provide information to update the measurement of the international migration components. Although the research will focus primarily on those components less well measured, e.g. emigration, temporary migration, and unauthorized immigration, the work will also include research into all of the current assumptions relating to the components of international migration. The first goal is to validate for the 1990 to 2000 period, the

calculation of the components of international migration used in previous estimates. Then, using the preliminary data from the Census 2000 long form and possibly the C2SS, we will develop some updated measures of the components of international migration. The second goal is to assess if the documented calculation of the 1990 to 2000 migration components affect the DA estimate for 2000 and thus account for some of the discrepancy with the A.C.E. results. Research to be conducted includes the following:

- We will examine the assumptions about international migration flows, specifically for unauthorized migration, legal immigration, emigration, temporary migration, and migration from Puerto Rico. Utilizing preliminary long form data from Census 2000 and other information sources (including C2SS), we can prepare the first set of documentation for our current international migration assumptions and we can assess the accuracy of assuming a continuation of the estimates developed from the 1990 Census data. Specifically, we will estimate migration using available long-form data on place of birth, citizenship, and year of entry and compare this estimate to the estimates previously used that were developed from the 1990 Census long form data. Thus we will evaluate differences in size and characteristics of previously implied flows based on current data sets. If appropriate, we will recalculate the demographic analysis estimates for 2000 employing any revised levels of international migration.

- We will assess the quality of the foreign-born and Hispanic population data (important because these data are major inputs to the setting of assumptions noted above). We will review edit and allocation procedures for foreign-born and Hispanic populations in the 1990 and 2000 censuses and attempt to quantify the effect (or at least address the direction of the effect) of any differences. We also will review the impact of any change in the edits and allocation procedures on the size and characteristics of these population groups.

2. Robustness of Demographic Analysis

In addition to the research aimed at examining the components of international migration used in the demographic analysis estimates, we will examine the remaining assumptions underlying the Demographic Analysis components of change. These components include the birth, death, and Medicare components. This work will entail the following:

- We will examine the consistency of the components by cohort and age/sex groups across time (1935 to 2000), including the historical international migration components. We will construct DA undercount rates for the 1940 to 2000 decennial censuses and examine them for consistency. We will examine the consistency of sex ratios across cohorts and age/sex groups. Inconsistent or anomalous results will be noted, and possible reasons identified.

- We will review the assumptions about the completeness of vital statistics registration. Specifically, we will review the historic levels of births and deaths used to

²⁸ The 1.15 percent and 0.32 percent of the undercount rates are based on census counts that include both the housing unit and group quarters populations.

develop existing DA estimates and the assumptions about the underregistration of births and registration of infant deaths. We will evaluate both the procedures for adjusting births for underregistration and the level of historical deaths (both total and by age). If appropriate, we will redevelop the historical annual levels of births and deaths to 1990 and 2000.

- We will examine the assumptions about the variation and coverage of Medicare data. This work will include documenting the differences in the sources of Medicare data used in the 1990 and 2000 DA estimates, evaluating the adjustment rates used for underenrollment in the 1990 and 2000 DA estimates, and reconciling the differences in the Medicare files for 1990 and 2000.

- If appropriate, we will recalculate the demographic analysis estimates for 1990, compare them to the original 1990 Demographic Analysis estimates, and assess their impact on the DA estimates for 2000.

- We will analyze the consistency of DA estimates of the population, by race, ethnicity, and nativity, with Census 2000 and A.C.E. This work will entail (1) developing DA benchmarks of the population, by selected race, ethnicity, and nativity groups, (2) obtaining census tabulations of the native and foreign-born populations from preliminary Census 2000 and the 1990 Census long forms, and (3) comparing to the DA benchmarks to derive coverage estimates by selected age, sex, and race groups.

B. A.C.E. Issues and Planned Research

1. Major Areas of Research

a. Balancing Error

The A.C.E. was conducted using a defined area of search, the sample blocks and surrounding blocks for clusters selected for targeted extended search. There were concerns, since there was a change in the 1990 procedure of expanding the search area to surrounding blocks for all sample blocks. We found 3 million more matches in surrounding blocks than correct enumerations after expanding the search area. This difference must be explained in terms of its impact on subsequent estimates of total population. There are two scenarios:

- The unit is located in the surrounding block with no effect on estimates of coverage, but would explain the three million difference.

- The unit is outside the search area and the corresponding people should have been coded erroneous enumerations. This would result in an overestimate of the net undercount.

This may have been compounded by the targeting used in the A.C.E. to match in an area of search around the sample blocks, i.e., the search area. This targeting to make searching effective may have introduced limitations and/or biases into our measurement of coverage. There were three specific concerns in our review of the 2000 A.C.E.

- There were a number of census people that might have been coded as correctly enumerated although the housing unit was not actually located in the sample block. If we didn't estimate the correct number of

erroneously enumerated cases, the result would be an overestimate of the net undercount.

- The P-sample may have incorrectly included some housing units in a neighboring block, then in the extended search, the people would have been recorded as matching to the census in the surrounding blocks. Hence, these cases would appear to be balancing error when, in fact, the extended search was compensating for the original listing error. If the P sample had more geocoding error than expected, the Targeted Extended Search (TES) would have compensated for the error and the impact would be trivial and would have little or no impact on final coverage estimates. This would help explain some of the differences of the apparent lack of balance of 3 million.²⁹

- Problems in identifying census geocoding errors may have affected the sampling used to select people for extended search outside the sample blocks. That is, the TES sample could have excluded cases it should have included and thus, not matched or followed up on them correctly. The effect of their exclusion would be an overestimate of the net undercount.

