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DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 8

[Docket No. 01–23]

RIN 1557–ACOO

Assessment of Fees

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

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending 12 CFR 8.2(a), which sets forth the formula for the semiannual assessment the OCC charges each national bank. The amendment revises the formula to establish a minimum base amount for the semiannual assessment for the first assessment bracket ($0–$2 million) of the assessment schedule. This change will enable the OCC to modestly adjust its assessments to better align with its costs of supervision.

EFFECTIVE DATE: December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Michele Meyer, Counsel, Legislative and Regulatory Activities Division, (202) 874–5090; or David Nebhut, Director, Policy Analysis, (202) 874–5220.

SUPPLEMENTARY INFORMATION:

I. Background

The OCC charters, regulates, and supervises approximately 2,200 national banks and 58 Federal branches and agencies of foreign banks in the United States, accounting for approximately 55 percent of the nation's banking assets. Our mission is to ensure a safe, sound, and competitive national banking system that supports the citizens, communities, and economy of the United States.

The OCC funds the activities it undertakes to carry out this mission through assessments on institutions regulated by the OCC. The National Bank Act authorizes the OCC to collect assessments, fees, or other charges as necessary or appropriate to carry out the responsibilities of the Office. 12 U.S.C. 482 (Supp. 2000). The statute requires that our charges be set to meet the Comptroller's expenses in carrying out authorized activities. *Id.* Pursuant to part 8 of its regulations, the OCC currently assesses national banks and Federal branches and agencies according to the following formula, set forth in the table at § 8.2(a):

If the bank's total assets (consolidated domestic and foreign subsidiaries) are:		The semiannual assessment is:		
Over—	But not over—	This amount—	Plus	Of excess over—
		Base amount	Marginal rates	
Column A	Column B	Column C	Column D	Column E
Million	Million			Million
$0	$2	$0	Y1	$0
2	20	X1	Y2	2
20	100	X2	Y3	20
100	200	X3	Y4	100
200	1,000	X4	Y5	200
1,000	2,000	X5	Y6	1,000
2,000	6,000	X6	Y7	2,000
6,000	20,000	X7	Y8	6,000
20,000	40,000	X8	Y9	20,000
40,000	.....	X9	Y10	40,000

Under this formula, the OCC assesses a national bank according to the amount of assets the bank reports on its Consolidated Report of Condition (Including Domestic and Foreign Subsidiaries) (''Call Report'') filed for the quarter preceding the semiannual assessment period. A bank calculates the book-asset component of its assessment by first identifying which of 10 asset categories it fits within. If the bank fits within the smallest category (*i.e.,* $0 to $2 million), it multiplies all of its assets by a marginal rate that is provided each year by the OCC in the Notice of the Comptroller of the Currency Fees (Notice of Fees). Under this system, a national bank with $2 million in assets currently pays approximately $3,211 ($2 million multiplied by the 0.0016057180 marginal rate currently in effect) semiannually for the cost of its supervision by the OCC.

If the bank fits within any of the other nine asset categories, the bank pays a base amount provided in the Notice of Fees for that category (which equals the assessment on the largest bank in the next smallest asset category), plus an amount determined by multiplying a marginal rate (also provided in the Notice of Fees) by the amount of its assets that exceed the low end-point of its category. Thus, for example, a bank with $10 million in assets would fall into the second asset category ($2 million to $20 million) and would pay an assessment equal to $3,211, which is the current base amount for its category, plus $1605, which is the product of the current marginal rate for that category (0.0002007170), multiplied by $8 million (the amount of its assets that

exceeds the $2 million low-end point for its category).[1]

II. Description of the Proposal

On September 25, 2001, the OCC published a notice of proposed rulemaking in the **Federal Register** (66 FR 48983) to amend this assessment formula. The OCC proposed revising the table at § 8.2(a) to establish a minimum base amount for the semiannual assessment for the first assessment bracket of the assessment schedule. To accomplish this, the proposal deleted the figure of $0 as the base amount in Column C for the first asset bracket and replaced it with a variable (X1). The proposal also deleted the variable Y1 in Column D and replaced it with 0. The proposed revised table at § 8.2(a) looked as follows:

If the bank's total assets (consolidated domestic and foreign subsidiaries) are:		The semiannual assessment is:		
Over—	But not over—	This amount— Base amount	Plus Marginal rates	Of excess over—
Column A	Column B	Column C	Column D	Column E
Million	Million			Million
$0	$2	X1	0	
2	20	X2	Y1	$2
20	100	X3	Y2	20
100	200	X4	Y3	100
200	1,000	X5	Y4	200
1,000	2,000	X6	Y5	1,000
2,000	6,000	X7	Y6	2,000
6,000	20,000	X8	Y7	6,000
20,000	40,000	X9	Y8	20,000
40,000	.....	X10	Y9	40,000

This proposed assessment formula requires national banks to pay an assessment equal to the base amount (X1) for assets subject to the first asset bracket. For each semiannual assessment period, the base amount (X1) would be established by the Notice of Fees.

The OCC received nine comments on the proposal, all of which expressed concern about the impact of the increase on small banks. For the reasons discussed below, we are adopting the rule as proposed.

III. Discussion of Final Rule and Comments Received

The OCC is revising the table at § 8.2(a) as proposed to establish a minimum base amount for the semiannual assessment for the first asset category of the assessment schedule. As explained in the proposal, the dollar amount of the anticipated increased semiannual assessment will be the same for every national bank with at least $2 million in balance sheet assets.

The commenters were concerned that the effect of the proposed increase would be proportionately greater for the smallest national banks than for larger banks. These commenters believe that the increase is unfair and amounts to an undue burden on small banks, particularly those operating in areas that are experiencing economic decline. Several commenters suggested mitigating the effect of the increase by phasing it in over two or three years. Others suggested increasing assessments based on a flat percentage of assets or adopting a progressive dollar increase for each asset category so that the percentage increase for the smaller institutions is not as high as with a flat dollar increase.

We have considered carefully how changes to our assessment schedule would allocate the costs of OCC operations among national banks of different sizes and concluded that adoption of the proposed increase is warranted for the following reasons. First, the principal purpose of the proposal was to align the semiannual assessment for all national banks more closely with the increasing costs of the OCC's supervision. The final rule accomplishes that objective by modestly increasing the amount of the assessment for the asset category that is applicable to all national banks.

Second, the final rule enables the OCC to strike an appropriate balance between assessing each national bank for its fair share of the OCC's expenses and moderating the impact of the increase on small national banks. We continue to anticipate, as we said in the preamble to the proposed rule, that the December 1, 2001, Notice of Fees will set a semiannual base amount for the smallest asset category in the range of $5,000 and that the marginal rate for that asset category will be 0. Applying a base amount of $5,000 and a marginal rate of 0 to national banks in the smallest asset category results in a minimum semiannual assessment charge for these banks of $5,000, or an increase of $1,789 for a bank with balance sheet assets of $2 million. The assessment for banks in each of the larger categories (X2–X10) would increase by the same dollar amount, because the base amount for any category is the maximum that a bank in the immediately preceding asset category would pay.

This approach enables the OCC to allocate its costs of supervision more equitably among national banks, and particularly to narrow the gap between the OCC's overall costs to supervise, examine and regulate smaller banks, and what these institutions pay in assessments. Although the amount of the increase will represent a proportionately greater amount of a smaller bank's total assessment than will be the case for a larger bank that pays a larger total assessment, the greater proportionate increase will affect the category of banks where the greatest disparity currently exists between the assessments those banks pay and the OCC's overall costs attributable to them.

Even so, the relatively modest size, in dollars, of the anticipated base amount results in a relatively modest increase, in dollars, even for the smallest banks. Because the OCC has decided on this approach to mitigate the effects of the increase on the smallest banks, we have

[1] This illustrative calculation assumes that there are no circumstances that, under part 8, would require adjustments to the assessment to reflect, for instance, a bank's status as a non-lead bank or a composite supervisory rating of 3, 4, or 5 under the Uniform Financial Institutions Rating System or ROCA rating (which rates risk management, operational contols, compliance, and asset quality), as apprpriate. *See* 12 CFR 8.2(a)(6) and (7).

declined to adopt a multi-year phase-in period, which could have resulted in an assessment increase that, ultimately, would need to be greater than we anticipate under the approach we have adopted, in order to reflect increases in costs of the OCC attributable to each institution.

IV. Regulatory Flexibility Act

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

Pursuant to section 605(b) of the RFA, the OCC hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The OCC has reviewed the impact this final rule will have on small national banks. For purposes of this final rule, the OCC defines ''small national banks'' to be those banks with less than $100 million in total assets. Based on that review, the OCC certifies that the final rule will not have a significant economic impact on a substantial number of small entities. The basis for this conclusion is that the minimum semiannual assessment for these banks will increase by only approximately $1,789. The OCC does not believe this to be a significant economic impact. Accordingly, a Regulatory Flexibility Act analysis is not required.

V. Executive Order 12866

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

VI. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act), requires that the agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires the agency to identify and consider a reasonable number of regulatory alternatives before promulgating the rule. The OCC has determined that this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a budgetary impact statement or specifically addressed any regulatory alternatives. As noted above, for a national bank with at least $2 million in total assets, the final rule will increase the bank's semiannual assessments by $1,789.

VII. Effective Date

Any new regulation that imposes ''additional reporting, disclosure, or other requirements on insured depository institutions shall take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form,'' unless certain exceptions apply. Riegle Community Development and Regulatory Improvement Act of 1994, Pub. L. 103–325, § 302(b) (September 23, 1994). This rulemaking imposes no such additional reporting, disclosure, or other requirements. Accordingly, the requirement to delay the effective date until the first day of the next calendar quarter does not apply, and the rule will become effective December 31.

List of Subjects in 12 CFR Part 8

National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the OCC amends part 8 of chapter I of title 12 of the Code of Federal Regulations as follows:

PART 8—ASSESSMENT OF FEES

1. The authority citation for part 8 continues to read as follows:

Authority: 12 U.S.C. 93a, 481, 482, 1867, 3102, and 3108; 15 U.S.C. 78c and 781; and 26 D.C. Code 102.

2. In § 8.2, paragraph (a) is revised to read as follows:

§ 8.2 Semiannual assessment.

(a) Each national bank and each District of Columbia bank shall pay to the Comptroller of the Currency a semiannual assessment fee, due by January 31 and July 31 of each year, for the six-month period beginning 30 days before each payment date. The amount of the semiannual assessment paid by each bank is computed as follows:

If the bank's total assets (consolidated domestic and foreign subsidiaries) are:		The semiannual assessment is:		
Over—	But not over—	This amount—	Plus	Of excess over—
		Base amount	Marginal rates	
Column A	Column B	Column C	Column D	Column E
Million	Million			Million
$0	$2	X1	0	
2	20	X2	Y1	$2
20	100	X3	Y2	20
100	200	X4	Y3	100
200	1,000	X5	Y4	200
1,000	2,000	X6	Y5	1,000
2,000	6,000	X7	Y6	2,000
16,000	20,000	X8	Y7	6,000
20,000	40,000	X9	Y8	20,000
140,000	.....	X10	Y9	40,000

* * * * *

Dated: November 9, 2001.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 01–28692 Filed 11–15–01; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM202; Special Conditions No. 25–191–SC]

Special Conditions: Gulfstream G–1159, G–1159A, G–1159B Series Airplanes; High-Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Gulfstream G–1159, G–1159A, G–1159B series airplanes modified by Garrett Aviation Services. These modified airplanes will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. The modification incorporates the installation of a Honeywell Epic Control Display System for Retrofit (CDS–R). The system consists of dual Electronic Primary Flight Display Systems, which replace the existing Primary Flight Display System. The Electronic Primary Flight Display Systems will utilize electrical and electronic systems that perform critical functions. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity-radiated fields (HIRF). These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is November 6, 2001.

Comments must be received on or before December 17, 2001.

ADDRESSES: Comments on these special conditions may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–113), Docket No. NM202, 1601 Lind Avenue SW., Renton, Washington 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. All comments must be marked: Docket No. NM202. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Connie Beane, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–2976; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice and opportunity for prior public comment hereon are impracticable because these procedures would significantly delay certification of the airplane and thus delivery of the affected aircraft. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

Interested persons are invited to submit such written data, views, or arguments as they may desire. Communications should identify the rules docket number and be submitted in duplicate to the address specified above. The Administrator will consider all communications received on or before the closing date for comments. The special conditions may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to these special conditions must include with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM202.'' The postcard will be date stamped and returned to the commenter.

Background

On January 9, 2001, Garrett Aviation Services, 1200 North Airport Drive, Capital Airport, Springfield, Illinois 62707, applied for a Supplemental Type Certificate (STC) for the Gulfstream G–1159, G–1159A, G–1159B series airplanes. The Gulfstream G–1159, G–1159A, G–1159B series airplanes are small transport category airplanes powered by two turbofan engines with a maximum takeoff weight of 69,700 pounds. The aircraft operate with a two pilot crew and can carry up to 19 passengers. The modified airplanes incorporate the installation of a Honeywell Epic Control Display System for Retrofit (CDS–R). The system consists of dual Electronic Primary Flight Display systems that replace the existing Primary Flight Display systems. The Honeywell Epic DCS–R has the potential to be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Garrett Aviation Services must show that the Gulfstream G–1159, G–1159A, G–1159B series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A12EA, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations included in the certification basis for the Gulfstream G–1159, G–1159A, G–1159B series airplanes include 14 CFR part 25, as amended by Amendment 25–1 through Amendment 25–41 except for special conditions and exceptions noted in Type Certificate Data Sheet (TCDS) A12EA.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Gulfstream G–1159, G–1159A, G–1159B series airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Gulfstream G–1159, G–1159A, G–1159B series airplanes must comply with the fuel vent and exhaust emission requirement of 14 CFR part 34 and the noise certification requirement of 14 CFR part 36.

Special conditions, as defined in § 11.19, are issued in accordance with § 11.38 and become part of the airplane's type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design features, these special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The Gulfstream G–1159, G–1159A, G–1159B series airplanes will incorporate dual Electronic Primary Flight Display Systems that will perform critical functions. The existing airworthiness standards (14 CFR part 25) do not contain adequate or appropriate safety standards that address protecting this equipment from the adverse effects of HIRF. These instruments may be vulnerable to HIRF external to the airplane. Accordingly, these instruments are considered to be a novel or unusual design feature

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground-based radio transmitters and the growing use of sensitive avionics/electronics and electronic systems to command and control airplanes have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved that is equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Gulfstream G–1159, G–1159A, G–1159B series airplanes modified to incorporate dual Electronic Primary Flight Display Systems. These special conditions will require that these instruments, which perform critical functions, be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications coupled with electronic command and control of the airplane, the immunity of critical avionics/electronics and electrical systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown in accordance with either paragraph 1 or 2 below:

1. A minimum threat of 100 volts rms per meter electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated. Both peak and average field strength components from the Table are to be demonstrated.

Frequency	Field strength (volts per meter)	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

Note.—The field strengths are expressed in terms of peak of the root-mean-square (rms) over the complete modulation period.

The threat levels identified above are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee.

Applicability

As discussed above, these special conditions are applicable to the Gulfstream G–1159, G–1159A, G–1159B series airplanes modified by Garrett Aviation Services to incorporate dual Electronic Primary Flight Display Systems. Should Garrett Aviation Services apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. A12EA to incorporate the same novel or unusual design features, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on the Gulfstream G–1159, G–1159A, G–1159B series airplanes modified by Garrett Aviation Services. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplanes.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. Because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the supplemental type certification basis for the Gulfstream G–1159, G–1159A, G–1159B series airplanes modified by Garrett Aviation Services.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of these special conditions, the following definition applies:

Critical Functions: Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

Issued in Renton, Washington, on November 6, 2001.

Jeff Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–28676 Filed 11–15–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM195; Special Conditions No. 25–192–SC]

Special Conditions: Boeing Model 777–200 Series Airplanes; Overhead Crew Rest Compartments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for Boeing Model 777–200 series airplanes, modified by the Boeing Commercial Airplane Group, Wichita. The proposed modification consists of the installation of an overhead flightcrew rest (OFCR) and an overhead attendant rest (OAR). The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: November 6, 2001.

FOR FURTHER INFORMATION CONTACT: Jayson Claar, FAA, Airframe/Cabin Safety Branch, ANM–115, Transport Standards Staff, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2194; facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

On September 18, 2000, the Boeing Commercial Airplane Group (BCAG)—Wichita Division Designated Alteration Station (DAS) applied for a Supplemental Type Certificate (STC) from the Wichita Aircraft Certification Office (ACO). The STC is to install an overhead flightcrew rest (OFCR) and an overhead attendant rest (OAR) on Boeing Model 777–200 series airplanes. The OFCR compartment adjacent to door one will include a maximum of two private berths and two seats. Occupancy of the OFCR will be limited to a maximum of four occupants. The OAR compartment, adjacent to door three, will include a combination of private berths and seats for a maximum of twelve occupants. Occupancy of the OAR will be limited to a maximum of twelve occupants. Follow-on designs may locate the OAR at either door three, or door four depending on the Model 777–200 airplane and option(s) selected by the customer.

Both crew rests, OFCR and OAR, will be accessed from the main deck by stairs. In addition, an emergency hatch which opens directly into the cabin area will be provided for each compartment. A smoke detection system, an oxygen system, and occupant amenities will also be provided. These compartments will only be occupied in flight, not during taxi, takeoff, or landing.

The Boeing Model 777–200 series airplanes are large twin engine airplanes with various passenger capacities and ranges depending upon airplane configuration, and currently do not incorporate OFCR and OAR compartments in production. While the installation of a crew rest compartment is not a new concept for large transport category airplanes, each crew rest compartment has unique features based on design, location, and use on the airplane. Crew rest compartments have been installed and certified in the main passenger area, above the main passenger area and below the passenger cabin area within the cargo compartment of the Boeing Model 777–200/–300 series airplanes. Also, overhead crew rest compartments have been installed on the Boeing Model 747 series airplanes.

The FAA has previously issued special conditions, which contain the additional safety standards that must be met for the overhead crew rests on Boeing Model 747 series airplanes. The FAA certified the lower lobe attendant rest on the Boeing Model 777–200 series airplanes by equivalent level of safety finding to the requirements of § 25.819. In addition, the FAA issued Special Conditions No. 25–169–SC, dated December 1, 2000, for 777–200 series airplanes for overhead crew rest to support a STC for Flight Structures Inc (FSI) of Arlington, Washington. The Flight Structures, Inc. (FSI) Special Conditions No. 25–169–SC were amended on May 2, 2001.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Certification requirements for pilot ''sleeping quarters'' per the requirements of § 121.485 are not addressed in these special conditions. The applicant must work directly with the Aircraft Evaluation Group (AEG) with regard to the adequacy of onboard sleeping quarters/facilities for compliance with §§ 121.485(a), 121.523(b) and 135.269(b)(5). The AEG is responsible for making this finding.

Type Certification Basis

Under the provisions of § 21.101, Boeing must show that the Model 777–200 series airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. T00001SE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. T00001SE for the Boeing Model 777–200 series airplanes include 14 CFR part 25, as amended by Amendments 25–1 through 25–82. The U.S. type certification basis for the Boeing Model 777–200 series airplanes is established in accordance with 14 CFR 21.17 and 21.29 and the type certification application date. The type certification basis is listed in Type Certificate Data Sheet No. T00001SE.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25) do not contain adequate or appropriate safety standards for the Boeing Model 777–200 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Boeing Model 777–200 series airplanes must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as appropriate, are issued in accordance with § 11.19, after public notice, as required by § 11.38, and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

While the installation of a crew rest compartment is not a new concept for large transport category airplanes, each compartment design has unique features by virtue of its design, location, and use on the airplane. Previously, crew rest compartments have been evaluated that are installed within the main passenger compartment area of the Boeing Model 777–200 and Model 777–300 series airplanes and the overhead area of the passenger compartment of the 777–200. Other crew rest compartments have been installed below the passenger cabin area, adjacent to the cargo compartment. Similar overhead crew rest compartments have also been installed on the Boeing Model 747 airplane. The interfaces of the modification are evaluated within the interior and assessed in accordance with the certification basis of the airplane. However, part 25 does not provide all the requirements for crew rest compartments within the overhead area of the passenger compartment. Further, these special conditions do not negate the need to address other applicable part 25 regulations.

Due to the novel or unusual features associated with the installation of this crew rest compartment, special conditions are considered necessary to provide a level of safety equal to that established by the airworthiness regulations incorporated by reference in the type certificate.

Discussion of Comments

Notice of Proposed Special Conditions No. 25–01–04–SC for the Boeing Model 777–200 series airplanes, was published in the **Federal Register** on September 24, 2001 (66 FR 48836). Two commenters responded to the notice. One commenter finds the proposed special conditions to be satisfactory. The other commenter disagrees with aspects of the requirements of four of the proposed special conditions, however, no justification for the disagreement is provided. Therefore, the special conditions are issued as proposed.

Applicability

As discussed above, these special conditions are applicable to Boeing Model 777–200 series airplanes. Should Boeing Commercial Airplane Group, Wichita Division Designated Alternation Station, apply at a later date for a supplemental type certificate to modify any other model included on Type Certificate No. T00001SE to incorporate the same novel or unusual design feature, the special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Under standard practice, the effective date of final special conditions would be 30 days after the date of publication in the **Federal Register**; however, as the certification date for the Boeing Model 777–200 series airplanes is imminent, the FAA finds that good cause exists to make these special conditions effective upon issuance.

Conclusion

This action affects only certain novel or unusual design features on Boeing Model 777–200 series airplanes. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 777–200 series airplanes, as modified by Boeing Commercial Airplane Group, Wichita Division Designated Alteration Station, with overhead crew rest compartments, OFCR and/or OAR compartments.

1. Occupancy of the overhead crew rest compartment is limited to the total number of installed bunks and seats in each compartment. There must be an approved seat or berth able to withstand the maximum flight loads when occupied for each occupant permitted in the crew rest compartment. The maximum occupancy is four in the OFCR and 12 for the OAR.

(a) There must be appropriate placards, inside and outside to indicate:

(1) The maximum number of occupants allowed,

(2) That occupancy is restricted to crewmembers that are trained in the evacuation procedures for the overhead crew rest compartment,

(3) That occupancy is prohibited during taxi, take-off and landing, and

(4) That smoking is prohibited in the crew rest compartment.