It is likely that all of these errors occurred to some extent. What is not yet known is the scale of the error and whether the magnitude of the error was such as to significantly affect the relative accuracy of the A.C.E. adjusted numbers. The additional geographic field work is described in more detail in the attachment.

b. Erroneous Enumerations

Subsequent to the March 1st decision, a new area of concern was identified. In comparing the A.C.E. measures to the comparable measures from the 1990 Census, the Census 2000 erroneous enumerations were found to differ substantially from the 1990 measures. These differences indicate concerns that the level of erroneous enumerations may be understated for Census 2000. Therefore, these differences must be explained because an understatement of erroneous enumerations results in an overstatement of net undercount. Research described below will quantify the accuracy of the A.C.E. measures of erroneous enumeration.

- The Analysis of Measurement Error Study will determine how well the A.C.E. identified erroneous enumerations and correct enumerations. This study is based on a reinterview of a sample of E-sample records. This is described more fully in section B.1.c below.

- Another evaluation based on results from the "E-sample Erroneous Enumeration Study" will analyze the erroneous enumerations for various characteristics. This evaluation will compare the rates of the different types of erroneous enumerations for

²⁹ Assume 2.6 million of the P-sample are listed in the surrounding blocks. If 95% of them are in the search area (a plausible percentage), and if 90% match (about the overall match rate), then we have accounted for 2.2 million matches to the surrounding blocks. When we divide this 2.2 million by the P-sample coverage of 0.94, we have accounted for about 2.36 million of the 3 million lack of balance.

Census 2000 with corresponding 1990 rates. This evaluation will also recategorize people with unresolved status into the appropriate erroneous enumeration categories by using data from the followup forms. The goal of this work will identify explanations for differences between 1990 and 2000 coding of erroneous enumerations.

- The duplication study discussed in Section C1 will also provide information regarding the differences between 1990 and 2000. This study will validate whether the A.C.E. process is correctly coding census 2000 duplicate enumerations as erroneous.

c. Total Error Model and Loss Functions

Loss function analyses, reviewed by the ESCAP during its deliberations on whether to adjust the census redistricting data, were based on a total error model that corrected the A.C.E. for biases, thus producing measures of the "true" population that could be used as standards for comparing the adjusted and unadjusted census results. The 1990 total error model was adapted to the extent possible to "fit" the 1990 coverage measurement survey error components into the 2000 survey design. This model was updated with available Census 2000 data, but retained several error component measures obtained from the 1990 coverage measurement survey and 1990 evaluations, because the 2000 A.C.E. evaluation data were not yet available. Thus, the error model assumed that the actual A.C.E. error rates for these components were similar to those reflected by the 1990 coverage measurement survey results. This was viewed as conservative because it was expected that the A.C.E. was of higher quality than the 1990 coverage measurement survey. Work is underway to validate that the assumption above is correct.

We are conducting studies to revise the 1990 total error model to reflect actual A.C.E. error components, as measured by 2000 evaluations. Because of methodological changes between 1990 and 2000, there are issues that influence the comparability of this updated analysis to the March 2001 analysis. The analysis will include a discussion of the comparability.

The A.C.E. error components that were previously based on 1990 data will now be measured and input into the revised total error model are:

- P-sample matching error
- P-sample data collection error
- P-sample discrepancy error
- E-sample processing and data collection errors

Synthetic error is not included in the total error model—this component of error is discussed later. A.C.E. error rates for these total error model components will be obtained from the following evaluation studies.

- The Matching Error Study will provide the A.C.E. P-sample matching error rate and E-sample processing error rates. The methodology consists of the clerical rematching of all of the people in a one-fifth subsample of the A.C.E. clusters by expert matchers to determine the best match code possible. We will compare that match and residence information to the production codes.

- The Analysis of Measurement Error Study uses the results of the Evaluation Followup Interview to provide the error components for E-sample and P-sample data collection error relating to person coverage, and P-sample discrepancy error. The methodology consists of revisiting some of the households in a one-fifth subsample of the A.C.E. clusters and using that information to rematch the Census and A.C.E. people in those households. The results of this study will determine the accuracy of the data going into the person matching process, such as the results from Census and A.C.E. questionnaires. This can involve reclassification of correct and erroneous enumerations. We will determine the accuracy of the residence status of A.C.E. people and how well the A.C.E. process identified Census erroneous enumerations (EEs) and correct enumerations (CEs).

Once the total error model is updated with current data, new loss function analyses will be conducted. The loss function analyses will be expanded to analyze the accuracy of governmental units, in addition to states and counties. No loss function analyses will be run for congressional districts.

d. Correlation Bias

Correlation bias in Dual System Estimates (DSEs) results from a failure of the general independence assumption underlying DSEs due either to causal dependence or heterogeneity. Causal dependence occurs when the act of being included in the census makes someone more likely or less likely to be included in the A.C.E. Heterogeneity occurs when the census and A.C.E. inclusion probabilities vary over persons within post-strata. When heterogeneity within post-strata exists it is generally suspected to be of the form where persons more likely to be missed in the Census are also more likely to be missed in the coverage survey (A.C.E.). This will lead to underestimation of true population by the DSEs. The direction of the effect of causal dependence, if it exists, is less certain.

Correlation bias in the A.C.E. estimates, whether due to heterogeneity or causal dependence, was assessed by comparing A.C.E. and DA results. Correlation bias estimates available for the March 1, 2001 ESCAP recommendation used DA estimates as of February 26, 2001. If further DA research results in revisions to the DA estimates, then the correlation bias estimates will be recomputed. The revised correlation bias estimates will then be used as inputs for revisions of the total error model and loss function analyses.

2. Auxiliary Areas of Research

This section describes other areas that did not preclude ESCAP from recommending that Census 2000 data should be adjusted for redistricting purposes, but for which ESCAP would have preferred additional data. Further research in these areas will be conducted in order to confirm the ESCAP's conclusions.

a. Missing Data

Missing data occurs in the A.C.E. if after all followup attempts there remain households that were not interviewed or

households with some portions of the person data missing such as age or race. Sometimes the missing item involves the status of whether a person matched, was a resident on Census day or was correctly enumerated.

For a small number of people in the P-Sample, there was not enough information available to determine the match status (whether or not the person matched to someone in the census in the appropriate search area) or the resident status (whether or not the person was living in the block cluster on Census Day). Determining residence status was important for the P-Sample because Census Day residents of the block clusters in the sample were used to estimate the proportion of the population who were not counted in the census. Similarly, some people in the E-Sample lacked information to determine whether the person was correctly enumerated. Generally for cases with missing status a probability of resident, match, or correct enumeration was assigned based on information available about the specific case and about cases with similar characteristics.

The rates of occurrence of unresolved A.C.E. cases for match status, correct enumeration status, and mover status were viewed as low enough to preclude serious biases in the A.C.E. results. We are now doing analysis of the missing data model to determine if the assumptions are correct.

We will develop and apply alternative models for the treatment of missing data. These alternative models will be carried through A.C.E. estimation process so that the effect on DSEs can be assessed.

b. Late Census 2000 Additions

The levels of late Census 2000 additions were significantly higher than in the 1990 census. Late additions are those persons included in the final census counts, but which due to their late inclusion were excluded from in the A.C.E. matching and dual system estimation processes. For Census 2000, the late additions consisted exclusively of housing units that were temporarily removed from the census because they were suspected to duplicate other housing units, but which were later (after the A.C.E. matching process started) reinstated into the final census after further research was conducted. This differs from the 1990 Census in which the late additions were persons who were enumerated too late in the census cycle to be included in the matching and dual system estimation processes and were not factored into the coverage ratios. The A.C.E. design treated the late census data appropriately in measuring the census undercount. Two areas of concern require further investigation—whether calculating DSEs without these additions resulted in a bias in the estimates and whether these impacted the assumptions underlying the synthetic estimation model.

There is no expectation of a bias in the dual system estimate caused by excluding late additions. The dual system estimate can be expressed as a product of the (1) number of A.C.E. people and (2) the ratio of census complete and correct enumerations to the number of people in both systems. Consequently, any effect must come from one of these two sources. Excluding the late

additions does not impact the estimate of the number of A.C.E. people, which come solely from the A.C.E. enumerated sample. Excluding the late additions also will not affect the dual system estimate of the true population if the number of matches is reduced proportionately to the number of census correct enumerations. Given the traditional dual system independence assumption, one would expect this result. Consequently, there is no expectation of a bias in the dual system estimate caused by excluding late additions. Data were not available at the time to validate this assumption.

We will now attempt to validate this assumption by performing a rematch of the P- and E-samples, with the late additions included in the E-sample, to attempt to measure the impact on the rates for correct enumerations and duplicates. This rematch will be conducted in a one-fifth subsample of A.C.E. clusters. This study has limitations because only computer and clerical matching can now be performed; that is, no field work will be conducted. Consequently, a high rate of unresolved cases is expected.

The concerns regarding synthetic error are addressed in Section D. "Synthetic Error".

c. Conditioning

Conditioning error occurs under two scenarios:

1. Census data collection affects the A.C.E. This will be measured in the correlation bias.
2. A.C.E. data collection affects the census. This will be examined in the evaluation described below.

The effect of potential conditioning of Census 2000 respondents by the A.C.E. operations was assumed to be minimal, similar to the 1990 findings. The research is necessary to confirm this assumption.

An evaluation will examine whether census and A.C.E. operations were kept operationally independent. The analysis will be based on comparing Census 2000 results in A.C.E. and non-A.C.E. blocks.

• Mover Status Analysis

The match rate portion of the DSE formula (M/P) uses persons with all types of mover status (nonmovers, outmovers, and in-movers), differentiating between the different types of mover status. Therefore, misclassification of mover status could cause the DSEs to be overstated, understated, or both, depending on the post-strata.

The Measurement Error Reinterview Analysis will measure the extent of mover misclassification by using the results from the Evaluation Followup Interview.

• Housing Unit Coverage

The coverage of housing units will be available in the late summer of 2001. These data will be examined in relation to person coverage estimates for 2000. These data from 2000 will be compared to the 1990 estimates of person and housing unit coverage.

In addition, another study will assess the impact of housing unit coverage on person coverage. This study looks at the P-sample to analyze the effect of housing unit nonmatches on the person nonmatches. The E-sample is also examined to help understand the relationship of housing unit status to person status. The correctly enumerated people in erroneously

enumerated housing units are of particular interest.

- *P-sample Nonmatch Analysis*

The P-sample nonmatches are examined for variables such as race domain and age/sex group to see if the nonmatches are different for various types of people. This aids in the understanding of the components of A.C.E. and also helps explain the differences between A.C.E. and DA. In addition, the nonmatches from 2000 are compared to the nonmatches from 1990. In conjunction with the analysis of the E-sample, it helps explain the differences between 1990 and 2000.

C. Census 2000 Issues and Planned Research

Research will be conducted into two components of the census—duplication issues and imputation of persons. A high level of duplication not measured by the A.C.E. design could cause the adjusted census estimate to be too high. The effect of imputed persons records are also not measured by the A.C.E. The number of person records that were imputed in Census 2000 was significantly higher than in the 1990 census. The assumption is that the imputed persons are no different than the persons included in the A.C.E. process and therefore match rates are not impacted.

1. Duplication Not Measured in A.C.E.

The A.C.E. methodology by design did not measure duplication between components of the population living in group quarters and in housing units because group quarters were outside the A.C.E. universe. The A.C.E. also did not measure duplication within the group quarters population. Significant duplication of these types could explain some of the differences between demographic analysis and the adjusted Census 2000 data.

The A.C.E. E-sample will be computer matched to the entire census to determine the extent of duplicate enumerations that were not in scope for the A.C.E. This analysis will potentially explain some of the differences between demographic analysis and the A.C.E.

We also plan an extended computer search within the A.C.E. E-sample for duplicate census enumerations among housing units and also between housing units and group quarters persons (which were out-of-scope for A.C.E.) This will help to explain differences between the A.C.E. and the 1990 coverage measurement survey.