(5) That hazardous quantities of flammable fluids, explosives, or other dangerous cargo are prohibited from the crew rest compartment.

(b) There must be at least one ashtray on the inside and outside of any entrance to the crew rest compartment.

(c) There must be a means to prevent passengers from entering the compartment in the event of an emergency or when no flight attendant is present.

(d) There must be a means for any door installed between the crew rest compartment and passenger cabin to be capable of being quickly opened from inside the compartment, even when crowding occurs at each side of the door.

(e) For all doors installed, there must be a means to preclude anyone from being trapped inside the compartment. If a locking mechanism is installed, it must be capable of being unlocked from the outside without the aid of special tools. The lock must not prevent opening from the inside of the compartment at any time.

2. There must be at least two emergency evacuation routes, which could be used by each occupant of the crew rest compartment to rapidly evacuate to the main cabin. In addition—

(a) The routes must be located with sufficient separation within the compartment, and between the evacuation routes, to minimize the possibility of an event rendering both routes inoperative.

(b) The routes must be designed to minimize the possibility of blockage, which might result from fire, mechanical or structural failure, or persons standing below or against the escape route. One of two evacuation routes should not be located where, during times in which occupancy is allowed, normal movement by passengers occurs (i.e. main aisle, cross aisle or galley complex) that would impede egress of the crew rest compartment. If an evacuation route utilizes an area where normal movement of passengers occurs, it must be demonstrated that passengers would not impede egress to the main deck. If there is low headroom at or near the evacuation route, provisions must be made to prevent or to protect occupants (of the crew rest area) from head injury. The use of evacuation routes must not be dependent on any powered device. If the evacuation path is over an area where there are passenger seats, a maximum of one row of passengers may be displaced from their seats temporarily during the evacuation process. If the evacuation procedure involves the evacuee stepping on seats, the seats must not be damaged to the extent that they would not be acceptable

for occupancy during an emergency landing.

(c) Emergency evacuation procedures and the emergency evacuation of incapacitated occupant procedures must be established and transmitted to the operator for incorporation into their training programs and appropriate operational manuals. If the evacuation path is over an area where there are passenger seats, a maximum of one row of passengers may be displaced from their seats temporarily during the evacuation process.

(d) There must be a limitation in the Airplane Flight Manual or other suitable means requiring that crewmembers be trained in the use of evacuation routes.

3. There must be a means for the evacuation of an incapacitated person (representative of a ninety-fifth percentile male) from the crew rest compartment to the passenger cabin floor.

(a) The evacuation must be demonstrated for all evacuation routes. A flight attendant or other crewmember (a total of one assistant within the crew rest area) may provide assistance in the evacuation. Additional assistance may be provided by up to three persons in the main passenger compartment. These additional assistants must be standing on the floor while providing assistance, except that for evacuation routes having stairways, the additional assistants may ascend up to one half the elevation change from the main deck to the overhead compartment, or to the first landing, whichever is lower.

(b) Procedures for the evacuation of an incapacitated person from the crew rest compartment must be established.

4. The following signs and placards must be provided in the crew rest compartment:

(a) At least one exit sign, located near each exit, meeting the requirements of § 25.812(b)(1)(i), except that a sign of reduced background area with no less than 5.3 square inches (excluding the letters) may be utilized, provided that it is installed such that the material surrounding the exit sign is light in color (e.g. white, cream, light beige). If the material surrounding the exit sign is not light in color, a sign with a minimum of a one inch wide background border around the letters would also be acceptable.

(b) An appropriate placard defining the location and the operating instructions for each evacuation route.

(c) Placards must be readable from a distance of 30 inches under emergency lighting conditions.

(d) The exit handles and evacuation path operating instruction placards must be illuminated to at least 160 microlamberts under emergency lighting conditions.

5. There must be a means in the event of failure of the airplane's main power system, or of the normal crew rest compartment lighting system, for emergency illumination to be automatically provided for the crew rest compartment.

(a) This emergency illumination must be independent of the main lighting system.

(b) The sources of general cabin illumination may be common to both the emergency and the main lighting systems if the power supply to the emergency lighting system is independent of the power supply to the main lighting system.

(c) The illumination level must be sufficient for the occupants of the crew rest compartment to locate and transfer to the main passenger cabin floor by means of each evacuation route.

6. There must be means for two-way voice communications between the crewmembers on the flight deck and the occupants of the crew rest compartment. There must also be two-way communications between the occupants of the crew rest compartment and each flight attendant station required to have a public address system microphone per § 25.1423(g) in the passenger cabin.

7. There must be a means for manual activation of an aural emergency alarm system, audible during normal and emergency conditions, to enable crewmembers on the flight deck and at each pair of required floor level emergency exits to alert occupants of the crew rest compartment of an emergency situation. Use of a public address or crew interphone system would be acceptable, providing an adequate means of differentiating between normal and emergency communications is incorporated. The system must be powered in flight, after the shutdown or failure of all engines and auxiliary power units, or the disconnection or failure of all power sources dependent on their continued operation, for a period of at least ten minutes.

8. There must be a means, readily detectable by seated or standing occupants of the crew rest compartment, which indicates when seat belts should be fastened. In the event there are no seats, at least one means must be provided to cover anticipated turbulence. Seat belt type restraints must be provided for berths and must be compatible for the sleeping attitude during cruise conditions. There must be a placard on each berth requiring that seat belts must be fastened when occupied. If compliance with any of the other requirements of these special conditions is predicated on specific head location, there must be a placard identifying the head position.

9. The following equipment must be provided in the crew rest compartment:

(a) At least one approved hand-held fire extinguisher appropriate for the kinds of fires likely to occur;

(b) One protective breathing equipment device approved to Technical Standard Order (TSO)–C116 or equivalent, suitable for fire fighting; and

(c) One flashlight.

10. A smoke detection system (or systems) must be provided that monitors each area within the crew rest including those areas partitioned by curtains. Flight tests must be conducted to show compliance with this requirement. Each system (or systems) must provide:

(a) A visual indication to the flight deck within one minute after the start of a fire;

(b) An aural warning in the crew rest compartment; and

(c) A warning in the main passenger cabin. This warning must be readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the main passenger compartment during various phases of flight.

11. The crew rest compartment must be designed such that fires within the compartment can be controlled without a crewmember having to enter the compartment, or the design of the access provisions must allow crewmembers equipped for firefighting to have unrestricted access to the compartment. The time for a crewmember on the main deck to react to the fire alarm, to don the fire fighting equipment, and to gain access must not exceed the time for the compartment to become smoke-filled, making it difficult to locate the fire source.

12. There must be a means provided to exclude hazardous quantities of smoke or extinguishing agent originating in the crew rest compartment from entering any other compartment occupied by crewmembers or passengers. The means must include the time periods during the evacuation of the crew rest compartment and, if applicable, when accessing the crew rest compartment to manually fight a fire. Smoke entering any other compartment occupied by crewmembers or passengers must dissipate within five minutes after closing the access to the crew rest compartment. Flight tests must be conducted to show compliance with this requirement.

If a built-in fire extinguishing system is used in lieu of manual fire fighting, then the fire extinguishing system must be designed so that no hazardous quantities of extinguishing agent will enter other compartments occupied by passengers or crew; the system must have adequate capacity to suppress any fire occurring in the crew rest compartment, considering the fire threat, volume of the compartment and the ventilation rate.

13. There must be a supplemental oxygen system equivalent to that provided for main deck passengers for each seat and berth in the crew rest compartment. The system must provide an aural and visual warning to warn the occupants of the crew rest compartment to don oxygen masks in the event of decompression. The warning must activate before the cabin pressure altitude exceeds 15,000 feet. The aural warning must sound continuously until a reset push button in the crew rest compartment is depressed.

14. The following requirements apply to a crew rest compartment that is divided into several sections by the installation of curtains or partitions:

(a) To compensate for sleeping occupants, there must be an aural alert that can be heard in each section of the crew rest compartment that accompanies automatic presentation of supplemental oxygen masks. A minimum of two supplemental oxygen masks are required in each section whether or not seats or berths are installed in each section. There must also be a means by which the oxygen masks can be manually deployed from the flight deck.

(b) A placard is required adjacent to each curtain that visually divides or separates, for privacy purposes, the overhead crew rest compartment into small sections. The placard must require that the curtain(s) remain open when the private section it creates is unoccupied. The vestibule section adjacent to the stairway is not considered a private area and, therefore, does not require a placard.

(c) For each crew rest section created by the installation of a curtain, the following requirements of these special conditions must be met with the curtain open or closed:

(1) No smoking placard (Special Condition No. 1),

(2) Emergency illumination (Special Condition No. 5),

(3) Emergency alarm system (Special Condition No. 7),

(4) Seat belt fasten signal (Special Condition No. 8), and

(5) The smoke or fire detection system (Special Condition No. 10).

(d) Overhead crew rest compartments visually divided to the extent that evacuation could be affected must have exit signs that direct occupants to the primary stairway exit. The exit signs must be provided in each separate section of the crew rest compartment, and must meet the requirements of § 25.812(b)(1)(i).

(e) Sections within an overhead crew rest compartment that are created by the installation of a rigid partition with a door physically separating the sections, the following requirements of these special conditions must be met with the door open or closed:

(1) There must be a secondary evacuation route from each section to the main deck, or alternatively, it must be shown that any door between the sections has been designed to preclude anyone from being trapped inside the compartment.

(2) Any door between the sections must be shown to be openable when crowded against, even when crowding occurs at each side of the door.

(3) There may be no more than one door between any seat or berth and the primary stairway exit.

(4) There must be exit signs in each section meeting the requirements of § 25.812(b)(1)(i) that direct occupants to the primary stairway exit. An exit sign with reduced background area as described in Special Condition No. 4(a) may be used to meet this requirement.

(f) For each smaller section within the main crew rest compartment created by the installation of a partition with a door, the following requirements of these special conditions must be met with the door open or closed:

(1) No smoking placards (Special Condition No. 1),

(2) Emergency illumination (Special Condition No. 5),

(3) Two-way voice communication (Special Condition No. 6),

(4) Emergency alarm system (Special Condition No. 7),

(5) Seat belt fasten signal (Special Condition No. 8),

(6) Emergency fire fighting and protective equipment (Special Condition No. 9), and

(7) Smoke or fire detection system (Special Condition No. 10).

15. The requirements of two-way voice communication with the flight deck and provisions for emergency firefighting and protective equipment are not applicable to lavatories or other small areas that are not intended to be occupied for extended periods of time.

16. Where a waste disposal receptacle is fitted, it must be equipped with an automatic fire extinguisher that meets the performance requirements of § 25.854(b).

17. Materials (including finishes or decorative surfaces applied to the materials) must comply with the flammability requirements of § 25.853(a), as amended by Amendment 25–83. Mattresses must comply with the flammability requirements of § 25.853(c), as amended by Amendment 25–83.

Issued in Renton, Washington on November 6, 2001.

Jeff Duven,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 01–28733 Filed 11–15–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NE–53–AD; Amendment 39–12506; AD 2001–23–09]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. TFE731–2, –3, and –4 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes two existing airworthiness directives (ADs), applicable to Honeywell International Inc. (formerly AlliedSignal Inc. and Garrett Turbine Engine Co.) TFE731–2, –3, and –4 series turbofan engines. Those AD's currently require removing certain fan rotor discs from service in accordance with a drawdown schedule, and establishing new fan rotor disc life limits. This amendment requires stricter life limits for certain fan rotor discs. This amendment is prompted by the availability of an improved fan rotor disc and by a reduction in the probability of fan rotor disc failure by terminating the life of the older, high-stressed, fan rotor disc. The actions specified in this AD are intended to prevent failure of the fan rotor disc due to fatigue cracking in the dovetail slots, which could result in in-flight engine shutdown, uncontained engine failure, and damage to the airplane.

DATES: Effective date December 21, 2001.

ADDRESSES: The service information referenced in this AD may be obtained from Honeywell Engines and Systems

(formerly AlliedSignal Inc. and Garrett Turbine Engine Co.) Technical Publications and Distribution, M/S 2101–201, P.O. Box 52170, Phoenix, AZ 85072–2170; telephone: (602) 365–2493 (General Aviation), (602) 365–5535 (Commercial Aviation), fax: (602) 365–5577 (General Aviation), (602) 365–2832 (Commercial Aviation). This information may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; telephone: (562) 627–5246; fax: (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 86–11–05, Amendment 39–5325 (51 FR 2025, June 4, 1986), and AD 96–18–13, Amendment 39–9737 (61 FR 47806, September 11, 1996), which are applicable to Honeywell International Inc. (formerly AlliedSignal Inc. and Garrett Turbine Engine Co.) TFE731–2, –3, and –4 series turbofan engines, was published in the **Federal Register** on May 2, 2001 (66 FR 21896). That action proposed to require replacing fan rotor discs part numbers (P/N's) 3072162–All, 3072816–All, 3073436–All, 3073539–All, and 3074529–All (where All denotes all dash numbers).

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Economic Analysis

There are approximately 1,400 engines with affected discs in the worldwide fleet. The FAA estimates that 1,100 engines installed on aircraft of U.S. registry would be affected by this AD. The FAA also estimates that it would take approximately one work hour per engine to accomplish this action during a normally scheduled fan rotor disc removal period, and approximately six work hours per engine to accomplish this action during an unscheduled fan rotor disc removal period, and that the average labor rate is $60 per work hour. Required parts would cost approximately $20,400 per engine. Based on these figures, the total cost effect of this AD on U.S. operators is estimated to be $22,509,000.

Regulatory Analysis

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

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 the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic effect, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained 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.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–5325 (51 FR 2025, June 4, 1986), and Amendment 39–9737 (61 FR 47806, September 11, 1996) and by adding a new airworthiness directive, Amendment 39–12506, to read as follows:

2001–23–09 Honeywell International Inc.: Amendment 39–12506. Docket 2000–NE–53–AD. Supersedes AD 86–11–05, Amendment 39–5325 and AD 96–18–13, Amendment 39–9737.

Applicability

This airworthiness directive (AD) is applicable to Honeywell International Inc. (formerly AlliedSignal Inc. and Garrett Turbine Engine Co.) TFE731–2, –3, and –4 series turbofan engines, with fan rotor discs part numbers (P/N's) 3072162–All, 3072816–All, 3073436–All, 3073539–All, and 3074529–All (where All denotes all dash numbers). These engines are installed on, but not limited to, Avions Marcel Dassault Falcon 10, 50, and 100 series; Learjet 31, 35, 36, and 55 series; Lockheed-Georgia 1329–23 and –25 series; Israel Aircraft Industries 1124 series and 1125 Westwind series; Cessna Model 650, Citations III, VI, and VII; Raytheon British Aerospace HS–125 series; and Sabreliner NA–265–65 airplanes.

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

Compliance

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

To prevent failure of the fan rotor disc due to fatigue cracking in the dovetail slots, which could result in in-flight engine shutdown, uncontained engine failure, and damage to the airplane, do the following:

(a) Remove fan rotor discs P/N's 3072162–All, 3072816–All, 3073436–All, 3073539–All, and 3074529–All (where All denotes all dash numbers), and replace with serviceable fan rotor discs at next access to the fan rotor disc, at the next scheduled fan rotor disc inspection, or prior to December 31, 2002, whichever occurs earliest. Fan rotor disc replacement information is available in Honeywell International Inc. Alert Service Bulletin TFE731–A72–3668, dated October 25, 2000.

Definitions

(b) For the purpose of this AD, the following definitions apply:

(1) Access to the fan rotor disc is whenever the fan shaft is unstretched.

(2) A serviceable disc is a disc that does not have a P/N listed in this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

(d) Special flight permits may be issued in accordance §§ 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.

Effective Date

(e) This amendment becomes effective on December 21, 2001.

Issued in Burlington, Massachusetts, on November 7, 2001.

Donald E. Plouffe,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 01–28688 Filed 11–15–01; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–152–FOR; State Program Amendment No. 2001–1]

Indiana Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving, with additional requirements, an amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The proposed amendment concerns recodification of Indiana's administrative rules for coal mining and reclamation operations. It also includes revisions to the rules pertaining to the definition of ''affected area,'' identification of interests, compliance information, general requirements for reclamation plans, public availability of information included in permit applications, and permit conditions. Indiana recodified its rules in response to Indiana legislation requiring all administrative rules to be readopted every seven years.

EFFECTIVE DATE: November 16, 2001.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204–1521. Telephone (317) 226–6700. Internet: IFOMAIL@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program
II. Submission of the Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Indiana Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Indiana program on July 29, 1982. You can find background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the July 26, 1982, **Federal Register** (47 FR 32107). You can find later actions on the Indiana program at 30 CFR 914.10, 914.15, 914.16, and 914.17.

II. Submission of the Amendment

By letter dated August 21, 2001 (Administrative Record No. IND–1712), Indiana sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Indiana sent the amendment at its own initiative. Indiana recodified its administrative rules from Title 310 Indiana Administrative Code (IAC) 12 to Title 312 IAC 25. The amendment also includes revisions to Indiana's recodified rules at 312 IAC 25–1–8, definition of ''affected area''; 312 IAC 25–4–17, surface mining permit applications-identification of interests; 312 IAC 25–4–18, surface mining permit applications-compliance information; 312 IAC 25–4–45, general requirements for reclamation plans, 312 IAC 25–4–58, underground mining permit applications-identification of interests; 312 IAC 25–4–59, underground mining permit applications-compliance information; 312 IAC 25–4–113, public availability of permit application information; and 312 IAC 25–4–118, permit conditions.

We announced receipt of the amendment in the September 20, 2001, **Federal Register** (66 FR 48390). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on October 22, 2001. We did not receive any public comments.

During our review of the amendment, we identified concerns about Indiana's rules pertaining to identification of interests at 312 IAC 25–4–17(d), (e), and (f), general requirements for reclamation plans at 312 IAC 25–4–45, public availability of information contained in permit applications at 312 IAC 25–4–113, permit conditions at 312 IAC 25–4–118(4), and editorial errors. We notified Indiana of these concerns by letter dated September 18, 2001 (Administrative Record No. IND–1715).

In its letter of August 21, 2001 (Administrative Record No. IND–1712), Indiana indicated that it would make any necessary corrections or revisions to its rules at a later date.

III. Director's Findings

This section contains the Director's findings concerning the amendment to the Indiana program. We are making these findings in accordance with the criteria and procedural requirements of the Federal regulations at 30 CFR 732.15 and 732.17. Any revisions that we do not discuss below are minor wording changes or revised cross-references and paragraph notations to reflect organizational changes resulting from this amendment.

A. Recodification of Indiana's Rules

Indiana recodified its administrative rules for coal mining and reclamation operations by repealing its previously approved rules at 310 IAC 12 and replacing them with generally similar rules at 312 IAC 25. The State took this action because Indiana Code (IC) 4–22–2.5 requires the readoption of administrative rules every seven years. Under IC 4–22–2.5–2, Indiana's previously approved rules at 310 IAC 12 will expire on January 1, 2002. In addition to renumbering and reformatting, Indiana made minor wording, editorial, and punctuation changes throughout the recodified rules.

Except as discussed in the findings below, we find that the recodification of Indiana's rules is nonsubstantive in nature and that the changes made in the recodification process do not alter the findings that we made for the previous rules. Therefore, we are approving the recodified rules, with the caveats noted below.

B. 312 IAC 25–1–8 Definition of Affected Area

Indiana recodified its definition of ''affected area'' at 312 IAC 25–1–8 with revisions to the currently approved language. The revised definition reads as follows:

Affected area means a land or water surface area which is used to facilitate, or is physically altered by, surface coal mining and reclamation operations. The term includes any of the following:

(1) The disturbed area.

(2) An area upon which surface coal mining and reclamation operations are conducted.

(3) Adjacent land the use of which is incidental to surface coal mining and reclamation operations.

(4) An area covered by new or existing roads used to gain access to, or for hauling coal to or from, surface coal mining and reclamation operations.

(5) A site covered by surface excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, or shipping areas.

(6) An area upon which are sited structures, facilities, or other material on the surface resulting from, or incidental to, surface coal mining reclamation operations.

(7) The area located above underground workings of a mine.

Indiana's revised definition contains substantively the same language as the counterpart Federal definition with minor wording and structural differences. It does not contain the language that is currently suspended from the Federal definition. [The Federal definition is suspended insofar as it excludes roads that are included in the definition of ''surface coal mining operations'' (51 FR 41952; November 20, 1986).] Because Indiana defines ''affected area'' to include all areas, lands, and sites specified in the Federal definition at 30 CFR 701.5, we find that Indiana's definition at 312 IAC 25–1–8 is no less effective than the Federal definition.

C. Surface Mining and Underground Mining Permit Application Requirements-Identification of Interests, Compliance Information, and Permit Conditions

On January 23, 1997, Indiana adopted revisions to its rules concerning identification of interests and compliance information and added a section to its rules on permit conditions. Indiana based the revisions and addition to its rules on the Federal regulations at 30 CFR 773.17, 778.13 and 778.14 that existed on January 23, 1997. These revised rules were submitted as part of this amendment.

On December 19, 2000 (65 FR 79582), we made changes to the Federal regulations cited above. In reviewing this amendment, we evaluated only those revisions that Indiana made on January 23, 1997, against the corresponding provisions of the December 19, 2000, Federal regulations. We did not compare the Indiana rules in their entirety with the December 19, 2000, regulations in their entirety. Indiana may need to make further changes to its rules after we evaluate the State program against the changes made to the Federal regulations on December 19, 2000, in their entirety. We will conduct that evaluation at a later date and notify Indiana in accordance with 30 CFR 732.17(d) and (e) if any additional changes are necessary.

Following are our findings on the revisions that Indiana made to its rules on January 23, 1997.

1. 312 IAC 25–4–17 Surface Mining Permit Applications-Identification of Interests and 312 IAC 25–4–58 Underground Mining Permit Applications-Identification of Interests

a. Indiana's rule at 312 IAC 25–4–17 specifies the information that must be included in a surface mining permit application for identification of interests. Indiana added 312 IAC 25–4–17(b)(5) to require an applicant for a surface coal mining permit to submit the application number or other identifier of, and the regulatory authority for, any other pending surface coal mining operation permit application filed by each person who owns or controls the applicant under the definition of ''owned or controlled'' and ''owns or controls'' in 312 IAC 25–1–94.