2. Census Person Imputations

Census 2000 imputed a higher number of cases than in the 1990 census that came through the process with little or no information as to the occupancy status, or with an occupied status, but with no definitive population count. In addition, Census 2000 imputed more whole person records in cases with known household sizes, but with all the person data missing for some or all of the household members. Although the A.C.E. handled imputed persons appropriately in the estimation process, there was concern about not having information as to what census design processes contributed to the number of imputed persons when compared to the 1990 census.

Given the potential impact that this level of imputations may have on Census 2000 data, it is essential to understand the

demographic characteristics of the imputed people and how this may help explain the difference between the census and demographic analysis, as well as, how the imputations affect differences between the E-sample in 1990 and the E-sample in 2000.

There were concerns expressed regarding the effect of whole household imputations on the heterogeneity assumption but these concerns are studied under the synthetic error analysis in Section D.

D. Synthetic Error

The synthetic assumption states that census net coverage does not vary within post-strata. For example, the synthetic assumption implies that census counts in Florida in a particular Hispanic post-stratum have the same net coverage as the census counts in the same Hispanic post-stratum but in New York. The synthetic assumption within post-strata will permit the Census Bureau to draw conclusions from the A.C.E. sample about the population as a whole and then apply them to individuals living in geographic areas smaller than post-strata. The synthetic assumption is necessary to permit correction for small geographic areas based on a sample. This adjustment is only correcting for systematic biases and not local census errors. The error that is introduced when the synthetic assumption does not hold is called synthetic error.

Synthetic estimation methodology is directed at correcting for a systematic under- or overcount in the census. The synthetic estimates will not result in the correction of random counting errors that occur for any entity (blocks tracts, counties, etc). Therefore, the synthetic estimate will not result in extreme changes in small geographic entities, nor will it correct for extreme errors. It is designed to remove the effects of systematic errors so that when small entities are aggregated, systematic and differential coverage errors are corrected.

In the assessment of accuracy, the Census Bureau is concerned with synthetic error since it is not included directly in the total error model. The analysis of the effects of synthetic error were based on the construction of "artificial populations." These are populations that are created with surrogate variables that are known for the entire population, and are developed to reflect the distribution of net coverage error. This analysis of synthetic error and its effect on the loss functions was limited.

Our additional analysis will expand the scope of the earlier artificial population work and add an approach using direct estimates of coverage at lower geographic levels.

1. Using Artificial Populations

We will do a sensitivity analysis on the results from B-14. B-14 gave results for weighted and unweighted loss functions using one of two methods for distributing targets to post-strata and one of 8 models for correlation bias and percent of 1990 processing bias. This work will concentrate on the weighted loss functions and analyze the sensitivity of the B-14 results over both the methods for distributing targets to post-strata and all 8 models. Once again this analysis will be conducted for states and congressional districts.

2. Using Direct Estimates

We will calculate direct DSEs for census divisions and for states having sufficient sample size to produce direct estimates with reasonably low variance. Assuming the resulting direct DSE population estimates are unbiased, the mean square error of the production synthetic estimate of total population will be estimated.

E. Schedule

Some of the A.C.E. evaluation work being undertaken involves field work and/or additional computer or clerical matching work. The Evaluation Followup Interview was conducted in the field during the winter of 2001. The Matching Error Study matching work was completed in the spring. Results from these studies are being processed, with initial data being available for review in early summer. Field and clerical work for the TES2 and TES3 (described in the attachment) studies began in the winter and will continue into July. Results from these studies won't be available for ESCAP review until later in the summer. Matching for the late census adds evaluation is scheduled for late-July, with data available for review in August. Other research is being conducted on a flow basis as data become available and analyses are conducted.

The ESCAP began holding weekly (or more frequent) meetings to review analyses of data related to the topics of concern beginning on June 18. It is expected that all of the research and analyses described will be completed by the end of September. The ESCAP will then discuss how the results impact their concerns and will make a recommendation by mid-October as to whether adjusted or non-adjusted census data should be used for subsequent purposes.

During the September through October time frame, analysts will document the results of their research in evaluation reports, finalizing them in time for release to the public concurrently with the ESCAP recommendation.

Attachment 3—Field Operations to Answer the Concerns About Lack of Balance

In order to answer these concerns and explain the lack of balance present due to Targeted Extended Search (TES) and to explain the lack of balance that may be introduced due to TES, we will be examining the results of Targeted Extended Search 2 (TES2) and Targeted Extended Search 3 (TES3). TES2 followed up E-sample housing units that were coded as erroneous enumerations in the initial housing unit phase to determine if the unit was inside or outside the block cluster and surrounding rings. TES3 will followup other types of units, both P-sample and E-sample, that may contribute to a lack of balance.

In TES2 we are evaluating the housing units coded during the housing unit matching as not existing as housing units within the cluster. The block containing the housing unit selected for additional geographic work and the surrounding blocks were identified on a map. The field representative identified the block where the housing unit existed and the housing unit was classified as:

- Existing in the surrounding blocks
- Existing outside the surrounding blocks
- Existing within the block cluster
- Not a housing unit
- Unresolved

So, a housing unit may be coded as in surrounding blocks or outside the search area when it was part of the block cluster.

In TES3 we are also sending to the field a sample of census housing units classified as correctly enumerated in the block cluster. If

a housing unit was classified as correctly enumerated in the block cluster in error, the housing unit was not eligible for targeted extended search in person matching. This could explain more of the lack of balance identified in the person matching.

In addition, we are sending additional types of P-sample cases for more geographic field work and a sample of matches in the sample block as a control. These types of cases are:

- P-sample people matched in surrounding blocks
- Not matched P-sample housing units
- P-sample people matched in the sample block cluster

[FR Doc. 01-27663 Filed 10-31-01; 12:05 am]

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Federal Register

**Monday,
November 5, 2001**

Part IV

The President

**Executive Order 13233—Further
Implementation of the Presidential
Records Act**

Presidential Documents

Title 3—

Executive Order 13233 of November 1, 2001

The President

Further Implementation of the Presidential Records Act

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to establish policies and procedures implementing section 2204 of title 44 of the United States Code with respect to constitutionally based privileges, including those that apply to Presidential records reflecting military, diplomatic, or national security secrets, Presidential communications, legal advice, legal work, or the deliberative processes of the President and the President's advisors, and to do so in a manner consistent with the Supreme Court's decisions in *Nixon v. Administrator of General Services*, 433 U.S. 425 (1977), and other cases, it is hereby ordered as follows:

Section 1. Definitions.