As revised on December 19, 2000, the corresponding Federal regulation at 30 CFR 778.12(b) no longer requires this information. However, we find that its addition to the Indiana program will not cause the program to be less effective than the Federal regulations. Therefore, we are approving the addition of 312 IAC 25–4–17(b)(5) to the Indiana program.

b. Indiana's rule at 312 IAC 25–4–58(a) specifies the information that must be included in an underground mining permit application for identification of interests. The existing provisions were revised to make the new rule consistent with Indiana's surface mining permit application requirements for identification of interests at 312 IAC 25–4–17. The corresponding Federal regulations at 30 CFR 778.11, 778.12, and 778.13 apply to applications for both surface and underground mine permits. Therefore, Indiana's decision to make these underground mine permit application information rules consistent with the corresponding surface mine permit application information rules is consistent with the Federal regulations. None of the specific changes that Indiana has made would cause the Indiana rules to be less effective than the counterpart Federal regulations. Therefore, we are approving the revisions to the Indiana rules.

However, as noted above in finding C, on December 19, 2000, we made numerous revisions to the counterpart Federal regulations. When we conduct a comparison of those rules in their entirety with the Indiana rules in their entirety, we may identify additional changes that Indiana will need to make for its program to remain no less effective than the Federal regulations. If we identify any such changes, we will notify Indiana in accordance with 30 CFR 732.17(d) and (e).

c. Indiana added the following provision at 312 IAC 25–4–58(b):

After an applicant is notified that the application is approved, but before the permit is issued, the applicant shall, as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under subsection (a)(1) through (a)(4).

We find that Indiana's rule at 312 IAC 25–4–58(b) contains substantively the same requirements for updating information as the counterpart Federal regulation at 30 CFR 778.9(d). Therefore, it is no less effective than the Federal regulation, and we are approving its addition to the Indiana program.

d. Indiana added a provision at 312 IAC 25–4–58(c) that requires the applicant to submit the information required by 312 IAC 25–4–58 and 25–4–59 in any format that is issued by the commission. Indiana also specifies that the commission's format must conform to the format requirements of OSM.

There is no longer any direct counterpart Federal regulation to this State rule. As noted in the preamble to our December 19, 2000, final rule (65 FR 79644), ''the regulatory authority should have the flexibility to prescribe whatever format it deems appropriate'' for submittal of application information. Therefore, we find that nothing in Indiana's rule at 312 IAC 25–4–58(c) would cause its program to be less effective than the Federal regulations, and we are approving the addition of this rule.

2. 312 IAC 25–4–18 Surface Mining Permit Applications-Compliance Information and 312 IAC 25–4–59 Underground Mining Permit Applications-Compliance Information

Indiana's rules at 312 IAC 25–4–18 and 25–4–59 specify the information that must be included in a permit application concerning permit suspensions or revocations, bond forfeitures, and notices of violation.

a. At 312 IAC 25–4–18(a)(1)(A) and 25–4–59(a)(1)(A), Indiana removed the language ''or in the process of revocation.'' As revised, these subsections require each application to contain a statement on whether the applicant or any subsidiary, affiliate, or persons controlled by or under common control with the applicant has had a Federal or State coal mining permit suspended or revoked in the five years preceding the date of submission of the application.

The counterpart Federal regulation at 30 CFR 778.14(a)(1) requires a similar statement for those permits that were suspended or revoked, but not for those that are in the process of revocation. Therefore, we find that Indiana's removal of the language ''or in the process of revocation'' will not make these previously approved rules less effective than the Federal regulations. Accordingly, we are approving this change.

b. Indiana revised 312 IAC 25–4–18(a)(3) and 25–4–59(a)(3) to require that an application contain a list of all outstanding violation notices received prior to the date of the application by any surface coal mining operation that is deemed or presumed to be owned or controlled by either the applicant or any person who is deemed or presumed to own or control the applicant. As revised on December 19, 2000, the corresponding Federal regulation at 30 CFR 778.14(c) no longer requires violation information for a person who is deemed or presumed to own or control the applicant. However, we find that Indiana's revision will not make its program less effective than the Federal regulations.

Indiana also added a provision to 312 IAC 25–4–18(a)(3) and 25–4–59(a)(3) that requires an applicant to certify that violations for which abatement periods have not expired are in the process of being abated. We find that Indiana's requirement is substantively similar to and therefore no less effective than the corresponding Federal regulation requirement at 30 CFR 778.14(c)(7).

Based on the above discussion, we are approving the revisions to 312 IAC 25–4–18(a)(3) and 25–4–59(a)(3). However, as noted above in finding C, on December 19, 2000, we made numerous revisions to the counterpart Federal regulations. When we conduct a comparison of those rules in their entirety with the Indiana rules in their entirety, we may identify additional changes that Indiana will need to make for its program to remain no less effective than the Federal regulations. If we identify any such changes, we will notify Indiana in accordance with 30 CFR 732.17(d) and (e).

c. Indiana added the following new provision at 312 IAC 25–4–59(b):

> (b) After the applicant is notified that his or her application is approved, but before the permit is issued, the applicant shall as applicable, update, correct, or indicate that no change has occurred in the information previously submitted under this section.

We find that Indiana's rule at 312 IAC 25–4–59(b) contains substantively the same requirements for updating information as the counterpart Federal regulation at 30 CFR 778.9(d). Therefore, it is no less effective than the Federal regulation, and we are approving its addition to the Indiana program.

3. 312 IAC 25–4–118 Permit Conditions

Indiana added 312 IAC 25–4–118 to specify the conditions under which a permit is issued. Section 25–4–118(1) requires the permittee to conduct surface coal mining and reclamation operations only on those lands that are specifically designated as the permit area and bonded. Section 25–4–118(2) requires the permittee to conduct operations only as described in the approved application, except to the extent otherwise directed in the permit. Section 25–4–118(3) requires the permittee to comply with the terms and conditions of the permit and all applicable performance standards and requirements of the Indiana program. Section 25–4–118(4) requires permittees to allow authorized representatives of the Director of the Indiana Department of Natural Resources to have right of entry to surface coal mining and reclamation operations for inspections, monitoring, and enforcement and to be accompanied by private persons when the inspection is in response to an alleged violation reported by a private person. Section 25–4–118(5) requires the permittee to take all possible steps to minimize adverse impacts to the environment or public health and safety resulting from a noncompliance with any term or condition of the permit. Section 25–4–118(6) requires the permittee to comply with the requirements of the Indiana program for compliance, modification, or abandonment of existing structures. Section 25–4–118(7) requires the operator to pay all reclamation fees. Section 25–4–118(8) requires the permittee to submit updates, if any, to the information previously submitted under 312 IAC 25–4–17(c) within 30 days after a cessation order is issued under 312 IAC 25–7–5, except where a stay of the cessation order is granted and remains in effect.

We find that, with the exception of the proposed provision in subdivision (4), 312 IAC 25–4–118(1) through (7) are substantively identical to and therefore no less effective than the counterpart Federal regulation at 30 CFR 773.17. We also find that the post-permit issuance information requirements of 312 IAC 25–4–118(8) are substantively the same as and therefore no less effective than the requirements of the Federal regulation at 30 CFR 774.12(a) and (b).

However, Indiana's rule at 312 IAC 25–4–118(4) only requires permittees to allow authorized representatives of the Director of the Indiana Department of Natural Resources to have right of entry to surface coal mining and reclamation operations for inspections, monitoring, and enforcement and to be accompanied by private persons under specified conditions. The counterpart Federal regulation at 30 CFR 773.17(d) requires permittees to allow authorized representatives of the State regulatory authority and the Secretary of the Interior to have right of entry and to be accompanied by private persons under the same specified conditions.

For the reasons discussed above, we are approving 312 IAC 25–4–118(1) through (8). However, we are requiring Indiana to revise 312 IAC 25–4–118(4) or otherwise modify its program to require permittees to allow authorized representatives of the Secretary of the Interior to have right of entry to surface coal mining and reclamation operations for purposes of inspections, monitoring, and enforcement and to be accompanied by private persons under specified conditions.

D. 312 IAC 25–4–17 Surface Mining Permit Applications-Identification of Interests

Indiana's rule at 312 IAC 25–4–17 specifies the information that must be included in a surface mining permit application for identification of interests. Indiana made nonsubstantive revisions to the previously approved provisions in this section to comply with formatting guidelines set forth by the Indiana Legislative Services Agency. However, in recodifying subsections (d), (e), and (f), Indiana inadvertently removed language that required an

applicant to submit the information in subsections (d), (e), and (f) with an application. Therefore, while we are generally approving the recodified version of Indiana's rule as having no changes that would cause the State program to be less effective than the corresponding Federal regulation, we are requiring Indiana to revise 312 IAC 25–4–17(d), (e), and (f) to clarify that the information listed in those subsections must be submitted with the permit application.

E. 312 IAC 25–4–45 Surface Mining Permit Applications-General Requirements For Reclamation Plans

Indiana recodified its previously approved general requirements for reclamation plans at 312 IAC 25–4–45. We find that, with one exception, the recodified rule is substantively the same as and therefore no less effective than the counterpart Federal regulation at 30 CFR 780.18. In the recodification process, Indiana removed ''total depth'' as one of the factors that an operator is to evaluate to demonstrate the suitability of topsoil substitutes or supplements at 312 IAC 25–4–45(b)(4). We consider ''total depth'' to be one of the factors that must be evaluated to demonstrate the suitability of topsoil substitutes or supplements. Therefore, we are approving 312 IAC 25–4–45 with the requirement that Indiana revise 312 IAC 25–4–45(b)(4) to require the demonstration of the suitability of topsoil substitutes or supplements to also be based upon analysis of the ''total depth'' of the different kinds of soils.

F. 312 IAC 25–4–113 Public Availability of Permit Application Information

Indiana recodified its previously approved provisions concerning public availability of permit application information at 312 IAC 25–4–113 with two exceptions: (1) Indiana did not recodify previously approved language that allows a person to oppose or seek disclosure of confidential information; and (2) Indiana did not recodify a previously approved provision concerning the confidentiality of information on the nature and location of archaeological resources on public and Indian land. These omissions have the effect of removing those provisions from the Indiana program.

Apart from the two noted exceptions, Indiana's rule at 312 IAC 25–4–113 contains substantively the same requirements for public availability of permit application information as the counterpart Federal regulation at 30 CFR 773.6(d). Therefore, we find that, apart from those exceptions, the Indiana rule is no less effective than the Federal regulation.

For the reasons discussed above, we are both approving 312 IAC 25–4–113 and requiring Indiana to (1) add language at 312 IAC 25–4–113(f) or otherwise revise its program to allow a person to oppose or seek disclosure of confidential information and (2) add a provision, consistent with 30 CFR 773.6(d)(3)(iii), that classifies information on the nature and location of archeological resources on public land and Indian land as qualified confidential information in accordance with the Archeological Resources Protection Act of 1979.

IV. Summary and Disposition of Comments

Federal Agency Comments

On August 24, 2001, as required by section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Indiana program (Administrative Record No. IND–1714). We did not receive any comments.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain the written concurrence of the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Indiana proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA for its concurrence.

As required by 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. IND–1714). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP for amendments that may have an effect on historic properties. On August 24, 2001, we requested comments on Indiana's amendment (Administrative Record No. IND–1714), but we received no response to our request.

Public Comments

We requested public comments on the proposed amendment, but we did not receive any.

V. Director's Decision

Based on the above findings, we approve, with additional requirements, the amendment as sent to us by Indiana on August 21, 2001. Findings C.3, D, E, and F discuss the additional changes that we are requiring in 312 IAC 25–4–118, 25–4–17, 25–4–45, and 25–4–113.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 914, which codify decisions concerning the Indiana program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process.

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any changes to approved State programs that are not approved by OSM. In the oversight of the Indiana program, we will recognize only the statutes, regulations and other materials approved by the Secretary or by us, together with any consistent implementing policies, directives and other materials. We will require the enforcement by Indiana of only those provisions.

VI. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

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

Executive Order 12630—Takings

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

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining

operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA, and section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

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

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

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

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

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

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

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

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

Unfunded Mandates

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

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 22, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 914 is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 914.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 914.15 Approval of Indiana regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
August 21, 2001	November 16, 2001	Recodification of rules from 310 IAC 12 to 312 IAC 25; nonsubstantive revisions to those rules; substantive revisions to 312 IAC 25–1–8, 25–4–17, 25–4–18, 25–4–45, 25–4–58, 25–4–59, 25–4–113, and 25–4–118.

3. Section 914.16 is amended by adding paragraphs (jj), (kk), (ll), and (mm) to read as follows:

§ 914.16 Required program amendments.

* * * * *

(jj) By February 14, 2002, Indiana must submit either an amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise 312 IAC 25–4–17(d), (e), and (f) or otherwise modify the Indiana regulatory program to clarify that the information specified in those

subsections must be submitted with the permit application.

(kk) By February 14, 2002, Indiana must submit either an amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise 312 IAC 25–4–118(4) or otherwise modify the Indiana regulatory program to require permittees to allow authorized representatives of the Secretary of the Interior to have right of entry to surface coal mining and reclamation operations for purposes of inspections, monitoring, and enforcement and to be accompanied by private persons under the conditions specified in 30 CFR 773.17(d)(2).

(ll) By February 14, 2002, Indiana must submit either an amendment or a description of an amendment to be proposed, together with a timetable for adoption, to revise 312 IAC 25–4–45(b)(4) or otherwise modify the Indiana regulatory program to require the demonstration of the suitability of topsoil substitutes or supplements to also be based upon analysis of the ''total depth'' of the different kinds of soils.

(mm) By February 14, 2002, Indiana must submit either an amendment or a description of an amendment to be proposed, together with a timetable for adoption, to:

(1) Revise 312 IAC 25–4–113(f) or otherwise modify the Indiana program to allow a person to oppose or seek disclosure of confidential information.

(2) Revise 312 IAC 25–4–113 or otherwise modify the Indiana program to add a provision, consistent with 30 CFR 773.6(d)(3)(iii), that classifies information on the nature and location of archeological resources on public land and Indian land as qualified confidential information in accordance with the Archeological Resources Protection Act of 1979.

[FR Doc. 01–28760 Filed 11–15–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 934

[SPATS No. ND–042–FOR; Amendment No. XXXI]

North Dakota Regulatory Program

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

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving a proposed amendment to the North Dakota regulatory program (hereinafter, the ''North Dakota program'') under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). North Dakota proposed revisions to its statutes concerning references to the State Historical Society and the title of the persons who head that agency. North Dakota revised its program to clarify ambiguities.

EFFECTIVE DATE: November 16, 2001.

FOR FURTHER INFORMATION CONTACT: Guy Padgett, Casper Field Office Director, Telephone: 307/261–6550; Internet address: Gpadgett@OSMRE.GOV

SUPPLEMENTARY INFORMATION:

I. Background on the North Dakota Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the North Dakota Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''* * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of this criteria, the Secretary of the Interior conditionally approved the North Dakota program on December 15, 1980. You can find background information on the North Dakota program, including the Secretary's findings, the disposition of comments, and conditions of approval in the December 15, 1980, **Federal Register** (45 FR 82214). You can also find later actions concerning North Dakota's program and program amendments at 30 CFR 934.15, and 934.30.

II. Submission of the Proposed Amendment

By letter dated May 9, 2001, North Dakota sent us an amendment to its program (Amendment number XXXI), administrative record No. ND–FF–01) under SMCRA (30 U.S.C. 1201 *et seq.*). North Dakota sent the amendment to make changes at its own initiative.

We announced receipt of the proposed amendment in the June 6, 2001 **Federal Register** (66 FR 30347). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the amendment's adequacy (administrative record No. ND–FF–04). We did not hold a public hearing or meeting because no one requested one. The public comment period ended on July 5, 2001. We received one comment from the public and two comments from Federal agencies.

III. Director's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment.

Minor Revisions to North Dakota Statutes

North Dakota proposed minor wording and editorial changes in its Senate Bill 2424 to the following previously-approved statute:

North Dakota Century Code Section 38–14.1, Surface Mining and Reclamation Operations

Section 4. Amendment. NDCC 38–14.1–10. Necessity of Permit—Exception.

Changes the name of the State Historical Board to the State Historical Society and the name of the superintendent to the director. Changes two ''prior tos'' to ''before.'' Changes ''Any person or operator may engage in the inventorying and evaluation of cultural resources * * *.'' to ''A person or operator shall * * *.'' A few other minor changes were made.

Section 5. Amendment. NDCC 38–14.1–14.u. Cultural resource information including all of the following:

Changes in five places, ''superintendent'' to ''director.''

Changes in one place, ''board'' to ''society.''

Section 6. Amendment. NDCC 38–14.1–21.2. Approval or modification of the permit or permit revision application.

Changes ''board'' to ''society.''

Changes ''shall'' to ''must.''

Section 7. Amendment. NDCC 38–14.1–30.1. Right to administrative review on rulings.

Changes ''board'' to ''society.'' Changes ''superintendent'' to ''director.'' Miscellaneous very minor editorial changes.

Section 8. Amendment. NDCC 38–14.1–37.2.d. Collection of cultural resource information.

Changes ''board'' to ''society'' and changes ''superintendent'' to ''director.''

Because all of the aforementioned changes are minor, we find that they

will not make North Dakota's statutes less stringent than SMCRA.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment (administrative record No. ND–FF–03) and received one comment letter as a result: a June 15, 2001, letter from the North Dakota State University Extension Service stating that it is in agreement with the proposed amendment.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the North Dakota program (administrative record No. ND–FF–03). Two comment letters from Federal agencies were received.

On May 24, 2001, the Natural Resources Conservation Service sent us a letter (administrative record No. ND–FF–05) stating that it did not have any comments.

On June 12, 2001, the U.S. Fish and Wildlife Service sent a letter (administrative record No. ND–FF–06) stating it does ''not anticipate any significant impacts to fish and wildlife resources as a result of the proposed amendment.''

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(i), OSM requested comments on the amendment from EPA (administrative record No. ND–FF–03). EPA did not respond to our request.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On May 18, 2001, we requested their comments on North Dakota's amendment (administrative record No. ND–FF–03), but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve the amendment sent to us by North Dakota on May 9, 2001.

To implement this decision, we are amending the Federal regulations at 30 CFR part 934.15, which codify decisions concerning the North Dakota program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrates that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this rule effective immediately will expedite that process.

VI. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12630—Takings

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

Executive Order 13132—Federalism

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

Executive Order 12988—Civil Justice Reform

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

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

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

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal that is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

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

Regulatory Enforcement Fairness Act. This rule:

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

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and

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

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

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on any local, State, or Tribal governments or private entities.

List of Subjects in 30 CFR Part 934

Intergovernmental relations, Surface mining, Underground mining.

Dated: September 12, 2001.

Brent Wahlquist,

Regional Director, Western Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 934 is amended as set forth below:

PART 934—NORTH DAKOTA

1. The authority citation for part 934 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 934.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 934.15 Approval of North Dakota's regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
May 9, 2001	November 16, 2001	NDCC 38–14.1

[FR Doc. 01–28759 Filed 11–15–01; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–132–FOR]

Pennsylvania Regulatory Program

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

ACTION: Final rule.

SUMMARY: The Secretary of the Interior (Secretary) is approving legislation submitted by Pennsylvania as part of its regulatory program (Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Pennsylvania submitted the legislation to satisfy a condition of program approval found at 30 CFR 938.11(i). The condition requires the submission of enacted laws providing for the award of costs and expenses that are no less effective than 30 CFR 840.15 and in accordance with section 525(e) of SMCRA.

EFFECTIVE DATE: November 16, 2001.

FOR FURTHER INFORMATION CONTACT: Beverly Brock, Acting Director, Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office, Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717) 782–4036, email: bbrock@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program
II. Pennsylvania's Submission
III. Secretary's Findings
IV. Summary and Disposition of Comments
V. Secretary's Decision
VI. Procedural Determinations

I. Background on the Pennsylvania Program

Section 503(a) of SMCRA permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its State program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *'' and ''rules and regulations consistent with regulations issued by the Secretary'' pursuant to the Act. 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary conditionally approved the Pennsylvania program on July 30, 1982. You can find background information on the Pennsylvania program, including the Secretary's findings, the disposition of comments, and the conditions of the approval in the July 30, 1982, **Federal Register** (47 FR 33050). Subsequent actions concerning the Pennsylvania program and previous amendments are codified at 30 CFR 938.11, 938.12, 938.15 and 938.16.

II. Pennsylvania's Submission

By letter dated January 3, 2001, (Administrative Record Number PA 848.25), the Pennsylvania Department of Environmental Protection (PADEP) submitted legislation consisting of excerpts of House Bill 393 regarding attorney costs and expenses associated with administrative legal proceedings relating to coal mining for Secretarial approval. House Bill 393 amends Title 27 of the Pennsylvania Consolidated Statutes by adding section 7708 titled, ''Costs for Mining Proceedings.''

The full text of Pennsylvania's submission was published in the February 15, 2001, **Federal Register** (66 FR 10405). The public comment period closed on March 19, 2001. OSM received two comments. No one requested an opportunity to speak at a public hearing, so no hearing was held.

III. Secretary's Findings

Set forth below, pursuant to SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are the Secretary's findings concerning the legislation submitted by Pennsylvania.

Section 1 of House Bill 393 amends Title 27 of the Pennsylvania Consolidated Statutes by adding Chapter 77, ''Costs and Fees,'' section 7708. Section 7708 (a) states that

purpose of the section is to ''provide costs and fees to the same extent of section 525(e) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87, 30 U.S.C. 1201 *et seq.*) and the regulations promulgated pursuant thereto.'' The Secretary finds that this portion of the legislation is in keeping with the requirements of the program condition at 30 CFR 938.11 that requires Pennsylvania to submit legislation in accordance with section 525(e) of SMCRA. The Secretary is approving this portion of the submission.

Section 7708 (b) provides that, ''Any party may file a petition for award of costs and fees reasonably incurred as a result of that party's participation in any proceeding involving coal mining activities which results in a final adjudication being issued by the Environmental Hearing Board or a final order being issued by an appellate court.'' The Secretary finds that this provision is consistent with the provision in the Federal regulations at 43 CFR 4.1290. The Secretary is approving this portion of the submission.

Section 7708 (c) defines who may receive an award. Subsection (1) defines the circumstances under which appropriate costs and fees may be awarded to any person from the permittee. This section is substantively identical to the provisions in the Federal regulations at 43 CFR 4.1294(a). The Secretary is approving this portion of the submission.

Subsection (2) defines the circumstances under which appropriate costs and fees may be awarded to any party, other than a permittee or his representative, from the department. This section is substantively identical to the provisions in the Federal regulations at 43 CFR 4.1294(b). The Secretary is approving this portion of the submission.

Subsection (3) provide that costs and fees may be awarded to a permittee from the department when the permittee demonstrates that the department in a matter concerning coal mining activities issued an order of cessation, a compliance order or an order to show cause why a permit should not be suspended or revoked, in bad faith and for the purpose of harassing or embarrassing the permittee. This section is substantively identical to the provisions in the Federal regulations at 43 CFR 4.1294(c). The Secretary is approving this portion of the submission.

Subsection (4) defines the circumstances under which appropriate costs and fees may be awarded to a permittee from any party. This section is substantively identical to the provisions in the Federal regulations at 43 CFR 4.1294(d). The Secretary is approving this portion of the submission.

Section 7708(d) defines the time for petitions for an award of costs. This section requires the petitions to be filed with the Environmental Hearing Board within 30 days of the date an adjudication of the Environmental Hearing Board becomes final. The Federal regulations at 43 CFR 4.1291 require petitions to be filed within 45 days of receipt of a final order. While the Pennsylvania provision allows less time for the filing of these petitions, the Secretary finds that 30 days is still a reasonable allotment of time. Moreover, the deadline will apply to both citizens and coal operators, and is therefore even-handed on its face. As such, the Secretary finds that subsection (d) is no less effective than its Federal counterpart in ensuring that parties have an adequate opportunity to petition the appropriate tribunal for an award of costs and fees, and it is therefore approved.

Section 7708(e) states the requirements for the contents of a petition. The requirements are substantively identical to the requirements of the Federal regulations at 43 CFR 4.1292(a)(1) through (3). The Secretary is approving this portion of the submission.

Section 7708(f) provides that any party shall have 30 days from service of the petition within which to file an answer to such petition. This section is substantively identical to the Federal regulation at 43 CFR 4.1293. The Secretary is approving this portion of the submission.

Section 7708(g) states, ''Except for section 601 of the act of June 22, 1937 (P.L.1987, No.394), known as the Clean Streams Law, Section 18.3 of the act of May 31, 1945 (P.L.1198, No.418), known as the Surface Mining Conservation and Reclamation Act, Section 13 of the Act of April 27, 1966 (1st Sp.Sess., P.L.31, No.1), known as the Bituminous Mine Subsidence and Land Conservation Act and Section 13 of the act of September 24, 1968 (P.L.1040, No.318), known as the Coal Refuse Disposal Control Act, this section shall be the exclusive remedy for the awarding of costs and fees in proceedings involving coal mining activities.'' The sections of the various laws excluded in section 7708(g) refer to citizen suits. Section 520 of SMCRA provides for citizen suits, and subsection (f) of this section allows persons to bring actions for damages, including attorney fees and expert witness fees, in the event of personal or property injury caused by a violation of SMCRA. Section 7708(g) merely preserves this independent basis for seeking awards of costs and attorney fees incurred in citizen suits. Accordingly, the Secretary finds that this portion of the submission does not make the submission as a whole inconsistent with SMCRA or the Federal regulations regarding petitions for awards and costs and is approving this section.

Section 7708(h) provides definitions for terms used in this section. The language states:

(h) Definitions—The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

''Coal mining activities.'' The extraction of coal from the earth, waste or stockpiles, pits or banks by removing the strata or material which overlies or is above or between them or otherwise exposing and retrieving them from the surface, including, but not limited to, strip mining, auger mining, dredging, quarrying and leaching and all surface activity connected with surface or underground coal mining, including, but not limited to, exploration, site preparation, coal processing or cleaning, coal refuse disposal, entry, tunnel, drift, slope, shaft and borehole drilling and construction, road construction, use, maintenance and reclamation, water supply restoration or replacement, repair or compensation for damages to structures caused by underground coal mining and all activities related thereto.

''Coal mining acts.'' The provisions of the act of June 22, 1937 (P.L.1987, No.394), known as the Clean Streams Law, the act of May 31, 1945 (P.L.1198, no.418), known as the Surface Mining Conservation and Reclamation Act, the Act of April 27, 1966 (1st 27 Sp.Sess., P.L.31, No.1), known as the Bituminous Mine Subsidence and Land Conservation Act, and the act of September 24, 1968 (P.L.1040, No.318), known as the Coal Refuse Disposal Control Act, which govern coal mining or activities related to coal mining.

''Costs and fees.'' All reasonable costs and expenses, including attorney fees and expert witness fees, reasonably incurred as a result of participation in a proceeding involving coal mining activities.

''Department.'' The Department of Environmental Protection of the Commonwealth.

''Proceeding.'' Appeals of final Department of Environmental Protection actions before the Environmental Hearing Board and judicial review of Environmental Hearing Board adjudications.

The Secretary finds that the definitions of the terms, ''coal mining activities,'' ''coal mining acts,'' ''costs and fees,'' ''Department,'' and ''proceeding'' do not make the submission inconsistent with the

Federal regulations and is approving those definitions.

We note that this submission lacks a specific counterpart to the Federal regulations at 43 CFR 4.1295(b), which states that an award may include ''all costs and expenses, including attorneys' fees and expert witness fees, reasonably incurred in seeking the award* * *'' However, section 7708(a) states that the purpose of section 7708 is to ''provide costs and fees to the same extent of section 525(e) of the Surface Mining Control and Reclamation Act of 1977 (Public Law 95–87, 30 U.S.C. 1201 *et seq.*) and the regulations promulgated pursuant thereto.'' Also, while section 7708(b) sets forth a general rule that a party may file a petition for costs and fees as a result of any ''proceeding involving coal mining activities,'' and while the definition of ''proceeding'' contained in section 7708(h) does not expressly include fee petition proceedings, the general rule does not appear to prevent the Environmental Hearing Board from complying with the above-stated purpose of section 7708 by awarding costs and fees reasonably incurred in seeking the award for the underlying proceeding. Thus, the Secretary finds that section 7708 provides the Environmental Hearing Board with the authority to award all costs and expenses, including attorneys' fees and expert witness fees, reasonably incurred in seeking the award.

Section 2 of House Bill 393 repeals sections of several Pennsylvania mining laws. Specifically, the following sections are repealed:

The fifth sentence of section 4(b) and subsection (f)(5) of section 4.2 of the act of May 31, 1945 (P.L. 1198, No. 418), known as the Surface Mining Conservation and Reclamation Act. The fifth sentence of section 4(b) states, ''The Environmental Hearing Board, upon the request of any party, may in its discretion order the payment of costs and attorney's fees it determines to have been reasonably incurred by such party in proceedings pursuant to this section.'' Subsection (f)(5) states, ''A surface mining operator or owner who provides a successful defense to the presumptions of liability shall be entitled to recover the costs incurred, including, but not limited to, the costs of temporary water supply, design, construction, restoration or replacement costs, attorney fees and expert witness fees from the department.''

The last sentence of section 5(g) of the act of April 27, 1966 (1st Sp. Sess., P.L. 31, No. 1), known as the Bituminous Mine Subsidence and Land Conservation Act. This sentence states, ''The Environmental Hearing Board, upon the request of any party, may in its discretion order the payment of costs and attorney's fees it determines have been reasonably incurred by such party (sic) proceedings pursuant to this section.''

The last sentence of section 5(i) of the act of September 24, 1968 (P.L. 1040, No. 318), known as the Coal Refuse Disposal Control Act. This sentence states, ''The Environmental Hearing Board, upon the request of any party, may in its discretion order the payment of costs and attorney's fees it determines to have been reasonably incurred by such party in proceedings pursuant to this section.''

In addition, section 2(b) of House Bill 393 indicated that, ''All other acts and parts of acts are repealed insofar as they are inconsistent with this act.''

The Secretary is approving the repeal of the above noted statute sections. Repeal of these sections, in conjunction with the addition of the new section 7708, does not make this submission inconsistent with the Federal regulations.

Section 3 of House Bill 393 states, ''The addition of 27 Pa.C.S. Section 7708 shall apply to all proceedings and petitions for costs and fees filed after the effective date of this act.'' The Secretary finds that this section is not inconsistent with SMCRA or the Federal regulations, and is therefore approving it.

Section 4 of House Bill 393 provides that:

> This act shall take effect as follows:
> (1) The following provisions shall take effect immediately:
> (i) The addition of 27 Pa.C.S. Section 7708.
> (ii) This section.
> (2) The remainder of this act shall take effect in 60 days.

The Secretary finds that this section is not inconsistent with SMCRA or the Federal regulations, and is therefore approving it.

IV. Summary and Disposition of Comments

Federal Agency Comments

On January 31, 2001, we asked for comments from various Federal agencies who may have an interest in the Pennsylvania submission (Administrative Record Number PA 848.26). We solicited comments in accordance with section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i) of the Federal regulations.

The U.S. Department of Labor, Mine Safety and Health Administrative (MSHA) commented that Title 27, Environmental Resources of the Pennsylvania Consolidated Statutes, is consistent with requirements of section 525(e) of the Surface Mining Control and Reclamation Act of 1977.

No other Federal agency comments were received.

Environmental Protection Agency (EPA)

Pursuant to 30 CFR 732.17(h)(11)(i) and (ii), OSM is required to obtain the written concurrence of the EPA with respect to those provisions of the proposed program submission that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). We have determined that this submission contains no such provisions, thereby rendering EPA concurrence unnecessary. By letter dated January 31, 2001, we requested comments from EPA on the State's proposed submission of January 3, 2001, (Administrative Record Number PA 848.26). EPA responded on April 11, 2001, (Administrative Record Number PA 848.29) by noting that it had no comments on the submission.

Public Comments

No comments were received in response to our request for public comments.

V. Secretary's Decision

Based on the findings above we are approving Pennsylvania's submission and removing the condition codified at 30 CFR 938.11(i).

The Federal regulations at 30 CFR Part 938 codifying decisions concerning the Pennsylvania program are being amended to implement this decision. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this regulation effective immediately will expedite that process. Consistency of State and Federal standards is required by SMCRA.

VI. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

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

Executive Order 12630—Takings

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

Executive Order 13132—Federalism

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

Executive Order 12988—Civil Justice Reform

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

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

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulation.

Small Business Regulatory Enforcement Fairness Act

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

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

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

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

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

Unfunded Mandates

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

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 15, 2001.

J. Steven Griles,

Acting Assistant Secretary Lands and Minerals Management.

For the reasons set out in the preamble, Title 30, Chapter VII, Subchapter T of the Code of Federal Regulations is amended as set forth below.

PART 938—PENNSYLVANIA

1. The authority citation for Part 938 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 938.11 is amended by removing and reserving paragraph (i).

3. Section 938.15 is amended in the table by adding a new entry in chronological order by ''Date of Final Publication'' to read as follows:

§ 938.15 Approval of Pennsylvania regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	* * * * *
January 3, 2001	11/16/01	Addition of Chapter 77, Section 7708 to 2001 Title 27 of the Pennsylvania Consolidated Statutes; repeal of the fifth sentence of section 4(b) and section 4.2(f)(5) of the Surface Mining Conservation and Reclamation Act of May 31, 1945 (P.L. 1198, No. 418); repeal of the last sentence of section 5(g) of the Bituminous Mine Subsidence and Land Conservation Act of April 27, 1966 (1st Sp. Sess., P.L. 31, No. 1); repeal of the last sentence of section 5(i) of the Coal Refuse Disposal Control Act of September 24,1968 (P.L. 1040, No. 318).

[FR Doc. 01–28761 Filed 11–15–01; 8:45 am]
BILLING CODE 4310–05–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 169–0272a; FRL–7100–6]

Revisions to the California State Implementation Plan, California State Implementation Plan Revision; San Joaquin Valley Unified Air Pollution Control District, and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), and South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) and oxides of nitrogen (NO_X) emissions from equipment tuning procedure for boilers, steam generators, and process heaters, pumps and compressor seals at petroleum refineries and chemical plants, and residential type, natural gas-fired water heaters. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on January 15, 2002 without further notice, unless EPA receives adverse comments by December 17, 2001. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

You can inspect copies of the submitted SIP revisions and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see copies of the submitted SIP revisions at the following locations:

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

San Joaquin Valley Unified Air Pollution Control District, 1990 E. Gettysburg, Fresno, CA 93726

South Coast Air Quality Management District, 21865 E. Copley Dr. Diamond Bar, CA 91765–4182

FOR FURTHER INFORMATION CONTACT: Charnjit Bhullar, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1153.

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

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I. The State's Submittal

A. What Rules Did the State Submit?

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

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Adopted	Submitted
SJVUAPCD	4304	Equipment tuning procedure for boilers, steam generators, and process heaters.	10/19/95	03/26/96
SJVUAPCD	4452	Pumps and compressor seals at petroleum refineries and chemical plants	12/17/92	09/07/99
SCAQMD	1121	Control of nitrogen oxides from residential type, natural gas-fired water heaters.	12/10/99	03/28/00

On May 15, 1996, October 20, 1999, and May 19, 2000 these rule submittals were found to meet the completeness criteria in 40 CFR part 51, appendix V, which must be met before formal EPA review.

B. Are There Other Versions of These Rules?

There is no previous version of SJVUAPCD Rule 4304 in the SIP. EPA approved an earlier version of Rule 4452, numbered 464.2, which was adopted locally on April 11, 1991. We approved a version of SCAQMD Rule 1121 adopted on March 10, 1995.

C. What Is the Purpose of the Submitted Rule and Rule Revisions?

SJVUAPCD Rule 4304 provides tuning procedures for boilers, steam generators, and process heaters to control visible emissions, and both nitrogen oxide (NO_X) and carbon monoxide (CO) emissions.

SJVUAPCD amended Rule 464.2, is renumbered as Rule 4452. The amendments provide administrative changes, normalize format, and unify numbering system. They are not substantive in nature. The provisions of existing SCAQMD Rule 1121 are amended to establish reduced emission limits of nitrogen oxides from new residential type, natural gas-fired water heaters that are sold or installed in residential or commercial establishments.The TSDs have more information about the rules.

II. EPA's Evaluation and Action

A. How Is EPA Evaluating the Rules?

Generally, SIP rules must be enforceable (see section 110(a) of the Act), must require Reasonably Available Control Technology (RACT) for major sources in nonattainment areas (see section 182(a)(2)(A)), and must not relax existing requirements (see sections 110(l) and 193).

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

1. ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' (the NO_X Supplement), 57 FR 55620, November 25, 1992.

2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations; Clarification to Appendix D of November 24, 1987 **Federal Register** document,'' (Blue Book), notice of availability published in the May 25, 1988 **Federal Register**.

3. September 20, 1999 memo regarding state implementation plans: policy regarding excess emissions during malfunctions, startup, and shutdown, U.S. EPA, Office of Air Quality Planning and Standards.

B. Do the Rules Meet the Evaluation Criteria?

We believe the rules are consistent with the relevant policy and guidance regarding enforceability and SIP relaxations. The TSDs have more information on our evaluation.

C. EPA Recommendations to Further Improve the Rules

The TSD describes additional rule revisions that do not affect EPA's current action, but are recommended for the next time the local agencies modify the rules.

D. Public comment and Final Action

As authorized in section 110(k)(3) of the Act, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rules. If we receive adverse comments by December 17, 2001, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on January 15, 2002. This will incorporate the rules into the federally enforceable SIP.

III. Background Information

A. Why Were the Rules Submitted?

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

TABLE 2.—OZONE NONATTAINMENT MILESTONES

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

IV. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves state rules implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission,

to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 **note**) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 15, 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 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 22, 2001.

Wayne Nastri,

Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(230)(i)(D)(*2*), (269)(i)(C)(*2*), and (277)(i)(D) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(230) * * *

(i) * * *

(D) * * *

(*2*) Rule 4304 adopted on October 19, 1995.

* * * * *

(269) * * *

(i) * * *

(C) * * *

(*2*) Rule 4452 adopted on December 17, 1992.

* * * * *

(277) * * *

(i) * * *

(D) South Coast Air Quality Management District.

(1) Rule 1121 adopted on December 10, 1999.

* * * * *

[FR Doc. 01–28345 Filed 11–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7100–4]

Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Arizona; Arizona Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is amending certain regulations to reflect the current delegation status of national emission standards for hazardous air pollutants in Arizona. Several NESHAPs were delegated to the Arizona Department of Environmental Quality on March 5, 2001, and the purpose of this action is to update the listing in the Code of Federal Regulations.

DATES: This rule is effective on January 15, 2002 without further notice, unless EPA receives relevant adverse comments by December 17, 2001. If EPA receives such comments, then it will publish a timely withdrawal in the **Federal Register** informing the public that this rule did not take effect.

ADDRESSES: Comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the request for delegation and other supporting documentation are available for public inspection (docket number A–96–25) at the following location: U.S. Environmental Protection Agency, Region IX, Rulemaking Office (AIR–4), Air Division, 75 Hawthorne Street, San Francisco, California 94105–3901.

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, California 94105–3901, (415) 744–1200.

SUPPLEMENTARY INFORMATION:

I. Background

A. Delegation of NESHAPs

Section 112(l) of the Clean Air Act, as amended in 1990 (CAA), authorizes EPA to delegate to state or local air pollution control agencies the authority to implement and enforce the standards set out in 40 CFR part 63, National Emission Standards for Hazardous Air Pollutants for Source Categories. On November 26, 1993, EPA promulgated regulations, codified at 40 CFR part 63, subpart E (hereinafter referred to as ''subpart E''), establishing procedures for EPA's approval of state rules or programs under section 112(l) (*see* 58 FR 62262). Subpart E was later amended on September 14, 2000 (*see* 65 FR 55810).

Any request for approval under CAA section 112(l) must meet the approval criteria in 112(l)(5) and subpart E. To streamline the approval process for future applications, a state or local agency may submit a one-time demonstration that it has adequate authorities and resources to implement and enforce any CAA section 112 standards. If such demonstration is approved, then the state or local agency would no longer need to resubmit a demonstration of these same authorities and resources for every subsequent request for delegation of CAA section 112 standards. However, EPA maintains the authority to withdraw its approval if the State does not adequately

implement or enforce an approved rule or program.

B. ADEQ Delegations

On July 17, 1998, EPA published a direct final action delegating to the Arizona Department of Environmental Quality (ADEQ) several NESHAPs and approving ADEQ's delegation mechanism for future standards (see 63 FR 38478). That action explained the procedure for EPA to grant delegations to ADEQ by letter, with periodic **Federal Register** listings of standards that have been delegated. On January 5, 2001, ADEQ requested delegation of the following NESHAPs contained in 40 CFR part 63:

- Subpart AA—NESHAP from Phosphoric Acid Manufacturing Plants
- Subpart BB—NESHAP from Phosphate Fertilizers Production Plants
- Subpart HH—NESHAP from Oil and Natural Gas Production Facilities
- Subpart SS—National Emission Standards for Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process
- Subpart TT—National Emission Standards for Equipment Leaks—Control Level 1
- Subpart UU—National Emission Standards for Equipment Leaks—Control Level 2 Standards
- Subpart WW—National Emission Standards for Storage Vessels (Tanks)—Control Level 2
- Subpart YY—NESHAP for Source Categories: Generic MACT Standards
- Subpart CCC—NESHAP for Steel Pickling—HCl Process Facilities and Hydrochloric Acid Regeneration Plants
- Subpart DDD—NESHAP for Mineral Wool Production
- Subpart GGG—National Emission Standards for Pharmaceuticals Production
- Subpart HHH—NESHAP from Natural Gas Transmission and Storage Facilities
- Subpart III—NESHAP for Flexible Polyurethane Foam Production
- Subpart LLL—NESHAP from the Portland Cement Manufacturing Industry
- Subpart MMM—NESHAP for Pesticide Active Ingredient Production
- Subpart NNN—NESHAP for Wool Fiberglass Manufacturing
- Subpart PPP—NESHAP for Polyether Polyols Production
- Subpart TTT—NESHAP for Primary Lead Smelting
- Subpart XXX—NESHAP for Ferroalloys Production: Ferromanganese and Silicomanganese

On March 5, 2001, EPA granted delegation to ADEQ for these NESHAPs. EPA also delegated to ADEQ any amendments to previously-delegated NESHAPs, as of July 1, 1999. Today's action is serving to notify the public of the March 5, 2001, delegation and to codify these delegations into the Code of Federal Regulations.

II. EPA Action

Today's document serves to notify the public that on March 5, 2001, EPA granted delegation to ADEQ for the NESHAPs listed above, as well as any amendments to previously-delegated NESHAPs as of July 1, 1999. Today's action will codify these delegations into the Code of Federal Regulations.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. 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 updates the list of approved delegations in the Code of Federal Regulations and imposes no additional requirements. 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 does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely updates the list of already-approved delegations, 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 state delegation submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove state submissions for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews state submissions, to use VCS in place of state submissions that otherwise satisfy the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 15, 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 may not be challenged later in proceedings to

enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 63

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

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: October 30, 2001.

Jack P. Broadbent,

Director, Air Division, Region IX.

Title 40, chapter I, part 63 of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart E—Approval of State Programs and Delegation of Federal Authorities

2. Section 63.99 is amended by revising paragraph (a)(3) to read as follows:

§ 63.99 Delegated Federal Authorities.

(a) * * *

(3) *Arizona.* The following table lists the specific Part 63 standards that have been delegated unchanged to the air pollution control agencies in the State of Arizona. The (X) symbol is used to indicate each category that has been delegated.