For purposes of this order:

(a) "Archivist" refers to the Archivist of the United States or his designee.

(b) "Presidential records" refers to those documentary materials maintained by the National Archives and Records Administration pursuant to the Presidential Records Act, 44 U.S.C. 2201-2207.

(c) "Former President" refers to the former President during whose term or terms of office particular Presidential records were created.

Sec. 2. Constitutional and Legal Background.

(a) For a period not to exceed 12 years after the conclusion of a Presidency, the Archivist administers records in accordance with the limitations on access imposed by section 2204 of title 44. After expiration of that period, section 2204(c) of title 44 directs that the Archivist administer Presidential records in accordance with section 552 of title 5, the Freedom of Information Act, including by withholding, as appropriate, records subject to exemptions (b)(1), (b)(2), (b)(3), (b)(4), (b)(6), (b)(7), (b)(8), and (b)(9) of section 552. Section 2204(c)(1) of title 44 provides that exemption (b)(5) of section 552 is not available to the Archivist as a basis for withholding records, but section 2204(c)(2) recognizes that the former President or the incumbent President may assert any constitutionally based privileges, including those ordinarily encompassed within exemption (b)(5) of section 552. The President's constitutionally based privileges subsume privileges for records that reflect: military, diplomatic, or national security secrets (the state secrets privilege); communications of the President or his advisors (the presidential communications privilege); legal advice or legal work (the attorney-client or attorney work product privileges); and the deliberative processes of the President or his advisors (the deliberative process privilege).

(b) In *Nixon v. Administrator of General Services*, the Supreme Court set forth the constitutional basis for the President's privileges for confidential communications: "Unless [the President] can give his advisers some assurance of confidentiality, a President could not expect to receive the full and frank submissions of facts and opinions upon which effective discharge of his duties depends." 433 U.S. at 448-49. The Court cited the precedent of the Constitutional Convention, the records of which were "sealed for more than 30 years after the Convention." *Id.* at 447 n.11. Based on those precedents and principles, the Court ruled that constitutionally based privileges available to a President "survive[] the individual President's tenure." *Id.* at 449. The Court also held that a former President, although no longer

a Government official, may assert constitutionally based privileges with respect to his Administration's Presidential records, and expressly rejected the argument that "only an incumbent President can assert the privilege of the Presidency." *Id.* at 448.

(c) The Supreme Court has held that a party seeking to overcome the constitutionally based privileges that apply to Presidential records must establish at least a "demonstrated, specific need" for particular records, a standard that turns on the nature of the proceeding and the importance of the information to that proceeding. See *United States v. Nixon*, 418 U.S. 683, 713 (1974). Notwithstanding the constitutionally based privileges that apply to Presidential records, many former Presidents have authorized access, after what they considered an appropriate period of repose, to those records or categories of records (including otherwise privileged records) to which the former Presidents or their representatives in their discretion decided to authorize access. See *Nixon v. Administrator of General Services*, 433 U.S. at 450-51.

Sec. 3. Procedure for Administering Privileged Presidential Records.

Consistent with the requirements of the Constitution and the Presidential Records Act, the Archivist shall administer Presidential records under section 2204(c) of title 44 in the following manner:

(a) At an appropriate time after the Archivist receives a request for access to Presidential records under section 2204(c)(1), the Archivist shall provide notice to the former President and the incumbent President and, as soon as practicable, shall provide the former President and the incumbent President copies of any records that the former President and the incumbent President request to review.

(b) After receiving the records he requests, the former President shall review those records as expeditiously as possible, and for no longer than 90 days for requests that are not unduly burdensome. The Archivist shall not permit access to the records by a requester during this period of review or when requested by the former President to extend the time for review.

(c) After review of the records in question, or of any other potentially privileged records reviewed by the former President, the former President shall indicate to the Archivist whether the former President requests withholding of or authorizes access to any privileged records.

(d) Concurrent with or after the former President's review of the records, the incumbent President or his designee may also review the records in question, or may utilize whatever other procedures the incumbent President deems appropriate to decide whether to concur in the former President's decision to request withholding of or authorize access to the records.

(1) When the former President has requested withholding of the records:

- (i) If under the standard set forth in section 4 below, the incumbent President concurs in the former President's decision to request withholding of records as privileged, the incumbent President shall so inform the former President and the Archivist. The Archivist shall not permit access to those records by a requester unless and until the incumbent President advises the Archivist that the former President and the incumbent President agree to authorize access to the records or until so ordered by a final and nonappealable court order.

- (ii) If under the standard set forth in section 4 below, the incumbent President does not concur in the former President's decision to request withholding of the records as privileged, the incumbent President shall so inform the former President and the Archivist. Because the former President independently retains the right to assert constitutionally based privileges, the Archivist shall not permit access to the records by a requester unless and until the incumbent President advises the Archivist that the former President and the incumbent President agree to authorize access to the records or until so ordered by a final and nonappealable court order.
- (2) When the former President has authorized access to the records:
- (i) If under the standard set forth in section 4 below, the incumbent President concurs in the former President's decision to authorize access to the records, the Archivist shall permit access to the records by the requester.
 - (ii) If under the standard set forth in section 4 below, the incumbent President does not concur in the former President's decision to authorize access to the records, the incumbent President may independently order the Archivist to withhold privileged records. In that instance, the Archivist shall not permit access to the records by a requester unless and until the incumbent President advises the Archivist that the former President and the incumbent President agree to authorize access to the records or until so ordered by a final and nonappealable court order.

Sec. 4. Concurrence by Incumbent President.