DELEGATION STATUS FOR PART 63 STANDARDS—ARIZONA

Subpart	Description	ADEQ [1]	MCESD [2]	PDEQ [3]	PCAQCD [4]
A	General Provisions	X	X	X	X
F	Synthetic Organic Chemical Manufacturing Industry	X	X	X	X
G	Synthetic Organic Chemical Manufacturing Industry: Process Vents, Storage Vessels, Transfer Operations, and Wastewater.	X	X	X	X
H	Organic Hazardous Air Pollutants: Equipment Leaks	X	X	X	X
I	Organic Hazardous Air Pollutants: Certain Processes Subject to the Negotiated Regulation for Equipment Leaks.	X	X	X	X
L	Coke Oven Batteries	X	X	X	X
M	Perchloroethylene Dry Cleaning	X	X	X	X
N	Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.	X	X	X	X
O	Ethylene Oxide Sterilization Facilities	X	X	X	X
Q	Industrial Process Cooling Towers	X	X	X	X
R	Gasoline Distribution Facilities	X	X	X	X
S	Pulp and Paper	X			
T	Halogenated Solvent Cleaning	X	X	X	X
U	Group I Polymers and Resins	X	X		X
W	Epoxy Resins Production and Non-Nylon Polyamides Production	X	X	X	X
X	Secondary Lead Smelting	X	X	X	X
AA	Phosphoric Acid Manufacturing Plants	X			
BB	Phosphate Fertilizers Production Plants	X			
CC	Petroleum Refineries	X	X	X	X
DD	Off-Site Waste and Recovery Operations	X	X		X
EE	Magnetic Tape Manufacturing Operations	X	X	X	X
GG	Aerospace Manufacturing and Rework Facilities	X	X	X	X
HH	Oil and Natural Gas Production Facilities	X			
JJ	Wood Furniture Manufacturing Operations	X	X	X	X
KK	Printing and Publishing Industry	X	X	X	X
LL	Primary Aluminum Reduction Plants	X			
OO	Tanks—Level 1	X	X		X
PP	Containers	X	X		X
QQ	Surface Impoundments	X	X		X
RR	Individual Drain Systems	X	X		X
SS	Closed Vent Systems, Control Devices, Recovery Devices and Routing to a Fuel Gas System or a Process.	X			
TT	Equipment Leaks—Control Level 1	X			
UU	Equipment Leaks— Control Level 2	X			
VV	Oil-Water Separators and Organic-Water Separators	X	X		X
WW	Storage Vessels (Tanks) —Control Level 2	X			
YY	Generic MACT Standards	X			
CCC	Steel Pickling	X			
DDD	Mineral Wool Production	X			
EEE	Hazardous Waste Combustors	X			
GGG	Pharmaceuticals Production	X			
HHH	Natural Gas Transmission and Storage Facilities	X			
III	Flexible Polyurethane Foam Production	X			
JJJ	Group IV Polymers and Resins	X	X		X
LLL	Portland Cement Manufacturing Industry	X			
MMM	Pesticide Active Ingredient Production	X			
NNN	Wool Fiberglass Manufacturing	X			
PPP	Polyether Polyols Production	X			
TTT	Primary Lead Smelting	X			

DELEGATION STATUS FOR PART 63 STANDARDS—ARIZONA—Continued

Subpart	Description	ADEQ [1]	MCESD [2]	PDEQ [3]	PCAQCD [4]
XXX	Ferroalloys Production	X			

[1] Arizona Department of Environmental Quality.
[2] Maricopa County Environmental Services Department.
[3] Pima County Department of Environmental Quality.
[4] Pinal County Air Quality Control District.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301191; FRL–6810–2]

RIN 2070–AB78

Linear alkyl $C_{12–16}$ propoxyamine ethoxylate; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of poly[oxy(methyl-1,2-ethanediyl)], α-[2-bis(2-hydroxyethyl)amino]propyl]-ω-hydroxy,-ether with α-hydro-ω-hydroxypoly(oxy-1,2-ethanediyl) (1:2), mono-$C_{12–16}$ alkyl ethers (hereinafter ''linear alkyl $C_{12–16}$ propoxyamine ethoxylate'') when used as an inert ingredient (surfactant) when applied to growing crops, or to raw agricultural commodities after harvest. Huntsman Corporation submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA) requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of linear alkyl C_{12-16} propoxyamine ethoxylate.

DATES: This regulation is effective November 16, 2001. Objections and requests for hearings, identified by docket control number OPP–301191, must be received by EPA on or before January 15, 2002.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VIII. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP–301191 in the subject line on the first page of your response.

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

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

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

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

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

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

2. *In person.* The Agency has established an official record for this action under docket control number OPP–301191. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of August 14, 1998 (63 FR 43708) (FRL–6019–8), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104–170) announcing the filing of a pesticide petition (PP 5E4487) by Huntsman Petrochemical Corporation, 3040 Post Oak Blvd., Houston, TX 77056. This notice included a summary of the petition prepared by the petitioner. There were no comments received in response to the notice of filing.

The petition requested that 40 CFR 180.1001(c) be amended by establishing an exemption from the requirement of a tolerance for residues of

[poly[oxy(methyl-1,2-ethanediyl)], α-[2-bis(2-hydroxyethyl)amino]propyl]-ω-hydroxy,-ether with α-hydro-ω-hydroxypoly(oxy-1,2-ethanediyl) (1:2), mono-C_{12-16} alkyl ethers (CAS Reg. No. 176022–82–5).

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

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Toxicological Profile

Consistent with section 408(b)(2)(D) of FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by linear alkyl C_{12-16} propoxyamine ethoxylate were evaluated by two methods: A process known as structure activity relationship (SAR) assessment and review and evaluation of submitted data.

A. SAR Assessment

Linear alkyl C_{12-16} propoxyamine ethoxylate is an inert ingredient. To the best of the Agency's knowledge, linear alkyl C_{12-16} propoxyamine ethoxylate has no active ingredient properties; therefore, the complete 40 CFR part 158 data base has not been required. For linear alkyl C_{12-16} propoxyamine ethoxylate, toxicity was assessed, in part, by the SAR process. In this process, the chemical's structural similarity to other chemicals (for which data are available) is used to determine toxicity. For human health, this process, can be used to assess absorption and metabolism, mutagenicity, carcinogenicity, developmental and reproductive effects, neurotoxicity, systemic effects, immunotoxicity, and sensitization and irritation. This is a qualitative assessment using terms such as good, not likely, poor, moderate, or high.

For linear alkyl C_{12-16} propoxyamine ethoxylate the SAR assessment determined that the chemical was not structurally related to any known carcinogens or developmental/reproductive toxicants. The following human exposures were examined as part of the analysis: inhalation, dermal, exposures to the eyes, and drinking water. There were concerns for irritation to eyes, skin, lungs, and mucous membranes. Overall, the level of concern for human health was characterized as low to moderate. Absorption was rated as poor through the skin, good through the lungs, and moderate through the gastrointestinal tract.

B. Review of Submitted Data

1. *Acute oral toxicity - rat*. Lethal Dose (LD_{50}) for combined sexes is from 1,154 to 1,993 milligrams/kilograms (mg/kg). Clinical effects observed in both sexes included decreased activity, poor grooming, abnormal stance and gait, diarrhea, dyspnea, chromodacryorrhea, decreased muscle tone, lacrimation, and prostration. (Toxicity Category III).

2. *Acute dermal toxicity - rabbit*. The observed lethal dose for males and females is greater than 2,000 mg/kg. Clinical signs of toxicity included abnormal gait, abnormal stance, unspecified alopecia, decreased muscle tone, salivation, decreased activity, and poor grooming. (Toxicity Category III).

3. *Primary eye irritation - rabbit*. It was determined that the test substance was a severe but reversible ocular irritant. (Toxicity Category II).

4. *Primary dermal irritation - rabbit*. Several dermal irritations characterized by severe erythema and edema, necrosis, fissuring, and sloughing of the epidermis was observed. (Toxicity Category II).

5. *Dermal sensitization - guinea pig*. It was observed that the test substance was a dermal sensitizer.

6. *Subchronic oral toxicity feeding - rats*. The no observable adverse effect level (NOAEL) is 1,000 ppm in males (equivalent to 58.9 mg/kg/day) and 500 ppm (equivalent to 35.4 mg/kg/day) in females. The lowest observable adverse effect level (LOAEL) is 3,000 ppm (equivalent to 173.6 mg/kg/day) in males and 1,000 ppm (equivalent to 68.9 mg/kg/day) in females based on decreased body weight gain.

7. *90–Day feeding capsule - dog*. The NOAEL is 10 mg/kg/day. The LOAEL is 30 mg/kg/day based on clinical signs of toxicity in females and decreased body weight gain in males.

8. *Oral developmental toxicity - rats*. The test material was administered by gavage to pregnant rats on gestation days 6 through 15. The maternal NOAEL is 25 mg/kg/day. The maternal LOAEL is 75 mg/kg/day, based on clinical signs of toxicity and reductions in body weight, body weight gains, and food consumption. The developmental NOAEL is 75 mg/kg/day. The developmental LOAEL is 150 mg/kg/day, based on decreased fetal weights and increases in incidences of skeletal variation related to decreased ossification.

9. *In vitro mammalian cytogenetics - chromosome aberrations in human lymphocytes*. There were no statistically significant increases in chromosome abberations at any dose level with or without metabolic activation. No mutagenic concerns were demonstrated.

10. *Salmonella typhimurium and Escherichia coli mammalian activation reverse gene mutation assay*. There were

no statistically significant differences in the number of revertant colonies in any tester strain at any dose level or condition. No mutagenic concerns were demonstrated.

C. Toxicological Endpoints

1. *Acute dietary toxicity*. For an acute dietary risk assessment, the Agency selected a developmental NOAEL of 75 mg/kg/day from the developmental toxicity study in the rat. The LOAEL is 150 mg/kg/day.

2. *Short-term dermal toxicity*. For a short-term dermal risk assessment, the Agency selected a developmental NOAEL of 75 mg/kg/day from the developmental toxicity study in the rat. The LOAEL is 150 mg/kg/day.

3. *Intermediate- and long-term dermal toxicity*. For intermediate- and long-term dermal risk assessment, the Agency selected a NOAEL of 10 mg/kg/day from a 90–day toxicity study in dogs (capsules). The LOAEL is 30 mg/kg/day.

4. *Short-term inhalation*. For a short-term inhalation risk assessment, the Agency selected a NOAEL of 75 mg/kg/day from the developmental study in the rat. The LOAEL is 150 mg/kg/day.

5. *Intermediate- and long-term inhalation*. For an intermediate- and long-term inhalation risk assessment, the Agency selected a NOAEL of 10 mg/kg/day from a 90–day toxicity study in the dog (capsules). The LOAEL is 30 mg/kg/day.

6. *Chronic dietary toxicity*. For a chronic dietary risk assessment, the Agency selected a NOAEL of 10 mg/kg/day from the 90–day dog (capsule) study. The LOAEL is 30 mg/kg/day.

7. *No dermal studies or dermal absorption data were submitted*. However, the SAR analysis rated absorption through the skin as poor. Therefore, a dermal absorption factor of 10% will be used.

8. *No inhalation studies were submitted*. However, the SAR assessment rated absorption through the lungs as good. Therefore, an inhalation absorption factor of 100% will be used.

D. Conclusions

The SAR assessment rated linear alkyl $C_{12–16}$ propoxyamine ethoxylate as a low to moderate toxicity chemical. Linear alkyl $C_{12–16}$ propoxyamine ethoxylate is a surfactant, that is, a chemical used to modify the nature of a surface, such as reducing the surface tension of water. Surfactants can be used as wetting agents, detergents, penetrants, and emulsifiers. However, it is believed that the low to moderate rating is indicative of the known properties of a surfactant, not necessarily of the toxicological effects unique to linear alkyl $C_{12–16}$ propoxyamine ethoxylate. By their very nature, surfactants are often corrosive and irritating. The effects displayed in the reviewed studies (decreased body weight gain, and possibly even the salivation) were probably due to the corrosion/irritation factor and not to other mechanisms of toxicity. The findings of the SAR assessment did not conflict with the data reviews.

Based on the SAR assessment, and review and evaluation of the submitted data, the Agency concludes that linear alkyl $C_{12–16}$ propoxyamine ethoxylate is a low/moderate toxicity chemical with the demonstrated effects consistent with the characteristics of a surfactant. No other effects of concern were noted. No additional toxicity data are required.

E. Population Adjusted Doses

1. *Safety factors*. The Agency will use the NOAELs and LOAELs in Unit IV.C. to assess the risks of using linear alkyl $C_{12–16}$ propoxyamine ethoxylate to the general population and certain subgroups of the general population. However, the Agency first modifies these values numerically downward by dividing the NOAEL by two or more safety factors. The safety (uncertainty) factors used are: A 10-fold factor to account for intraspecies variability (the differences in how the test animals reacted to the test substance) and a 10-fold factor to account for interspecies variation (the use of animal studies to predict human risk).

2. *Acute dietary toxicity*. The Agency divided the NOAEL by 100 (10X interspecies extrapolation, 10X intraspecies variation) to calculate the acute Population Adjusted Dose (aPAD). The aPAD is the quantity of a substance which if consumed in a single day is not expected to pose significant risk of adverse health effects. For linear alkyl $C_{12–16}$ propoxyamine ethoxylate the aPAD is equal to 0.75 mg/kg/day.

3. *Chronic dietary toxicity*. The Agency divided the NOAEL of 10 mg/kg/day by 300 (10X interspecies extrapolation, 10X intraspecies variation, and 3X for extrapolating a NOAEL from a subchronic study for a chronic scenario) to calculate the chronic Population Adjusted Dose (cPAD). The cPAD is the quantity of a substance which if absorbed on a daily basis over a lifetime is not expected to pose significant risk of adverse health effects. For linear alkyl $C_{12–16}$ propoxyamine ethoxylate the cPAD is equal to 0.03 mg/kg/day.

V. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from groundwater or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be clearly demonstrated that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

A. Dietary Exposure

1. *Food*. No tolerances have been established for linear alkyl $C_{12–16}$ propoxyamine ethoxylate. Huntsman Corporation has requested a tolerance exemption for the use of linear alkyl $C_{12–16}$ propoxyamine ethoxylate as a surfactant only in glyphosate formulations. Glyphosate is one of the most widely used pesticide chemicals; it is used on a multitude of food crops. There are over 140 glyphosate tolerances which include major food crops, such as wheat, soybeans, and corn, as well as other widely-consumed foods such as potatoes, peanuts, and all bulb, cucurbit, fruiting, and leafy vegetables. Thus, a pesticide formulation containing glyphosate as the active ingredient and linear alkyl $C_{12–16}$ propoxyamine ethoxylate as an inert ingredient, a surfactant, has the potential for being used on this multitude of food crops.

There are no field trial data or monitoring data available for residues of linear alkyl $C_{12–16}$ propoxyamine ethoxylate, which is the Agency's traditional source of exposure data for conducting a quantitative dietary risk assessment. The Agency has estimated residue levels for linear alkyl $C_{12–16}$ propoxyamine ethoxylate using a ratio of linear alkyl $C_{12–16}$ propoxyamine ethoxylate to glyphosate in the

formulated product. Thus, the glyphosate tolerance level residues were adjusted using this ratio to estimate linear alkyl C_{12-16} propoxyamine ethoxylate residues. It should be noted that the glyphosate tolerance level residues are considered to be conservative exposure estimates which assume that 100% of the crops having glyphosate tolerances receive an application of glyphosate and that all residue levels are at the maximum legally permissible level. It is unlikely that either or both of these assumptions would actually occur, thus leading to the conservative nature of the exposure estimates. Using a ratio to adjust the glyphosate tolerance level residues to linear alkyl C_{12-16} propoxyamine ethoxylate residue levels is a reasonable approach for this assessment for the following reasons:

Many of the uses of glyphosate are pre-emergent (i.e., take place prior to planting or emergence of the crop) and typically result in non-detectable residues of glyphosate in the harvested commodities. Although data indicate that linear alkyl C_{12-16} propoxyamine ethoxylate is longer-lived in the environment than glyphosate, residues of linear alkyl C_{12-16} propoxyamine ethoxylate resulting from pre-emergent uses are also expected to be non-detectable since unlike glyphosate, linear alkyl C_{12-16} propoxyamine ethoxylate is not expected to be systemic (i.e., not able to translocate through the plant to the crop commodity). The non-systemic nature of the surfactant, that is, its inability to translocate in and of itself offers a wide margin of protection.

Some uses of glyphosate are post-emergent (i.e., made after the crops emerge). Most of these applications are for the purpose of desiccation of the crops to aid harvest. These have fairly short preharvest intervals (PHIs), which is the mandated wait period, usually given in number of days, from application of the pesticide to harvest. A short PHI means that there may be insufficient time for the applied chemicals to metabolize/degrade and therefore can still be present in significant quantities at the time of harvest. The glyphosate tolerances that result from these short PHIs, once adjusted by the ratio methodology to be linear alkyl C_{12-16} propoxyamine ethoxylate residue levels are not likely to significantly underestimate dietary (food) exposure to linear alkyl C_{12-16} propoxyamine ethoxylate.

The methodology by which these residue levels were estimated (ratio in formulation, conservative assumptions of 100% crop treated and maximum legally permissible residue levels) should not underestimate residue levels of linear alkyl C_{12-16} propoxyamine ethoxylate since: (a) For pre-emergent applications linear alkyl C_{12-16} propoxyamine ethoxylate is not expected to translocate through the plant to the crop commodity, and thus, as explained, should result in non-detectable residues; and (b) for post-emergent uses given the lack of time for metabolism/degradation to occur for either glyphosate or linear alkyl C_{12-16} propoxyamine ethoxylate, the persistence of linear alkyl C_{12-16} propoxyamine ethoxylate is not a significant factor and the estimated residue levels should not underestimate food exposure to linear alkyl C_{12-16} propoxyamine ethoxylate.

i. *Acute exposure*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1–day or single event exposure. The Agency has conducted Tier 1 acute food exposure assessments for linear alkyl C_{12-16} propoxyamine ethoxylate using the Dietary Exposure Evaluation Model (DEEM®). This model incorporates consumption data generated in USDA's Continuing Surveys of Food Intakes by Individuals (CSFII), 1989–1992. For this acute food risk assessment, the entire distribution of single day food consumption events is combined with a single residue level (deterministic analysis) to obtain a distribution of exposure in mg/kg/day. For a Tier 1 analysis, the Agency generally considers exposure at the 95th percentile to be representative of high end exposure. The Agency's level of concern is for exposures greater than 100% of the aPAD. For the population subgroup of concern, females 13–50 years, at the 95th percentile, the dietary exposure is 2% of the aPAD.

ii. *Chronic exposure*. In conducting this chronic dietary risk assessment the DEEM® analysis evaluated the individual food consumption as reported by respondents in the USDA 1989–1992 nationwide CSFII and accumulated exposure to the chemical for each commodity. For chronic food risk assessments, the 3–day average consumption for each subpopulation is combined with residues in commodities to determine average exposure in mg/kg/day. In performing the chronic dietary risk assessment, the Agency's level of concern is for exposures greater than 100% cPAD. The population groups with the highest percentages are children (1–6 years old) (54%), all infants (< 1 year) (51%), children (7–12 years old) (36%), total U.S. population (25%), and females (13–50 years) (19%).

2. *Drinking water exposure*. Given the limited environmental fate information, qualitatively linear alkyl C_{12-16} propoxyamine ethoxylate can be described as a chemical that is moderately persistent to persistent based on complete minerization (metabolism to carbon dioxide, water and basic minerals), has intermediate mobility (estimated K_{oc} ranging from 630 to 6,300) with respect to runoff in water and eroding soil/sediment, and is possibly a compound which has significant potential to bioconcentrate based on an estimated partition coefficient between water and octanol (K_{ow}).

The Agency lacks sufficient monitoring exposure data to complete comprehensive dietary exposure analysis and risk assessment for linear alkyl C_{12-16} propoxyamine ethoxylate. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the characteristics of linear alkyl C_{12-16} propoxyamine ethoxylate.

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

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

In lieu of submitted environmental fate studies on linear alkyl C_{12-16} propoxyamine ethoxylate, the water modeling inputs were estimated based on available fate and transformation data. The assumption ranged from no sorption to soil and no degradation to some sorption and some degradation. Considering the number of crops on

which glyphosate is used, a percent crop area adjustment was not used. To model Tier 1 surface water concentrations, the Agency uses the FQPA Index Reservoir Screening Tool (FIRST) to calculate the concentrations used in the drinking water assessment. It represents a small drinking water reservoir surrounded by a run-off prone watershed. FIRST estimates expected concentrations from a few basic chemical parameters and pesticide label application information. It is a Tier 1 model which uses a chemical's soil/water partition coefficient and degradation half-life values to estimate runoff from an agricultural field into a drinking water reservoir. FIRST considers reductions in dissolved pesticide concentration due to adsorption of pesticide to soil or sediment, incorporation, degradation in soil before wash off to a water body, direct deposition of spray drift into the water body, and degradation of the pesticide within the water body.

Using FIRST, the estimated acute concentrations for surface water ranged from 43 to 185 µg/L. The estimated chronic concentrations from surface water ranged from 6 to 133 µg/L. Both ranges include an estimate with the assumption that the chemical is stable to biotic and abiotic processes and infinitely mobile. Reasonable high-end estimates of exposure based on a metabolism half-life in soil and water of 110 days and a partition coefficient of 630 mL/g O.C. (organic carbon) are 13 µg/L for a yearly average concentration and 92 µg/L for a peak concentration.

SCI-GROW (Screening Concentration in Ground Water) estimates ''worst case'' groundwater concentrations of pesticides considering the maximum allowable use rate in an area where the groundwater is exceptionally vulnerable to contamination. The model uses existing environmental fate properties of the chemical being examined, the application rate from the label, and the existing body of data from Agency-required small-scale prospective and two large-scale prospective groundwater monitoring studies for all pesticides. It should be noted that SCI-GROW is biased in the sense that negative data were ignored, i.e., studies where the pesticide was not detected in groundwater were not included in the data set. Thus, it is not expected that SCI-GROW estimates would be exceeded.

With most groundwater sources there are no known predictable seasonal or longer term trends in concentration of pesticide contaminants. Therefore, only one concentration is estimated which should be used for both acute and chronic scenarios. Using SCI-GROW, for groundwater for both acute and chronic effects, the estimated concentration of 0.3 µg/L is based on a metabolism half-life in soil and water of 110 days and a partition coefficient of 630 mL/g O.C.

3. *From non-occupational exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure. Linear alkyl C_{12-16} propoxyamine ethoxylate will be used in glyphosate formulations, which can be used in and around the home (e.g., lawn, garden, and ornamental uses). Since this is a residential assessment, and given the nature and non-repetitiveness of the exposure only a short-term (1–7days) assessment was performed. The level of concern for residential exposures is a margin of exposure (MOE) of less than 100. A dermal absorption factor of 10% (based on the SAR assessment which rated absorption as poor through the skin) was used. Exposure estimates were generated using the Standard Operating Procedures (SOPs) for Residential Exposure Assessments, which are standardized methodologies for estimating exposures using information such as percent in the formulation. All MOEs for residential uses are greater than 100.

4. *Safety factor for infants and children.* In assessing the potential for additional sensitivity of infants and children to residues of linear alkyl C_{12-16} propoxyamine ethoxylate, EPA considered data from a developmental toxicity study in the rat and the SAR assessment. The SAR assessment did not indicate a concern for developmental or reproductive effects. This assessment which was made on surrogate data, is supported by a rat developmental toxicity study conducted with linear alkyl C_{12-16} propoxyamine ethoxylate. A developmental toxicity study is designed to evaluate adverse effects on the developing organism resulting from maternal pesticide exposure gestation. The Agency's review and evaluation of the submitted developmental toxicity study indicated that there was no increase in susceptibility. The maternal NOAEL is 25 mg/kg/day. The developmental NOAEL is 75 mg/kg/day. Thus, the mother would be impacted before the developing fetus.

FFDCA section 408 provides that EPA shall apply an additional 10-fold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. When a quantitative risk assessment is performed for inert ingredients which have no active ingredient uses, the Agency reviews all of the available and reliable data. For linear alkyl C_{12-16} propoxyamine ethoxylate, a surfactant that is characterized as having low to moderate toxicity, the Agency believes that the following support the use of the standard uncertainty factor: The SAR assessment does not indicate any concerns for developmental or reproductive effects; and EPA's review and evaluation of the rat developmental toxicity study indicates that there is no increase in susceptibility.

For assessing exposure, estimates were estimated based on data that reasonably accounts for potential exposures. Thus, based on the above rationales, EPA concludes that the 10X safety factor should be removed.

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

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

assessment performed. For linear alkyl C_{12-16} propoxyamine ethoxylate, these are acute, short-term, and chronic.

When EECs for surface water and groundwater are less than the calculated DWLOCs, the Agency concludes with reasonable certainty that exposures to the pesticide in drinking water (when considered along with other sources of exposure for which reliable data are available) would not result in unacceptable levels of aggregate human health risk at this time.

ii. *Acute risk.* As previously discussed in the unit for acute dietary exposure, the acute dietary exposure from food to linear alkyl C_{12-16} propoxyamine ethoxylate will occupy 2% of the aPAD for the populations subgroup females 13–50 years. In addition, there is potential for acute dietary exposure to linear alkyl C_{12-16} propoxyamine ethoxylate in drinking water. The Agency calculated a DWLOC of 22,000 µg/L which is significantly greater than the 0.3 µg/L estimated for groundwater and 92 µ/L estimated for surface water. Thus, EPA does not expect the acute aggregate exposure to exceed 100% of the aPAD.

iii. *Chronic risk.* As previously discussed in the unit for chronic dietary exposure, the chronic dietary exposure from food to linear alkyl C_{12-16} propoxyamine ethoxylate will occupy 54% of the cPAD for children (1–6 years old), 51% of the cPAD for all infants (< 1 year), 36% of the cPAD for children (7–12 years old), 25% of the cPAD for the total U.S. population, and 19% of the cPAD for females (13–50 years) (19%). There are no residential uses for linear alkyl C_{12-16} propoxyamine ethoxylate that result in chronic residential exposure to linear alkyl C_{12-16} propoxyamine ethoxylate. There is a potential for chronic dietary exposure to linear alkyl C_{12-16} propoxyamine ethoxylate in drinking water. The Agency calculated DWLOCs of 790 µg/L for adults and 140 µg/L for children. Both are greater than the 0.3 µg/L estimated ground water and the 13 µg/L estimated for surface water. Thus, EPA does not expect the chronic aggregate exposure to exceed 100% of the aPAD.

iv. *Short-term risk.* Short-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level). As previously discussed, in the non-occupational exposure unit, there is the potential for residential exposure to linear alkyl C_{12-16} propoxyamine ethoxylate. The Agency calculated a DWLOC of 24,000 µg/L for homeowner adult applicators. An adult post-application exposure estimate would be less, thus resulting in a larger DWLOC. The Agency calculated a DWLOC of 7,300 µg/L for post-application exposure for a child. Both are greater than the estimates for surface and groundwater concentrations. Thus, EPA does not expect the short-term aggregate exposure to exceed its level of concern.

VI. Cumulative Effects

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

EPA does not have, at this time, available data to determine whether linear alkyl C_{12-16} propoxyamine ethoxylate has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, linear alkyl C_{12-16} propoxyamine ethoxylate does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that linear alkyl C_{12-16} propoxyamine ethoxylate has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1999).

VII. Determination of Safety for U.S. Population, Infants and Children

Based on the SAR assessment as well as the quantitative and qualitative risk assessments conducted using the available data, EPA concluded that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to [poly[oxy(methyl-1,2-ethanediyl)], α-[2-bis(2-hydroxyethyl)amino]propyl]-ω-hydroxy,-ether with α-hydro-ω-hydroxypoly(oxy-1,2-ethanediyl) (1:2), mono-C_{12-16} alkyl ethers residues. Critical factors supporting this finding include: Linear alkyl C_{12-16} propoxyamine ethoxylate is of low/moderate toxicity. Moreover, the effects displayed in the reviewed studies (decreased body weight gain, and possibly even the salivation) were probably due to the corrosion/irritation factor common to surfactants such as linear alkyl C_{12-16} propoxyamine ethoxylate and not to other mechanisms of toxicity generally considered to be of greater concern. The Agency is requiring a limitation on the use of linear alkyl C_{12-16} propoxyamine ethoxylate, ''not to exceed 15% in the formulated product.'' This limitation should be sufficiently protective for the corrosive effects common to surfactants. Further, in performing the dietary assessment the Agency took into account that linear alkyl C_{12-16} propoxyamine ethoxylate is to be used in glyphosate products, a pesticide product registered for use on most commonly-consumed foods. Accordingly, the risk assessment assumes that linear alkyl C_{12-16} propoxyamine ethoxylate will be present in most commonly-consumed foods. Finally, the residue levels used in performing the food assessment were very conservative (health protective). The conservative assumptions (ratio in formulation, 100% of crop treated and maximum legally permissible residue levels) especially when considered with the non-systemic nature of linear alkyl C_{12-16} propoxyamine ethoxylate, and the short PHIs for glyphosate products are considered to produce estimates that do not underestimate food exposure and are likely to substantially overestimate exposure.

Because linear alkyl C_{12-16} propoxyamine ethoxylate is unlikely to pose a dietary risk under reasonably foreseeable circumstances, EPA finds that exempting poly[oxy(methyl-1,2-ethanediyl)], α-[2-bis(2-hydroxyethyl)amino]propyl]-ω-hydroxy,-ether with α-hydro-ω-hydroxypoly(oxy-1,2-ethanediyl) (1:2), mono-C_{12-16} alkyl ethers from the requirement of a tolerance will be safe.

VIII. Other Considerations

A. Endocrine Disruptors

FQPA requires EPA to develop a screening program to determine whether certain substances, including all pesticide chemicals (both inert and active ingredients), ''may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect....'' EPA has been working with interested stakeholders to develop a screening and testing program as well as a priority setting scheme. As the Agency proceeds with implementation of this program, further testing of products containing linear alkyl C_{12-16} propoxyamine ethoxylate for endocrine effects may be required.

B. Analytical Method

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

C. Existing Exemptions

There are no existing exemptions for linear alkyl C_{12-16} propoxyamine ethoxylate.

D. International Tolerances

The Agency is not aware of any country requiring a tolerance for linear alkyl C_{12-16} propoxyamine ethoxylate nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

IX. Conclusions

Based on the information in this preamble, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to residues of linear alkyl C_{12-16} propoxyamine ethoxylate. Accordingly, EPA finds that exempting [poly[oxy(methyl-1,2-ethanediyl)], α-[2-bis(2-hydroxyethyl)amino]propyl]-ω-hydroxy,-ether with α-hydro-ω-hydroxypoly(oxy-1,2-ethanediyl) (1:2), mono-C_{12-16} alkyl ethers from the requirement of a tolerance will be safe.

X. Objections and Hearing Requests

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

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

You must file your objection or request a hearing on this regulation in accordance with the instructions provided in this unit and in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket control number OPP–301191 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before January 15, 2002.

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

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

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

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

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

3. *Copies for the Docket.* In addition to filing an objection or hearing request with the Hearing Clerk as described in Unit VIII.A., you should also send a copy of your request to the PIRIB for its inclusion in the official record that is described in Unit I.B.2. Mail your copies, identified by docket control number OPP–301191, to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. In person or by courier, bring a copy to the location of the PIRIB described in Unit I.B.2. You may also send an electronic copy of your request via e-mail to: opp-docket@epa.gov. Please use an ASCII file format and avoid the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 6.1/8.0 or ASCII file format. Do not include any CBI in your electronic copy. You may also submit an electronic copy of your request at many Federal Depository Libraries.

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

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

XI. Regulatory Assessment Requirements

This final rule establishes an exemption from the tolerance requirement under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive

Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

XII. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

Dated: November 5, 2001.

James Jones,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.1001, the table in paragraph (c) is amended by adding alphabetically the following inert ingredient to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	* * * *	
[Poly[oxy(methyl-1,2-ethanediyl)], α-[2-bis(2-hydroxyethyl)amino]propyl]-ω-hydroxy,-ether with α-hydro-ω-hydroxypoly(oxy-1,2-ethanediyl) (1:2), mono-C_{12-16} alkyl ethers, (CAS Reg. No. 176022–82–5)	Not to exceed 15% in the formulated product; only for use with glyphosate	Surfactant
* * *	* * * *	

* * * * *

[FR Doc. 01–28734 Filed 11–15–01; 8:45 am]
BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7101–9]

New York: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: New York has applied to EPA for Final authorization of changes to its hazardous waste program under the Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize New York's changes to its hazardous waste program will take effect as provided below. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on January 15, 2002 unless EPA receives adverse written comment by December 17, 2001. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule or those paragraphs or sections of this rule which are the subject of the comments opposing this authorization in the **Federal Register**, and inform the public that this authorization will not take effect (See Section E of this rule for further details).

ADDRESSES: Send written comments to Michael Infurna, Division of Environmental Planning and Protection, EPA, Region II, 290 Broadway, 22nd Floor, New York, NY 10007, Phone number: (212) 637–4177. You can view and copy New York's application during business hours at the following addresses: EPA Region 2 Library, 290 Broadway, 16th Floor, New York, NY 10007, Phone number: (212) 637–3185; or New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials, 625 Broadway, Albany, NY 12233–7250, Phone number: (518) 402–8730. The public is advised to call in advance to verify the business hours of the above locations.

FOR FURTHER INFORMATION CONTACT: Michael Infurna, Division of Environmental Planning and Protection, EPA, Region II, 290 Broadway, 22nd Floor, New York, NY 10007, Phone number: (212) 637–4177.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

B. What Decisions Have We Made in This Rule?

We conclude that New York's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant New York Final authorization to operate its hazardous waste program with the changes described in the authorization application. New York has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in New York, including issuing permits if necessary, until the State is granted authorization to do so.

C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in New York subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. New York has enforcement responsibilities under its State hazardous waste program for violations of such program, but EPA retains its authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013, and 7003. These sections include, but may not be limited to, the authority to:

- Do inspections, and require monitoring, tests, analyses or reports
- Enforce RCRA requirements and suspend or revoke permits
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which New York is being authorized by today's action are already effective, and are not changed by today's action.

D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register**, we are publishing a separate document that proposes to authorize the State program changes.

E. What Happens if EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the

program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. What Has New York Previously Been Authorized For?

New York initially received Final authorization effective on May 29, 1986 (51 FR 17737) to implement its base hazardous waste management program. We granted authorization for changes to its program effective July 3, 1989 (54 FR 19184), May 7, 1990 (55 FR 7896), October 29, 1991 (56 FR 42944), May 22, 1992 (57 FR 9978), August 28, 1995 (60 FR 33753), and October 14, 1997 (62 FR 43111).

While EPA is not authorizing any New York State, civil or criminal statute in this program revision authorization, be advised that New York State has revised some of the statutory provisions which provide the legal basis for the State's implementation of the hazardous waste management program in New York State. As of January 1, 1999, those updated New York State Statutes include the following: Environmental Conservation Laws (ECL) sections 27–0917(8), 70–0109(2)(a), 71–2707, 71–2709 through 71–2717, 71–2720, 71–2727 and Public Offices Law (POL) sections 87(2)(d), 87(2)(j), 89(2)(b)(iv) and 89(8). These provisions are related to criminal enforcement, public access to information and other aspects of the State program.

G. What Changes Are We Authorizing With Today's Action?

On July 30, 2001, New York submitted a signed Memorandum of Agreement, which was the final component for a complete program revision application, seeking authorization of its changes in accordance with 40 CFR 271.21. New York's revision application includes changes to the Federal Hazardous Waste program, as well as State-initiated changes. New York made these changes to provisions that we had previously authorized, as listed in Section F. All the State-initiated changes correct typographical errors and printing errors, clarify and make the State's regulations more internally consistent, or bring the State regulations closer to the Federal language.

We now make an immediate final decision, subject to receipt of written comments that oppose this action, that New York's hazardous waste program revision and State-initiated changes satisfy all of the requirements necessary to qualify for Final authorization. Therefore, we grant New York Final authorization for the following program revisions (Note: We are only authorizing the revised regulations set forth below. The statutory citations are included for information purposes only.):

1. Program Revisions

Description of Federal Requirement	**Federal Register** date and page	Analogous State regulatory authority [1]
RCRA CLUSTER III		
Land Disposal Restrictions for Ignitable and Corrosive Characteristic Wastes Whose Treatment Standards Were Vacated (Revision Checklist 124, as revised by Checklists 126, 137, 151 and 157).	5/24/93, 58 FR 29860	Environmental Conservation Laws (ECL) 27–0912; Title 6 New York Code, Rules and Regulations (6 NYCRR) 373–1.1(d)(1)(xii)('e'), 373–1.7(c)(2)&(c)(15), 376.1(a)(8)&(a)(9), 376.1(b)(1)(xii), 376.1(g)(1)(i), 376.1(g)(2)(iii)('b'), 376.1(h)(1), 376.3(e)(1)&(e)(2), 376.4(a)(2) and 376.4(b). (More stringent provisions: 376.3(e)(1), 373–1.1(d)(1)(xii)('e') and 373–1.7(c)(2)&(c)(15)).
RCRA CLUSTER IV		
Boilers and Industrial Furnaces; Changes for Consistency with New Air Regulations (Revision Checklist 125).	7/20/93, 58 FR 38816	ECL 27–0703, 27–0900, 27–0903 through 27–0918, 70–0107 and 71–2727; 6 NYCRR 370.1(e)(8)(vi), 374–1.8(e)(5)(iii), 374–1.8(g)(8), and Appendix 50.
Testing and Monitoring Activities (Revision Checklist 126 as revised by Checklists 128, 132, 139, 141, 137, 151 and 157)).	8/31/93, 58 FR 46040; 9/19/94, 59 FR 47980.	ECL 23–2301 through 23–2309, 27–0703, 27–0900, 27–0903, 27–0907, 27–0909, 27–0911, 27–0913, and 71–2727; 6 NYCRR 370.1(e), 370.1(e)(1)(xvii), 370.1(e)(8)(i), 370.3(c)(4)(i)('a'), 371.3(c)(1)(i)&(ii), 371.3(e)(1), 373–1.5(f)(3)(i)('c')&('d'), 373–1.9(a)(2)(ii)('a')('3')&('4'), 373–1.9(d)(3)(ii)('a')&('b'), 373–2.10(a)(1), 373–2.14(j)(3), 373–3.10(a)(1), 373–3.14(g)(3), 376.1(g)(1)(i), 376.4(a)(1), 376.4(b) and Appendices 20 & 21 and 32.
Boilers and Industrial Furnaces; Administrative Stay and Interim Standards for Bevill Residues (Revision Checklist 127).	11/9/93, 58 FR 59598	ECL 27–0703, 27–0900, 27–0911, 27–0912 and 23–2301 et seq.; 6 NYCRR 374–1.8(m)(2)(ii)('a') and Appendix 47.
Wastes From the Use of Chlorophenolic Formulations in Wood Surface Protection (Revision Checklist 128, as revised by Checklists 132, 139 and 141).	1/4/94, 59 FR 458	ECL 27–0703 and 27–0903; 6 NYCRR 370.1(e)(8)(i) and Appendix 23.
Revision of Conditional Exemption for Small Scale Treatability Studies (Revision Checklist 129).	2/18/94, 59 FR 8362	ECL 27–0903; 6 NYCRR 371.1(e)(4)(iv)('b')('1')&('2'), 371.1(e)(4)(iv)('c') and 371.1(e)(4)(v)('c')–('e').
Recordkeeping Instructions; Technical Amendment (Revision Checklist 131).	3/24/94, 59 FR 13891	ECL 27–0911 and 27–0913; 6 NYCRR Appendix 25/Tables 1 and 2.
Wood Surface Protection; Correction (Revision Checklist 132, as revised by Checklists 139 and 141).	59 FR 28484, 6/2/94	ECL 27–0703 and 27–0903; 6 NYCRR 370.1(e)(8)(i).

Description of Federal Requirement	Federal Register date and page	Analogous State regulatory authority [1]
Letter of Credit Revision (Revision Checklist 133).	6/10/94, 59 FR 29958	ECL 27–0703, 27–0911, 27–0913 and 27–0917; 6 NYCRR 373–2.8(j)(3) and 373–2.8(j)(10).
Correction of Beryllium Powder (P015) Listing (Revision Checklist 134, as revised by Checklists 137, 140 and 159).	6/20/94, 59 FR 31551	ECL 27–0903 and 27–0912; 6 NYCRR 371.4(d)(5), 376.4(a), and Appendix 23.
RCRA CLUSTER V		
Recovered Oil Exclusion ((Revision Checklist 135), as revised by Revision Checklists 142B and 150).	7/28/94, 59 FR 38536	ECL 27–0703, 27–0900, 27–0903 and 71–2727; 6 NYCRR 371.1(d)(3)(ii)(‘b’)(‘2’), 371.1(e)(1)(xii), 371.1(g)(1)(iii)(‘c’)–(‘e’), and 374–1.8(a)(2)(iii).
Removal of the Conditional Exemption for Certain Slag Residues (Revision Checklist 136, as revised by Checklist 137).	8/24/94, 59 FR 43496	ECL 27–0911 and 27–0912; 6 NYCRR 374–1.3(a)(3) and 376.4(a).
Universal Treatment Standards and Treatment Standards for Organic Characteristic Wastes and Newly Listed Waste (Revision Checklist 137, as amended by Revision Checklists 151, 157, 159 and 161).	9/19/94, 59 FR 47982; 1/3/95, 60 FR 242.	ECL 27–0703, 27–0900, 27–0903, 27–0911, 27–0912 and 71–2727; 6 NYCRR 370.3(a), 370.3(d)(1)&(d)(1)(ii), 370.3(e)(1)&(2), 370.3(f)(1), 371.1(c)(6)(i)(‘c’), 373–1.1(d)(1)(xii)(‘e’), 374–1.3(d)(1), 374–1.8(a)(3)(i)&(iii), 374–1.8(a)(3)(iii)(‘a’)&(‘a’)(‘1’), 374–1.8(a)(3)(iii)(‘b’), 376.1(a)(3)(iii)(‘b’), 376.1(a)(8)&(a)(9), 376.1(b)(1)(vii), 376.1(b)(1)(xii), 376.1(g)(1)(i)–(iii), 376.1(g)(1)(v)–(x), 376.1(g)(2)(iii)(‘b’), 376.1(g)(2)(iv)(‘d’), 376.1(g)(4)&(4)(i), 376.1(h)(1), 376.1(h)(4)(i)(‘a’)&(‘b’), 376.1(h)(4)(ii)(‘a’), 376.3(f)(1)–(5), 376.4(a)(1)–(6), 376.4(a)/Table, 376.4(b), 376.4(c)&(c)(1), 376.4(c)(1)/Table, 376.4(c)(3)(ii), 376.4(c)(4), 376.4(d), 376.4(g)(2)(ii), 376.4(h), 376.4(j), 376.4(j)/Table, Appendices 38 and 53. (More stringent provision: 373–1.1(d)(1)(xii)(‘e’)).
Testing and Monitoring Activities Amendment I (Revision Checklist 139, as revised by Checklist 141).	1/13/95, 60 FR 3089	ECL 27–0703 and 27–0903; 6 NYCRR 370.1(e)(8)(i).
Carbamate Production Identification and Listing of Hazardous Waste (Revision Checklist 140, as amended by Checklist 159).	2/9/95, 60 FR 7824; 4/17/95, 60 FR 19165; 5/12/95, 60 FR 25619.	ECL 27–0703 and 27–0903; 6 NYCRR 371.1(d)(1)(ii)(‘d’)(‘5’)–(‘7’), 371.1(d)(3)(ii)(‘b’)(‘4’), 371.4(c), 371.4(d)(5), 371.4(d)(6), Appendices 22 and 23.
Testing and Monitoring Activities Amendment II (Revision Checklist 141).	4/4/95, 60 FR 17001	ECL 27–0703 and 27–0903; 6 NYCRR 370.1(e)(8)(i).
Universal Waste Rule (Revision Checklist 142A).	5/11/95, 60 FR 25492	ECL 27–0703, 27–0900, 27–0903, 27–0905, 27–0907, 27–0909, 27–0911, 27–0913, 70–0107, 71–0301 and 71–2727; 6 NYCRR 370.1(a), 370.2(b)(44), 370.2(b)(202)–(204), 371.1(f)(3), 371.1(f)(6)(iii) introductory paragraph, 371.1(f)(6)(iii)(‘a’)–(‘f’), 371.1(f)(6)(iii)(‘h’), 371.1(f)(7)(iii) introductory paragraph, 371.1(f)(7)(iii)(‘a’)–(‘f’), 371.1(f)(7)(iii)(‘h’), 371.1(j)(1) introductory paragraph, 372.1(b)(2), 372.2(a)(2)(iv), 373–1.1(b)(4) introductory paragraph, 373–2.1(a)(7) introductory paragraph, 373–3.1(a)(9) introductory paragraph, 374–3.1(a)(1) introductory paragraph, 374–3.1(a)(2), 374–3.1(e), 374–3.1(f)(2), 374–3.1(f)(4)–(f)(6), 374–3.1(f)(8), 374–3.1(f)(10) introductory paragraph, 374–3.1(f)(11)–(f)(13), 374–3.2(a)–(c), 374–3.2(e) introductory paragraph, 374–3.2(f)–(k), 374–3.3(a)&(b), 374–3.3(c)(1)(i)&(ii), 374–3.3(c)(2), 374–3.3(e) introductory paragraph, 374–3.3(f)–(k), 374–3.4(a)(1), 374–3.4(b)–(g), 374–3.5, 374–3.6(a) introductory paragraph, 374–3.6(a)(1)–(3), and 376.1(a)(10) introductory paragraph. (More stringent provisions: 371.1(f)(6)(iii)(‘a’)–(‘e’) and 371.1(f)(7)(iii)(‘a’)–(‘e’)).
Universal Waste Rule (Revision Checklist 142B).	5/11/95, 60 FR 25492	ECL 27–0703, 27–0900, 27–0903, 27–0905, 27–0907, 27–0909, 27–0911, 27–0913, 70–0107, 71–0301 and 71–2727; 6 NYCRR 370.2(b)(15), 370.2(b)(202)(i), 371.1(g)(1)(iii)(‘b’)–(‘e’), 371.1(j)(1)(i), 373–1.1(b)(4)(i), 373–2.1(a)(7)(i), 373–3.1(a)(9)(i), 374–1.7(a)(1)&(2) introductory paragraph, 374–3.1(a)(1)(i), 374–3.1(b), 374–3.1(f)(1), 374–3.1(f)(10)(i), 374–3.2(d)(1), 374–3.2(e)(1), 374–3.3(d)(1), 374–3.3(e)(1) and 376.1(a)(10)(i).
Universal Waste Rule (Revision Checklist 142C).	5/11/95, 60 FR 25492	ECL 27–0703, 27–0900, 27–0903, 27–0905, 27–0907, 27–0909, 27–0911, 27–0913, 70–0107, 71–0301 and 71–2727; 6 NYCRR 370.2(b)(141), 370.2(b)(202)(ii), 371.1(j)(1)(ii), 373–1.1(b)(4)(ii), 373–2.1(a)(7)(ii), 373–3.1(a)(9)(ii), 374–3.1(a)(1)(ii), 374–3.1(c), 374–3.1(f)(3)&(f)(7), 374–3.1(f)(10)(ii), 374–3.2(d)(2), 374–3.2(e)(2)&(e)(3), 374.33(c)(1)(i)&(iii), 374–3.3(d)(2), 374–3.3((e)(2)&(e)(3) and 376.1(a)(10)(ii). (More stringent provisions: 374–3.1(c)(1)(ii) and 374–3.1(c)(2)(i)).