Absent compelling circumstances, the incumbent President will concur in the privilege decision of the former President in response to a request for access under section 2204(c)(1). When the incumbent President concurs in the decision of the former President to request withholding of records within the scope of a constitutionally based privilege, the incumbent President will support that privilege claim in any forum in which the privilege claim is challenged.

Sec. 5. Incumbent President's Right to Obtain Access.

This order does not expand or limit the incumbent President's right to obtain access to the records of a former President pursuant to section 2205(2)(B).

Sec. 6. Right of Congress and Courts to Obtain Access.

This order does not expand or limit the rights of a court, House of Congress, or authorized committee or subcommittee of Congress to obtain access to the records of a former President pursuant to section 2205(2)(A) or section 2205(2)(C). With respect to such requests, the former President shall review the records in question and, within 21 days of receiving notice from the Archivist, indicate to the Archivist his decision with respect to any privilege. The incumbent President shall indicate his decision with respect to any privilege within 21 days after the former President has indicated his decision. Those periods may be extended by the former President or the incumbent President for requests that are burdensome. The Archivist shall not permit access to the records unless and until the incumbent President advises the Archivist that the former President and the incumbent President agree to authorize access to the records or until so ordered by a final and nonappealable court order.

Sec. 7. No Effect on Right to Withhold Records.

This order does not limit the former President's or the incumbent President's right to withhold records on any ground supplied by the Constitution, statute, or regulation.

Sec. 8. Withholding of Privileged Records During 12-Year Period.

In the period not to exceed 12 years after the conclusion of a Presidency during which section 2204(a) and section 2204(b) of title 44 apply, a former President or the incumbent President may request withholding of any privileged records not already protected from disclosure under section 2204. If the former President or the incumbent President so requests, the Archivist shall not permit access to any such privileged records unless and until the incumbent President advises the Archivist that the former President and the incumbent President agree to authorize access to the records or until so ordered by a final and nonappealable court order.

Sec. 9. *Establishment of Procedures.*

This order is not intended to indicate whether and under what circumstances a former President should assert or waive any privilege. The order is intended to establish procedures for former and incumbent Presidents to make privilege determinations.

Sec. 10. *Designation of Representative.*

The former President may designate a representative (or series or group of alternative representatives, as the former President in his discretion may determine) to act on his behalf for purposes of the Presidential Records Act and this order. Upon the death or disability of a former President, the former President's designated representative shall act on his behalf for purposes of the Act and this order, including with respect to the assertion of constitutionally based privileges. In the absence of any designated representative after the former President's death or disability, the family of the former President may designate a representative (or series or group of alternative representatives, as they in their discretion may determine) to act on the former President's behalf for purposes of the Act and this order, including with respect to the assertion of constitutionally based privileges.

Sec. 11. *Vice Presidential Records.*

(a) Pursuant to section 2207 of title 44 of the United States Code, the Presidential Records Act applies to the executive records of the Vice President. Subject to subsections (b) and (c), this order shall also apply with respect to any such records that are subject to any constitutionally based privilege that the former Vice President may be entitled to invoke, but in the administration of this order with respect to such records, references in this order to a former President shall be deemed also to be references to the relevant former Vice President.

(b) Subsection (a) shall not be deemed to authorize a Vice President or former Vice President to invoke any constitutional privilege of a President or former President except as authorized by that President or former President.

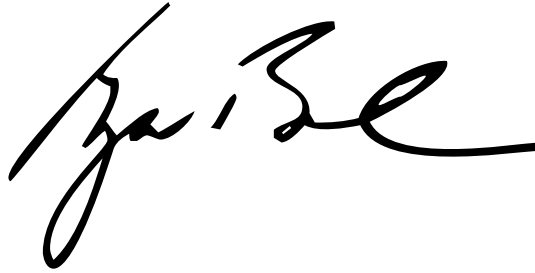
(c) Nothing in this section shall be construed to grant, limit, or otherwise affect any privilege of a President, Vice President, former President, or former Vice President.

Sec. 12. *Judicial Review.*

This order is intended to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party, other than a former President or his designated representative, against the United States, its agencies, its officers, or any person.

Sec. 13. *Revocation.*

Executive Order 12667 of January 18, 1989, is revoked.

A handwritten signature in black ink, appearing to read "G. W. Bush", is positioned above the typed name and date.

THE WHITE HOUSE,
November 1, 2001.

[FR Doc. 01-27917

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ENVIRONMENTAL PROTECTION AGENCY

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- Maryland; published 9-5-01
- Pennsylvania; published 10-19-01

Superfund program:

- National oil and hazardous substances contingency plan—
- National priorities list update; published 9-6-01

Water supply:

- National primary drinking water regulations—
- Unregulated contaminant monitoring; published 9-4-01

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

- New York; published 10-9-01

GOVERNMENT ETHICS OFFICE

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HEALTH AND HUMAN SERVICES DEPARTMENT Centers for Medicare & Medicaid Services

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- Inpatient and outpatient hospital services, nursing facility services, intermediate care facility services for mentally

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- Upper payment limit transition period; published 9-5-01

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- Special conditions—
- Ayres Corp. Model LM 200 airplane; published 10-5-01

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- California; comments due by 11-14-01; published 10-15-01 [FR 01-25782]

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- Brucellosis in sheep, goats, and horses; indemnity payments; comments due by 11-13-01; published 9-13-01 [FR 01-22981]

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- Retained water in raw meat and poultry products; poultry chilling requirements; comments due by 11-16-01; published 10-17-01 [FR 01-26168]

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DEFENSE DEPARTMENT

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ENVIRONMENTAL PROTECTION AGENCY

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NUCLEAR REGULATORY COMMISSION

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H.J. Res. 70/P.L. 107-58

Making further continuing appropriations for the fiscal year 2002, and for other purposes. (Oct. 31, 2001; 115 Stat. 406)

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600-End	(869-044-00095-4)	15.00	Apr. 1, 2001
27 Parts:			
1-199	(869-044-00096-2)	57.00	Apr. 1, 2001