Description of Federal Requirement	**Federal Register** date and page	Analogous State regulatory authority [1]
Universal Waste Rule (Revision Checklist 142D).	5/11/95, 60 FR 25492	ECL 27–0703, 27–0900, 27–0903, 27–0905, 27–0907, 27–0909, 27–0911, 27–0913, 70–0107, 71–0301 and 71–2727; 6 NYCRR 370.2(b)(185), 370.2(b)(202)(iii), 371.1(j)(1)(iii), 373–1.1(b)(4)(iii), 373–2.1(a)(7)(iii), 373–3.1(a)(9)(iii), 374–3.1(a)(1)(iii), 374–3.1(d), 374–3.1(f)(9), 374–3.1(f)(10)(iii), 374–3.2(d)(3), 374–3.2(e)(4), 374–3.3(d)(3), 374–3.3(e)(4) and 376.1(a)(10)(iii).
Universal Waste Rule (Revision Checklist 142E).	5/11/95, 60 FR 25492	ECL 27–0703, 27–0900, 27–0903, 27–0905, 27–0907, 27–0909, 27–0911, 27–0913, 70–0107, 71–0301 and 71–2727; 6 NYCRR 370.3(a)(1), 370.5(a)(1), 370.5(c) and 374–3.7.
Removal of Legally Obsolete Rules (Revision Checklist 144).	6/29/95, 60 FR 33912	ECL 27–0703, 27–0900, 27–0903, 27–0907, 27–0911, 27–0913, 27–0915, 70–0107, 71–0301 and 71–2727; 6 NYCRR 370.2(b), 370.2(b)(106), 371.4(b)(1), 373–1.3(b)(5), 373–1.3(i)(1), 373–1.3(i)(1)(i)&(ii), 373–1.4(a)(4), 374–1.8(d)(3)(v), and 374–1.8(e)(6)–(9). (More stringent provisions: 373–1.3(i)(1)(i)&(ii) and 373–1.4(a)(4)).
RCRA CLUSTER VI		
Liquids in Landfills III (Revision Checklist 145).	7/11/95, 60 FR 35703	ECL 27–0911; 6 NYCRR 373–2.14(j)(4)(ii)(‘b’)&(‘c’) and 373–3.14(g)(4)(ii)(‘b’)&(‘c’).
RCRA Expanded Public Participation (Revision Checklist 148).	12/11/95, 60 FR 63417	ECL 27–0703, 27–0900, 27–0911, 27–0913, 70–0107 and 71–2727; 6 NYCRR 373– 1.5(a)(2)(xxi), 373–1.6(a)(13), 373–1.9(a)(2)(vi)–(xi),373–1.9(a)(4), 373–1.9(d)(4)(iii)&(vi), 373–1.9(d)(7), 373–1.10(a)–(c).
Recovered Oil Exclusion, Correction (Revision Checklist 150).	3/26/96, 61 FR 13103	ECL 27–0703, 27–0900, 27–0903 and 71–2727; 6 NYCRR 371.1(e)(1)(xii).
Land Disposal Restrictions Phase III—Decharacterized Wastewaters, Carbamate Wastes, and Spent Potliners (Revision Checklist 151, as revised by Checklists 155, 157, 159 and 161).	4/8/96, 61 FR 15566; 4/8/96, 61 FR 15660; 4/30/96, 61 FR 19117; 6/28/96, 61 FR 33680; 7/10/96, 61 FR 36419; 8/26/96, 61 FR 43924; 2/19/97, 62 FR 7502.	ECL 27–0912; 6 NYCRR 376.1(a)(3)(iii)&(iv), 376.1(a)(4)(iii), 376.1(a)(8)&(9), 376.1(b)(1)(vi), 376.1(b)(1)(xii)–(xv), 376.1(c), 376.1(g)(1)(i)–(iii), 376.1(g)(2)(iii)(‘b’), 376.1(g)(2)(iv)(‘d’)&(‘e’), 376.1(h)(1), 376.1(h)(4)–(7), 376.3(g)(1)–(7), 376.4(a)(1), 376.4(a)(5)&(7), 376.4(b) Table, 376.4(c) Table, 376.4(e)(1), 376.4(j), and Appendix 54. (More stringent provisions: 376.1(a)(3)(iii)&(iii)(‘a’), 376.1(a)(3)(iv)(‘a’)&(‘c’), 376.1(a)(9), 376.3(g)(2)).
RCRA CLUSTER VII		
Conditionally Exempt Small Quantity Generator Disposal Options Under Subtitle D (Revision Checklist 153).	7/1/96, 61 FR 34252	ECL 27–0903; 6 NYCRR 371.1(f)(6)(iii) and 371.1(f)(7)(iii). (More stringent provisions: 371.1(f)(6)(iii)(‘e’) and 371.1(f)(7)(iii)(‘e’)).
Consolidated Organic Air Emission Standards for Tanks, Surface Impoundments, and Containers (Revision Checklist 154).	12/6/94, 59 FR 62896; 5/19/95, 60 FR 26828; 9/29/95, 60 FR 50426; 11/13/95, 60 FR 56952; 2/9/96, 61 FR 4903; 6/5/96, 61 FR 28508; 11/25/96, 61 FR 59932.	ECL 27–0911; 6 NYCRR 370.1(e)(6)(i)&(x), 371.1(g)(3)(i), 372.2(a)(8)(ii)&(iii)(‘b’), 373–1.5(a)(2)(v), 373–1.5(b)(5), 373–1.5(c)(11), 373–1.5(d)(12), 373–1.5(n)(1), 373–1.6(e)(2)–(4), 373–2.2(e)(2)(vi)&(viii), 373–2.2(g)(2)(iv), 373–2.5(c)(2)(iii)&(vi), 373–2.5(g)(3), 373–2.9(j), 373–2.10(k), 373–2.11(l), 373–2.24(b), 373–2.27(a)(2), 373–2.27(d)(1)(ii), 373–2.27(d)(6)(ii)(‘f’)(‘2’), 373–2.27(d)(11)–(15), 373–2.27(e)(2), 373–2.27(f)(3)(ix)&(x), 373–2.27(f)(4), 373–2.28(a)(2), 373–2.28(a)(6), 373–2.28(f), 373–2.28(i)(5), 373–2.28(o)(7)(vi), 373–2.29, 373–3.1(a)(2), 373–3.2(d)(2)(vi)&(viii), 373–3.2(f)(2)(iv), 373–3.5(c)(2)(iii)&(vi), 373–3.5(g)(4), 373–3.9(h), 373–3.10(m), 373–3.11(k), 373–3.27(a)(2), 373–3.27(d)(1)(ii), 373–3.27(d)(6)(ii)(‘f’)(‘2’), 373–3.27(d)(10)–(14), 373–3.27(e)(2), 373–3.27(f)(3)(iii), 373–3.27(f)(3)(ix)&(x), 373–3.27(f)(4), 373–3.28(a)(2), 373–3.28(a)(5), 373–3.28(f)(1)–(3), 373–3.28(i)(5), 373–3.28(o)(7)(vi), 373–3.29 and Appendix 55. (More stringent provision: 373–3.29(d)(3)(iv)(‘b’)).
Land Disposal Restrictions Phase III—Emergency Extension of the K088 Capacity Variance (Revision Checklist 155, as revised by Checklist 160).	1/14/97, 62 FR 1992	ECL 27–0912; 6 NYCRR 376.3(g)(3).
Military Munitions Rule (Revision Checklist 156).	2/12/97, 62 FR 6622	ECL 27–0301, 27–0303, 27–0305, 27–0307, 27–0703, 27–0900, 27–0903, 27–0905, 27–0907, 27–0909, 27–0911, 27–0912, 27–0913, 27–0915, 27–0917, 27–0918, 70–0107, 71–0301 and 71–2727; 6 NYCRR 370.2(b)(67)–(69), 370.2(b)(121), 371.1(c)(2)(iii)&(iv), 372.1(b)(3) introductory paragraph, 372.1(b)(3)(i)–(iii), 372.2(b)(8), 373–1.1(d)(1)(xiii)(‘a’)(‘4’), 373–1.1(d)(1)(xiii)(‘d’), 373–1.7(h)&(i), 373–2.1(a)(8), 373–2.5(a), 373–2.31, 373–3.1(a)(10), 373–3.5(a), 373–3.31, and 374–1.13. (More stringent provisions: 373–2.5(a), 373–3.5(a), 374–1.13(d), 374–1.13(f)(1)(i)(‘h’) and 374–1.13(f)(5)).
Land Disposal Restrictions—Phase IV (Revision Checklist 157).	5/12/97, 62 FR 25998	ECL 27–0903 and 27–0912; 6 NYCRR 371.1(a)(9)–(12), 371.1(c) Table 1, 371.1(e)(1)(xiii)&(xiv), 371.1(g)(1)(iii)(‘b’), 376.1(a)(4), 376.1(a)(8), 376.1(d)(1)(ii)(‘d’)&(d)(1)(iv), 376.1(g)(1)–(3), 376.1(h)(1), 376.1(h)(4)(i)(‘b’), 376.3(a)–(c), 376.4(a) Table, 376.4(c) Table 1, and Appendix 40.

Description of Federal Requirement	Federal Register date and page	Analogous State regulatory authority [1]
Carbamate Production, Identification and Listing of Hazardous Waste; Land Disposal Restrictions (Conformance With the Carbamate Vacatur) (Revision Checklist 159).	6/17/97, 62 FR 32974	ECL 27–0903, 27–0911 and 27–0912; 6 NYCRR 371.4(c) Table, 371.4(d)(6) Table, 376.3(g)(1)&(4), 376.4 Table, Appendices 22 and 23.
RCRA CLUSTER VIII		
Land Disposal Restrictions Phase III—Emergency Extension of the K088 National Capacity Variance (Revision Checklist 160).	7/14/97, 62 FR 37694	ECL 27–0912; 6 NYCRR 376.3(g)(3).
Second Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production (Revision Checklist 161).	8/28/97, 62 FR 45568	ECL 27–0912; 6 NYCRR 376.4(a)(7), and 376.4(j) Table.

[1] The New York provisions are from the New York Codes, Rules and Regulations (NYCRR), as amended through November 28, 1998.

2. State-Initiated Changes

EPA grants New York Final authorization to carry out the following provisions of the State's program in lieu of the Federal program. These provisions are analogous to RCRA regulations found at 40 CFR as of July 1, 1997. The New York provisions are from the Title 6, New York Codes, Rules and Regulations (6 NYCRR), Volume A–2A, Hazardous Waste Management System, as published on January 1, 1999, and amended through March 15, 1999, unless otherwise stated.

Part 370—Hazardous Waste Management System—General: Sections 370.1(b); 370.1(e)(1)(i)–(xiv); 370.1(e)(2), (e)(3), (e)(5), (e)(7) & (e)(8)(iii); 370.2(b)(2) (Supplement dated January 31, 2000), (b)(6), (b)(27), (b)(64) (Supplement dated November 15, 1999), (b)(70), (b)(91), (b)(109), (b)(111), (b)(132), (b)(135), (b)(164) (Supplement dated January 31, 2000), (b)(169), (b)(170), (b)(178), (b)(180) (Supplement dated January 31, 2000), and (b)(192); 370.3(d)(1)(i); and 370.5(a)(1)–(5).

Part 371—Identification and Listing of Hazardous Waste: Sections 371.1(a)(1), 371.1(e)(1)(vii), 371.1(e)(4)(iv)('a') (introductory paragraph), 371.1(f)(5) (introductory paragraph), 371.1(f)(6)(ii), 371.1(f)(7)(i), 371.1(g)(1)(i), 371.1(g)(1)(iii) (introductory paragraph), 371.1(g)(1)(iii)('a') (except the phrase ''as defined in section 372.5 of this Title, and provide a copy of'' in 371.1(g)(1)(iii)('a')('1')), 371.1(g)(2), 371.3(a)(3), 371.3(b)(1)(iii)&(iv) and 371.4(d)(3).

Part 372—Hazardous Waste Manifest System and Related Standards or Generators, Transporters and Facilities: Sections 372.1(e)(3)(iv); 372.1(e)(4); 372.1(g); 372.2(a)(8)(i); 372.2(a)(8)(iii)('a'), ('f'), (8)(v)&(vi); 372.2(b)(7); 372.2(c)(2)(iii); 372.2(c)(3); 372.3(a)(6); 372.3(a)(7) (introductory paragraph) & (a)(7)(iii); 372.3(b)(1)(i)&(ii); 372.3(b)(2); 372.3(b)(5)(ii); 372.3(c)(4); 372.3(d)(1)(iii)('c') and 372.7(d)(3).

Part 373, Subpart 373–1—Hazardous Waste Treatment, Storage and Disposal Facility Permitting Requirements: Sections 373–1.1(b), except (b)(4); 373–1.1(d) introductory paragraph; 373–1.1(d)(1), except (d)(1)(x) & (d)(1)(xviii); 373–1.2(b)&(d); 373–1.3(b) (introductory paragraph) & 373–1.3(b)(1) (introductory paragraph); 373–1.3(b)(3); 373–1.3(d)(4)(iv); 373–1.3(g)(2)(ii); 373–1.4(a)(1); 373–1.4(a)(2); 373–1.5(a)(1) (Supplement dated November 15, 1999); 373–1.5(b) (introductory paragraph); 373–1.5(c)(2); 373–1.5(c)(4); 373–1.5(d) (introductory paragraph); 373–1.5(e) (introductory paragraph); 373–1.5(e)(2); 373–1.5(f) (introductory paragraph); 373–1.5(f)(3)(ii); 373–1.5(f)(3)(iv)&(vi); 373–1.5(f)(4)(ii); 373–1.5(g) (introductory paragraph); 373–1.5(h) (introductory paragraph); 373–1.6(c)(4); 373–1.6(e) 373–1.7(c)(3)&(4); 373–1.7(d) (introductory paragraph), (d)(1)–(6) (8) and (10); 373–1.8(a)(1); 373–1.9(a)(1) (introductory paragraph); 373–1.9(a)(2) (except (a)(2)(iii), (iv) & (vi)) (Supplement dated January 31, 2000) and 373–1.9(a)(3).

Part 373, Subpart 373–2—Final Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities: Sections 373–2.1(b)&(c); 373–2.5(b)&(f); 373–2.6(h)(2) & (i)(7) (introductory paragraph); 373–2.7(d); 373–2.8(d)(1)(ii), (d)(1)(iii) & (d)(1)(ix); 373–2.8(d)(2)(i); 373–2.8(d)(2)(iii) (introductory paragraph); 373–2.8(d)(2)(iv); 373–2.8(d)(3)(iii) (introductory paragraph); 373–2.8(d)(4)(ii); 373–2.8(d)(5)(i) (introductory paragraph); 373–2.8(d)(5)(x); 373–2.8(f)(1)(iii) (introductory paragraph); 373–2.8(f)(1)(iii)(b) (6 NYCRR Supplement dated November 15, 1999); 373–2.8(f)(2); 373–2.8(f)(3)(ii) (introductory paragraph); 373–2.8(f)(5) (heading); 373–2.8(f)(5)(ii); 373–2.8(f)(5)(xi); 373–2.8(h)(1)(ii) & (h)(2)(ii); 373–2.8(j)(1); 373–2.8(j)(5); 373–2.8(j)(6)(i)&(ii); 373–2.9(d)(3)&(f)(3); 373–2.10(b)(1); 373–2.10(b)(3); 373–2.10(d)(1)(iii), (iv) & (vi); 373–2.10(d)(7) (introductory paragraph); 373–2.10(e)(4); 373–2.11(b)(5)(i), (d)(2) and (f); 373–2.12(e)(2); 373–2.14(e)(2); 373–2.14(h); 373–2.15(a)(4)–(5); 373–2.15(b)–(h); 373–2.23(a)(1)(i)&(ii); 373–2.23(d)(1)(iv)(a) and 373–2.23(d)(2) (introductory paragraph).

Part 373, Subpart 373–3—Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities: Sections 373–3.1(b); 373–3.5(b) (except the last sentence of (b)(1)(i)('b') and (b)(1)(vii)); 373–3.5(f); 373–3.6(a)(1); 373–3.6(a)(4)(i)–(ii); 373–3.6(b)(2) (introductory paragraph); 373–3.6(d)(1); 373–3.7(d)(3); 373–3.7(d)(5) (introductory paragraph); 373–3.8(c)(2) (introductory paragraph); 373–3.8(d)(2)(i); 373–3.8(d)(2)(iii); 373–3.8(d)(2)(iv)('a')&('b'); 373–3.8(d)(3)(iii); 373–3.8(d)(5)(ix); 373–3.8(f)(2); 373–3.8(f)(3)(iii) (introductory paragraph); 373–3.8(f)(5) (introductory paragraph); 373–3.8(f)(5)(x); 373–3.8(g); 373–3.8(h)(1)(ii), (h)(2)(ii) & (h)(7)(i); 373–3.9(d)(3); 373–3.10(b)(1); 373–3.10(b)(3); 373–3.10(d)(1)(iii)&(iv); 373–3.10(e)(4); 373–3.10(l); 373–3.11(e)(1); 373–3.14(e)(1) (introductory paragraph); 373–3.15(a)(3) (introductory paragraph); 373–3.15(b)–(e); 373–3.23(a)(1)(i)&(ii); 373–3.23(d)(1)(iv)('a') and 373–3.23(d)(2) (introductory paragraph).

Part 374, Subpart 374–1—Standards for the Management of Specific Hazardous Wastes and Specific Types of

Hazardous Waste Management Facilities: Sections 374–1.1 and 374–1.7(a)(2)(iv).

Part 376—Land Disposal Restrictions: Sections 376.1(a)(3)(iii)&(iv); 376.1(d)(1)(ii)('a'); 376.4(e)(9)–(11) and 376.5(a)(1)(iii).

Part 621—Uniform Procedures: Sections 621.4(n); 621.5(b); 621.5(d) (introductory paragraph); 621.6(a)(4); 621.9(c) (introductory paragraph); 621.9(c)(1); 621.9(e) (introductory paragraph); 621.9(e)(1); 621.11(f) and 621.13(f).

H. Where Are the Revised State Rules Different From the Federal Rules?

New York hazardous waste management regulations are more stringent than the corresponding federal regulations in a number of different areas. The more stringent provisions are being recognized as a part of the Federally-authorized program and are Federally enforceable. The specific more stringent provisions are noted on the chart in Section G and in the State's authorization application, and include, but are not limited to, the following:

1. The State has additional reporting requirements including notification to the Department in addition to notification to US EPA (*e.g.,* 6 NYCRR §§ 373–1.3(i)(1)(i)&(ii), 373–3.29(d)(3)(iv)('b')), and the provisions at 6 NYCRR §§ 373–2.2(d)(1), 373–3.2(c)(1), 372.5(c)(2), 372.5(f)(2) and 372.5(h) which address import/export notifications).

2. With regard to manifest requirements, New York has not adopted the Department Of Defense shipping controls (*i.e.,* 6 NYCRR §§ 373–2.5(a), 373–3.5(a) and 374–1.13(d)).

3. New York requires the storage of waste military munitions at a government-owned facility (*i.e.,* 6 NYCRR § 374–1.13(f)(1)(i)('h')).

4. Incorporated material in New York must be as of a specified date; automatic incorporation of future changes is not allowed. (*i.e.,* 6 NYCRR § 374–1.13(f)(5)).