Title	Stock Number	Price	Revision Date	Title	Stock Number	Price	Revision Date
200-End	(869-044-00097-1)	26.00	Apr. 1, 2001	100-135	(869-044-00151-9)	38.00	July 1, 2001
28 Parts:				136-149	(869-044-00152-7)	55.00	July 1, 2001
0-42	(869-044-00098-9)	55.00	July 1, 2001	150-189	(869-044-00153-5)	52.00	July 1, 2001
43-end	(869-044-00099-7)	50.00	July 1, 2001	190-259	(869-044-00154-3)	34.00	July 1, 2001
29 Parts:				260-265	(869-044-00155-1)	45.00	July 1, 2001
0-99	(869-042-00100-1)	33.00	July 1, 2000	266-299	(869-044-00156-0)	45.00	July 1, 2001
100-499	(869-044-00101-2)	14.00	⁶ July 1, 2001	300-399	(869-044-00157-8)	41.00	July 1, 2001
500-899	(869-044-00102-1)	47.00	⁶ July 1, 2001	400-424	(869-044-00158-6)	51.00	July 1, 2001
900-1899	(869-044-00103-9)	33.00	July 1, 2001	425-699	(869-044-00159-4)	55.00	July 1, 2001
1900-1910 (§§ 1900 to 1910.999)	(869-044-00104-7)	55.00	July 1, 2001	700-789	(869-044-00160-8)	55.00	July 1, 2001
1910 (§§ 1910.1000 to end)	(869-044-00105-5)	42.00	July 1, 2001	790-End	(869-044-00161-6)	44.00	July 1, 2001
1911-1925	(869-044-00106-3)	20.00	⁶ July 1, 2001	41 Chapters:			
1926	(869-044-00107-1)	45.00	July 1, 2001	1, 1-1 to 1-10	13.00	³ July 1, 1984	
1927-End	(869-044-00108-0)	55.00	July 1, 2001	1, 1-11 to Appendix, 2 (2 Reserved)	13.00	³ July 1, 1984	
30 Parts:				3-6	14.00	³ July 1, 1984	
1-199	(869-044-00109-8)	52.00	July 1, 2001	7	6.00	³ July 1, 1984	
200-699	(869-044-00110-1)	45.00	July 1, 2001	8	4.50	³ July 1, 1984	
700-End	(869-044-00111-7)	53.00	July 1, 2001	9	13.00	³ July 1, 1984	
31 Parts:				10-17	9.50	³ July 1, 1984	
0-199	(869-044-00112-8)	32.00	July 1, 2001	18, Vol. I, Parts 1-5	13.00	³ July 1, 1984	
200-End	(869-044-00113-6)	56.00	July 1, 2001	18, Vol. II, Parts 6-19	13.00	³ July 1, 1984	
32 Parts:				18, Vol. III, Parts 20-52	13.00	³ July 1, 1984	
1-39, Vol. I	15.00	² July 1, 1984		19-100	13.00	³ July 1, 1984	
1-39, Vol. II	19.00	² July 1, 1984		1-100	22.00	July 1, 2001	
1-39, Vol. III	18.00	² July 1, 1984		101	45.00	July 1, 2001	
1-190	(869-044-00114-4)	51.00	⁶ July 1, 2001	102-200	33.00	July 1, 2001	
191-399	(869-044-00115-2)	57.00	July 1, 2001	201-End	24.00	July 1, 2001	
400-629	(869-044-00116-8)	35.00	⁶ July 1, 2001	42 Parts:			
*630-699	(869-044-00117-9)	34.00	July 1, 2001	1-399	(869-042-00162-1)	53.00	Oct. 1, 2000
700-799	(869-044-00118-7)	42.00	July 1, 2001	400-429	(869-042-00163-0)	55.00	Oct. 1, 2000
800-End	(869-044-00119-5)	44.00	July 1, 2001	430-End	(869-042-00164-8)	57.00	Oct. 1, 2000
33 Parts:				43 Parts:			
1-124	(869-044-00120-9)	45.00	July 1, 2001	1-999	(869-042-00165-6)	45.00	Oct. 1, 2000
125-199	(869-044-00121-7)	55.00	July 1, 2001	1000-end	(869-042-00166-4)	55.00	Oct. 1, 2000
200-End	(869-044-00122-5)	45.00	July 1, 2001	44	(869-042-00167-2)	45.00	Oct. 1, 2000
34 Parts:				45 Parts:			
1-299	(869-044-00123-3)	43.00	July 1, 2001	1-199	(869-042-00168-1)	50.00	Oct. 1, 2000
300-399	(869-044-00124-1)	40.00	July 1, 2001	200-499	(869-042-00169-9)	29.00	Oct. 1, 2000
400-End	(869-044-00125-0)	56.00	July 1, 2001	500-1199	(869-042-00170-2)	45.00	Oct. 1, 2000
35	(869-044-00126-8)	10.00	⁶ July 1, 2001	1200-End	(869-042-00171-1)	54.00	Oct. 1, 2000
36 Parts				46 Parts:			
1-199	(869-044-00127-6)	34.00	July 1, 2001	1-40	(869-042-00172-9)	42.00	Oct. 1, 2000
200-299	(869-044-00128-4)	33.00	July 1, 2001	41-69	(869-042-00173-7)	34.00	Oct. 1, 2000
300-End	(869-044-00129-2)	55.00	July 1, 2001	70-89	(869-042-00174-5)	13.00	Oct. 1, 2000
37	(869-044-00130-6)	45.00	July 1, 2001	90-139	(869-042-00175-3)	41.00	Oct. 1, 2000
38 Parts:				140-155	(869-042-00176-1)	23.00	Oct. 1, 2000
0-17	(869-044-00131-4)	53.00	July 1, 2001	156-165	(869-042-00177-0)	31.00	Oct. 1, 2000
18-End	(869-044-00132-2)	55.00	July 1, 2001	166-199	(869-042-00178-8)	42.00	Oct. 1, 2000
39	(869-042-00133-8)	28.00	July 1, 2000	200-499	(869-042-00179-6)	36.00	Oct. 1, 2000
40 Parts:				*500-End	(869-044-00184-5)	23.00	Oct. 1, 2001
1-49	(869-044-00134-9)	54.00	July 1, 2001	47 Parts:			
50-51	(869-044-00135-7)	38.00	July 1, 2001	0-19	(869-042-00181-8)	54.00	Oct. 1, 2000
52 (52.01-52.1018)	(869-044-00136-5)	50.00	July 1, 2001	20-39	(869-042-00182-6)	41.00	Oct. 1, 2000
52 (52.1019-End)	(869-044-00137-3)	55.00	July 1, 2001	40-69	(869-042-00183-4)	41.00	Oct. 1, 2000
53-59	(869-044-00138-1)	28.00	July 1, 2001	70-79	(869-042-00184-2)	54.00	Oct. 1, 2000
60 (60.1-End)	(869-044-00139-0)	53.00	July 1, 2001	80-End	(869-042-00185-1)	54.00	Oct. 1, 2000
60 (Apps)	(869-044-00140-3)	51.00	July 1, 2001	48 Chapters:			
61-62	(869-044-00141-1)	35.00	July 1, 2001	1 (Parts 1-51)	(869-042-00186-9)	57.00	Oct. 1, 2000
63 (63.1-63.599)	(869-044-00142-0)	53.00	July 1, 2001	1 (Parts 52-99)	(869-042-00187-7)	45.00	Oct. 1, 2000
63 (63.600-63.1199)	(869-044-00143-8)	44.00	July 1, 2001	2 (Parts 201-299)	(869-042-00188-5)	53.00	Oct. 1, 2000
*63 (63.1200-End)	(869-044-00144-6)	56.00	July 1, 2001	3-6	(869-042-00189-3)	40.00	Oct. 1, 2000
64-71	(869-044-00145-4)	26.00	July 1, 2001	7-14	(869-042-00190-7)	52.00	Oct. 1, 2000
72-80	(869-044-00146-2)	55.00	July 1, 2001	15-28	(869-042-00191-5)	53.00	Oct. 1, 2000
81-85	(869-044-00147-1)	45.00	July 1, 2001	29-End	(869-042-00192-3)	38.00	Oct. 1, 2000
86 (86.1-86.599-99)	(869-044-00148-9)	52.00	July 1, 2001	49 Parts:			
86 (86.600-1-End)	(869-044-00149-7)	45.00	July 1, 2001	1-99	(869-042-00193-1)	53.00	Oct. 1, 2000
87-99	(869-044-00150-1)	54.00	July 1, 2001	100-185	(869-042-00194-0)	57.00	Oct. 1, 2000
				186-199	(869-042-00195-8)	17.00	Oct. 1, 2000
				200-399	(869-042-00196-6)	57.00	Oct. 1, 2000
				400-999	(869-042-00197-4)	58.00	Oct. 1, 2000
				1000-1199	(869-042-00198-2)	25.00	Oct. 1, 2000

Title	Stock Number	Price	Revision Date
1200-End	(869-042-00199-1)	21.00	Oct. 1, 2000
50 Parts:			
1-199	(869-042-00200-8)	55.00	Oct. 1, 2000
200-599	(869-042-00201-6)	35.00	Oct. 1, 2000
600-End	(869-042-00202-4)	55.00	Oct. 1, 2000
CFR Index and Findings			
Aids	(869-044-00047-4)	56.00	Jan. 1, 2001
Complete 2000 CFR set	1,094.00		2000
Microfiche CFR Edition:			
Subscription (mailed as issued)	298.00		2000
Individual copies	2.00		2000
Complete set (one-time mailing)	247.00		1997
Complete set (one-time mailing)	264.00		1996

¹ Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

² The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

³ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

⁴ No amendments to this volume were promulgated during the period January 1, 2000, through January 1, 2001. The CFR volume issued as of January 1, 2000 should be retained.

⁵ No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

⁶ No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained..

TABLE OF EFFECTIVE DATES AND TIME PERIODS—NOVEMBER 2001

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these

dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
Nov 1	Nov 16	Dec 3	Dec 17	Dec 31	Jan 30
Nov 2	Nov 19	Dec 3	Dec 17	Jan 2	Jan 31
Nov 5	Nov 20	Dec 5	Dec 20	Jan 4	Feb 4
Nov 6	Nov 21	Dec 6	Dec 21	Jan 7	Feb 4
Nov 7	Nov 23	Dec 7	Dec 24	Jan 7	Feb 5
Nov 8	Nov 23	Dec 10	Dec 24	Jan 7	Feb 6
Nov 9	Nov 26	Dec 10	Dec 24	Jan 8	Feb 7
Nov 13	Nov 28	Dec 13	Dec 28	Jan 14	Feb 11
Nov 14	Nov 29	Dec 14	Dec 31	Jan 14	Feb 12
Nov 15	Nov 30	Dec 17	Dec 31	Jan 14	Feb 13
Nov 16	Dec 3	Dec 17	Dec 31	Jan 15	Feb 14
Nov 19	Dec 4	Dec 19	Jan 3	Jan 18	Feb 19
Nov 20	Dec 5	Dec 20	Jan 4	Jan 22	Feb 19
Nov 21	Dec 6	Dec 21	Jan 7	Jan 22	Feb 19
Nov 23	Dec 10	Dec 24	Jan 7	Jan 22	Feb 21
Nov 26	Dec 11	Dec 26	Jan 10	Jan 25	Feb 25
Nov 27	Dec 12	Dec 27	Jan 11	Jan 28	Feb 25
Nov 28	Dec 13	Dec 28	Jan 14	Jan 28	Feb 26
Nov 29	Dec 14	Dec 31	Jan 14	Jan 28	Feb 27
Nov 30	Dec 17	Dec 31	Jan 14	Jan 29	Feb 28