5. The State does not issue emergency permits (the State analog to 40 CFR 270.61(b)(5) is 6 NYCRR § 621.12). The State has provisions for emergency authorization of 30 days, with one 30-day extension available. When a State emergency authorization expires, the facility must apply for full RCRA–C permitting.

6. 6 NYCRR §§ 376.1(a)(3)(iv)('c'), 376.1(a)(3)(iii), 376.1(a)(3)(iii)('a'), 376.1(a)(9), 376.3(e)(1) and 376.3(g)(2) contain cross references to Title 7 & 8 of Article 17 in addition to references to the federal CWA, pertaining to permits and certificates for water pollution control and the State Pollutant Discharge Elimination System. Some of these State laws are more stringent than the federal CWA.

7. The New York pesticide requirements at 6 NYCRR § 374–3.1(c)(2)(i) require compliance with the triple rinse requirements at 6 NYCRR § 325.1(aa) rather than the Federal triple rinse requirement at 40 CFR 262.70.

8. According to 6 NYCRR § 374–3.1(c)(1)(ii), a waste pesticide collection program must be approved by the Department pursuant to 6 NYCRR § 373–4.

9. New York does not have a provision allowing a petition to modify or revoke any provision in 6 NYCRR Parts 370 through 374 and 376.

10. The State does not include the federal exemption for construction of PCB incineration facilities and has several other provisions that are more stringent regarding PCBs.

11. New York requires all modifications to a permit to be approved by the Department.

We consider the following State requirement to be beyond the scope of the Federal program:

- The State cross-references Part 364, which sets forth additional transporter requirements including permit and liability requirements (*i.e.,* 6 NYCRR §§ 372.2(b)(8), 373–1.7(h)(3), 374–3.3(i)(1)&(2), 374–3.4(a), 374–3.6(a)(1)).

Broader-in-scope requirements are not part of the authorized program and EPA can not enforce them. Although you must comply with these requirements in accordance with state law, they are not RCRA requirements.

Finally, like the export requirements at 40 CFR 262, subpart E, the 40 CFR 262, subpart H requirements will be administered by EPA and not the State because the exercise of foreign relations and international commerce powers is reserved to the Federal government under the Constitution. New York, however, requires that a copy of any notification submitted to EPA must also be submitted to the State (for example, see 6 NYCRR §§ 373–2.2(d)(1), 373–3.2(c)(1), 372.5(c)(2), 372.5(f)(2) and 372.5(h)).

I. Who Handles Permits After the Authorization Takes Effect?

New York will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization, and also to process permit modification requests for facilities with existing permits. EPA will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. Pursuant to § 3006(g)(1) of RCRA, EPA may continue to issue or deny permits to facilities within the State to implement those regulations promulgated under the authority of HSWA for which New York is not authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in New York?

The State of New York's Hazardous Waste Program is not authorized to operate in Indian country within the State. Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

K. What Is Codification and Is EPA Codifying New York's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. If this rule takes effect, or we finalize the companion proposal to authorize the State's changes to its hazardous waste program, we may, at a later date, amend 40 CFR part 272, subpart HH to codify New York's authorized program.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes state requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by state law. Accordingly, I certify that this action 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 action authorizes 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). For the same reason, this action does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does

not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, as specified in Executive Order 13175. This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes state requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. 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.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document 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 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 action will be effective January 15, 2002.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: October 29, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 01–28627 Filed 11–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7103–9]

National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the Aladdin Plating Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III announces the deletion of the Aladdin Plating Superfund Site (Site), located in Scott and S. Abington Townships, Lackawanna County, Commonwealth of Pennsylvania, from the National Priorities List (NPL).

The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), is appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA and the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection, have determined that the site no longer poses a significant threat to public health or the environment and that all appropriate response actions under CERCLA have been completed. Semi-annual monitoring of nearby residential, annual monitoring of on-site wells, and five-year reviews to ensure that the site remains protective of public health and the environment will continue to be conducted.

EFFECTIVE DATE: November 16, 2001.

ADDRESSES: Comprehensive information on this site is available for viewing at the Site Information Repositories at the following locations: U.S. EPA, Region III, Regional Center for Environmental Information, 1650 Arch Street, Philadelphia, Pennsylvania, 19103, (215) 814–5254 or (800) 553–2509, Monday through Friday 8 a.m. to 4:30 p.m.; Scott Township Municipal Building, Route 437, Olyphant, PA 18447, (570) 254–6969; South Abington Township Building, 104 Shady Lane, Montdale, PA 18410, (570) 586–2111.

FOR FURTHER INFORMATION CONTACT: Patrick McManus (3HS21) , Remedial Project Manager, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029; (215) 814–3198 or 1–800–553–2509; e-mail address: *mcmanus.pat@epa.gov.*

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is:

Aladdin Plating Site, Scott Township, Lackawanna County, Commonwealth of Pennsylvania.

A Notice of Intent to Delete for this site was published in the **Federal Register** on September 17, 2001 (66 FR 48018). The closing date for comments on the Notice of Intent to Delete was October 17, 2001. EPA received one comment from three residents that live adjacent to the site. This comment is addressed in the Responsiveness Summary which has been placed in the Deletion Docket. In response to this comment, EPA has agreed to increase the frequency of sampling of residential wells adjacent to the Site from annual to semi-annual.

EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.425(e)(3) of the NCP states that Fund-financed actions may

be taken at sites deleted from the NPL. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

Dated: November 7, 2001.

James W. Newsom,

Acting Regional Administrator, U.S. EPA Region III.

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.

[Amended]

2. Table 1 of appendix B to part 300 is amended under Pennsylvania (''PA'') by removing the entry for ''Aladdin Plating, Scott Township''.

[FR Doc. 01–28630 Filed 11–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7104–1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of partial deletion of the Tobyhanna Army Depot Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 3 announces the deletion of all portions of the Tobyhanna Army Depot Site except for contaminated groundwater plumes at OU1 and OU5 (Excluded Areas), from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, 42 U.S.C. 9605, is codified at appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300. This partial deletion is consistent with the EPA's Notice of Policy Change: Policy Regarding Partial Deletion of Sites Listed on the National Priorities List. This partial deletion pertains to all portions of the Tobyhanna Army Depot Site except for the Excluded Areas, which are undergoing natural attenuation and long-term monitoring. These Excluded Areas will remain on the NPL until the performance standards specified in the Records of Decision are met. With the concurrence of the Commonwealth of Pennsylvania through the Pennsylvania Department of Environmental Protection (PADEP), the EPA has determined that responsible parties have implemented all appropriate response actions required at the Site, and that the portion to be deleted poses no significant threat to public health, welfare, or the environment; consequently, pursuant to CERCLA section 105, and 40 CFR 300.425(e), the Tobyhanna Army Depot Site, except for the Excluded Areas, is hereby deleted from the NPL.

EFFECTIVE DATE: November 16, 2001.

FOR FURTHER INFORMATION CONTACT: Lorie Baker, Remedial Project Manager, (215) 814–3355, United States Environmental Protection Agency, Region 3, Mail Code: 3HS34, 1650 Arch Street, Philadelphia, PA, 19103–2029, e-mail: *baker.lorie@epa.gov.* Information on the Site is available at the local information repository located at Coolbaugh Township Municipal Building, Route 611, Tobyhanna, PA 18466, (570) 895–6552.

SUPPLEMENTARY INFORMATION: The site to be partially deleted from the NPL is the Tobyhanna Army Depot Superfund Site located near the town of Tobyhanna, in Coolbaugh Township, Monroe County, Pennsylvania. This partial deletion pertains to all portions of the Tobyhanna Army Depot except for the Excluded Areas, contaminated groundwater plumes at OU1 and OU5. This Partial Deletion is in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List, 60 FR 55466 (Nov. 1, 1995). A Notice of Intent for Partial Deletion was published on June 12, 2001 (66 FR 31582).

The closing date for comments on the Notice of Intent for Partial Deletion was July 13, 2001. The EPA received two comments, both of which concerned OU4, the Powder Smoke Ridge Unexploded Ordnance (UXO) Area. The commentors were concerned that OU4 was being proposed for deletion from the NPL when there had been no site remediation for the area and that UXO was to remain onsite. The US Army (the responsible party) completed a removal action at OU4 which consisted of installing a barbed wire fence and posting warning signs in the area.

This action was selected based on the difficulty in undertaking a clearance due to the age of the range and the rocky and heavily forested terrain. The remedial action chosen was institutional controls which includes maintenance of the physical controls, increased security patrols, proprietary controls, public education, and periodic review.

EPA provided detailed responses to the comments in a Responsiveness Summary, which is contained in the Deletion Docket. The Responsiveness Summary and entries in the Deletion Docket may be reviewed at the EPA Region III office at 1650 Arch Street, Philadelphia, PA, or at the information repository listed above.

The EPA identifies sites which appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts. Section 300.425(e)(3) of the NCP states that whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without application of the Hazard Ranking System.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 24, 2001.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

For the reasons set out in the preamble, 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.

2. Table 2 of Appendix B to Part 300 is amended by revising the entry for ''Tobyhanna Army Depot'' under PA to read as follows:

Appendix B to Part 300—National Priorities List

* * * * *

TABLE 2.—FEDERAL FACILITIES SECTION

St	Site name	City/County	Notes (a)
*	*	*	*
PA	Tobyhanna Army Depot	Tobyhanna	P
*	*	*	*

(a) * * *

P=Sites with partial deletion(s).

[FR Doc. 01–28629 Filed 11–15–01; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 001226367–01; I.D. 110901A]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Whiting Closure for the Catcher/Processor Sector

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

ACTION: Fishing restrictions; request for comments.

SUMMARY: NMFS announces closure of the 2001 catcher/processor fishery for Pacific whiting (whiting) at 1800 hours local time (l.t.) November 13, 2001, because the allocation for the catcher/processor sector will be reached by that time. This action is intended to keep the harvest of whiting within the 2001 allocation levels.

DATES: Effective from 1800 hours l.t. November 13, 2001, until the start of the 2002 primary season for the catcher/processor sector, unless modified, superseded or rescinded. Comments will be accepted through December 3, 2001.

ADDRESSES: Submit comments to D. Robert Lohn, Administrator,Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115–0070; or Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: Becky Renko at 206–526–6110.

SUPPLEMENTARY INFORMATION: This action is authorized by regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP), which governs the groundfish fishery off Washington, Oregon, and California. On January 11, 2001 (66 FR 2338), the levels of allowable biological catch (ABC), the optimum yield (OY) and the commercial OY (the OY minus the tribal allocation) for U.S. harvests of whiting were announced in the **Federal Register**. For 2001 the whiting ABC and OY are 190,400 metric tons (mt) and the commercial OY is 162,900 mt.

Regulations at 50 CFR 660.323 (a)(4) divide the commercial OY into separate allocations for the non-tribal catcher/processor, mothership, and shore-based sectors of the whiting fishery. The catcher/processor sector is composed of vessels that harvest and process whiting. The mothership sector is composed of motherships, and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels that process, but do not harvest. The shoreside sector is composed of vessels that harvest whiting for delivery to shoreside processors. Each of these sectors receives a portion of the commercial OY. In 2001, the catcher/processors received 34 percent, motherships received 24 percent, and the shore-based sector received 42 percent. When applied to the commercial OY for 2001 this resulted in the following allocations: 55,386 mt for the catcher/processors, 39,096 mt for the motherships, and 68,418 mt for the shore-based sector.

On August 31, 2001, NMFS received notification from the treaty Indian participants indicating that 10,000 mt of the tribal whiting allocation was not expected to be harvested before the end of the fishing year. As a result, NMFS announced the reapportionment of that whiting, 3,400 mt of which was apportioned to the catcher/processor sector (66 FR 48370, September 20, 2001). Therefore, the allowable harvest for the catcher/processor sector in 2001 was 58,786 mt (55,386 mt + 3,400 mt).

Regulations at 50 CFR 660.323 (a)(3)(i) describe the primary season for catcher/processors as the period(s) when at-sea processing is allowed and the fishery is open for the catcher/processor sector. When each sector's allocation is reached, the primary season for that sector ends.

NMFS Action

This action announces achievement of the allocation for the catcher/processor sector only. The best available information on November 9, 2001, indicated that the 58,786 mt catcher/processor allocation would be reached by 1800 hours l.t., November 13, 2001, at which time the primary season for the catcher/processor sector ends.

For the reasons stated here and in accordance with the regulations at 50 CFR 660.323 (a)(4)(iii)(A), NMFS herein announces that effective 1800 hours l.t., November 13, 2001, further taking and retaining, receiving or at-sea processing of whiting by a catcher/processor is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a catcher/processor may continue to process whiting that was on board before at-sea processing was prohibited.

Classification

This action is authorized by the regulations implementing the FMP. The determination to take this action is based on the most recent data available. The aggregate data upon which the determination is based are available for public inspection at the Office of the Regional Administrator (see **ADDRESSES**) during business hours. This action is taken under the authority of 50 CFR 660.323 (a)(4)(iii)(A) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 13, 2001.

Richard W. Surdi,

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

[FR Doc. 01–28744 Filed 11–13–01; 3:43 pm]

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Proposed Rules

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

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141 and 142

RIN 1515–AC91

Single Entry for Split Shipments

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to allow an importer of record, under certain conditions, to submit a single entry to cover multiple portions of a single shipment which was split by the carrier, and arrives in the United States separately. The proposed amendments would implement statutory changes made to the merchandise entry laws by the Tariff Suspension and Trade Act of 2000.

DATES: Comments must be received on or before January 15, 2002.

ADDRESSES: Written comments may be addressed to and inspected at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: For operational or policy matters: Keith Fleming, Office of Field Operations, (202) 927–1049.

For legal matters: Larry L. Burton, Office of Regulations and Rulings, (202) 927–1287.

SUPPLEMENTARY INFORMATION:

Background

Section 1460 of Public Law 106–476, popularly known as the Tariff Suspension and Trade Act of 2000, amended section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) by adding a new paragraph (j) in order to provide for the treatment of certain multiple shipments of merchandise as a single entry.

In this latter respect, 19 U.S.C. 1484(j) is concerned with two issues. First, section 1484(j)(1) addresses a problem long encountered by the importing community in entering merchandise whose size or nature necessitates shipment in an unassembled or disassembled condition on more than one conveyance. Second, section 1484(j)(2) offers relief to importers whose shipments which they intended to be carried on a single conveyance are divided at the initiative of the carrier. As to both these matters, the legislation is silent as to the affected modes of transportation, thus indicating that the new law is to apply to merchandise shipped by air, land or sea.

The regulations proposed today relate only to shipments which are divided by carriers; these will be referred to as ''split shipments''. Customs had already begun a project to amend the regulations to provide for one entry for such split shipments prior to the present statutory amendments, and it has since been determined that this effort should be completed. By a separate document that will be published in the **Federal Register**, Customs will propose regulations concerning the entry of shipments of unassembled or disassembled merchandise that arrive on more than one conveyance. Customs is working on that proposal, which will be published in the coming days.

It is noted that section 1484(j) includes a requirement that an importer make application in advance to obtain the single entry option. It is proposed that the importer provide written notice of the intent to file a single entry for all portions upon learning of the split shipment, but before the filing of summary.

Split Shipment Defined

Generally speaking, a split shipment consists of merchandise that is capable of being transported on a single conveyance, and that is delivered to and accepted by a carrier in the exporting country as one shipment under one bill of lading or waybill, and is thus intended by the importer to arrive as a single shipment. However, the shipment is thereafter divided by the carrier into different parts which arrive in the United States at different times, often days apart.

In practice, shipments often become split after being delivered intact to a carrier. The movement of cargo as a split shipment on multiple conveyances appears to be a regular and routine industry practice, particularly in the air environment. There are various reasons for a shipment to be split by a carrier, such as limited space, the need to balance weight distribution on a conveyance, and offloading for safety concerns. Occasionally a shipment may leave the exporting country as one shipment, but be offloaded in a second country, and then be reladen onto more than one conveyance for transport to the United States.

The Customs Regulations ordinarily require, with certain exceptions not here relevant, that all merchandise arriving on one conveyance and consigned to one consignee be included on one entry (see § 141.51, Customs Regulations (19 CFR 141.51)). There is no provision currently in the Customs Regulations authorizing the filing of a single entry to cover multiple portions of a shipment split by a carrier which then arrives in the United States at different times. While this proposed rule document would establish procedures to permit the acceptance of a single entry in the case of such a split shipment, importers may, of course, continue to file a separate entry for each portion of a split shipment as it arrives, if they so choose.

Specifically, the proposed regulations would permit the filing of a single entry to cover a split shipment provided that: (1) The subject shipment was capable of being transported on a single conveyance, and was delivered to and accepted by a carrier in the exporting country under one bill of lading or waybill and was thus intended by the importer to be a single shipment; (2) the shipment was thereafter split or deconsolidated by the carrier, acting on its own; (3) the split-portions of the shipment remain consigned to the same party in the United States to whom they were destined in the original bill of lading or waybill; and (4) those portions of the split shipment that could be covered under the entry arrived directly from abroad at the same port of importation in the United States within 10 calendar days of the date of the portion that arrived first.

Entry or Release of Merchandise

Where a single entry is accepted for multiple portions of a split shipment that arrives at different times, the legislation leaves open the question of whether the various portions of the shipment may be released as they arrive, or whether their release must be delayed until the entire shipment is reunited.

Customs has determined to provide either option to importers of certain shipments which have been split by carriers. Under either option, the proposed regulations require the importer to file Customs Form (CF) 3461 or CF 3461 alternate (CF 3461 ALT), or electronic equivalent, which will cover all of the merchandise enumerated on the invoice, as necessary to secure its release. In particular, this data must indicate the total number of pieces in, as well as the total value of, the entire shipment as reflected on the invoice.

In the event that each portion of a split shipment is to be released upon its arrival, and prior to the arrival of the entire shipment, the procedure for releasing merchandise under a special permit for immediate delivery will be used for this purpose, as more fully outlined below. As each portion arrives, the importer must submit a copy of the CF 3461/CF 3461 ALT, adjusted to reflect the quantity of that particular portion.

Special Permit for Immediate Delivery

Customs law typically contemplates that merchandise will be imported before it is entered. This presents no problem for importers who elect to delay entry until all of the various portions of a split shipment have arrived and have been reunited within the specified time frame. However, it does raise an obstacle to allowing an entry covering an entire shipment to be filed and accepted when only a portion of the merchandise has thus far arrived. It also presents the difficult question of whether a rate of duty, set at the time of the release of the first portion, may apply to goods still outside, and not yet imported into, the United States. The proposed resolution of these latter two issues lies in requiring such shipments to be released under a special permit for immediate delivery. Section 142.21(a)–(g), Customs Regulations (19 CFR 142.21(a)–(g)), describes the circumstances and lists the types of merchandise that are currently eligible to be released under a special permit for immediate delivery.

Due to the fact that merchandise released under the special permit procedures set forth in § 142.21 is not considered to be entered until the entry/entry summary is filed, all of the merchandise contained in the split shipment will be imported by the time the entry/entry summary is filed. The rate of duty applied to the merchandise will be the rate in effect for all goods released under the immediate delivery procedures; that is, the rate in effect when the entry/entry summary is filed. An importer who objects to having the duty rate tied to the date the entry/entry summary is filed may always file a separate entry for each portion of the split shipment as it arrives. In that case, the rate of duty will generally be the duty rate in effect at the time of release, unless the importer elects otherwise (see § 141.68(a), Customs Regulations (19 CFR 141.68(a))).

Incremental Release of Split Shipment Under Immediate Delivery Procedure

It is proposed to create another category of immediate delivery releases, to be referred to as incremental release, by amending § 142.21 to add a new paragraph (g) that would allow the filing of a special permit for immediate delivery where the shipment is split by the carrier and the importer elects to have each portion of the shipment separately released as it arrives. Current paragraph (g) of § 142.21 would be redesignated as paragraph (h) and be revised consistent with proposed paragraph (g). If an entry had already been pre-filed with Customs, as allowable under § 142.2(b), Customs Regulations (19 CFR 142.2(b)), the notification to Customs by the importer of record that a single entry will be filed for shipments to be released incrementally would serve as a request that the pre-filed entry be converted to an application for a special permit for immediate delivery.

In order to secure the separate release of each split portion of a shipment following its arrival, manifest information relating to the special permit which reflects exact information for each portion of the shipment must be presented to Customs. The carrier that split or deconsolidated the shipment must present this manifest information to Customs; this may be done either electronically or on a paper manifest. The carrier must identify successive portions of the split shipment as they arrive. Customs may, however, examine any or all parts of the split shipment and would reserve the right to deny incremental release should such an examination of the merchandise be necessary.

As successive portions of the shipment arrive, these portions will be decremented against the manifested quantity, as reflected on the CF 3461/CF 3461 ALT, or electronic equivalent. This will continue for up to 10 calendar days until the total manifested quantity has arrived. Each portion of a split shipment which does not arrive within 10 calendar days of the first portion must be entered separately.

Filing of Entry Summary

Where the shipment is entered after all portions of the shipment have arrived, the entry summary must be filed within 10 working days of the time of entry. In the alternative, where the shipment is instead initially released under a special permit for immediate delivery after all portions of the shipment have arrived, the entry summary, which would serve as both the entry and the entry summary, must be filed within 10 working days after the merchandise or any part of the merchandise has been authorized for release under the special permit, or, in the case of quota class merchandise, within the quota period, whichever expires first (see §§ 142.21(e) and 142.23, Customs Regulations (19 CFR 142.21(e), 142.23)).

Under proposed § 142.21(g), in the case of a split shipment which is released incrementally under the immediate delivery procedures, the entry summary, which would serve as both the entry and the entry summary, must be filed within 10 working days from the date of the first release of a portion of the split shipment. However, under no circumstances may the entry/entry summary be filed before the last portion of the split shipment which is to be included on the entry has arrived.

At the time of filing the entry summary, estimated duties, taxes and fees would need to be attached. If the entry summary is filed electronically, the estimated duties, taxes and fees would need to be scheduled at such time for payment pursuant to the Automated Clearinghouse (see § 24.25 of this chapter).

While 19 U.S.C. 1484(j) addresses the entry of merchandise, this legislation is silent as to classification principles. It is therefore proposed that for Customs classification purposes, the separate portions of a split shipment placed on one entry be classified as if they had been imported together.

Review of Entry Data; Evidence for Splitting of Shipment

The importer of record would be responsible for reviewing the total manifested quantity shown on the CF 3461/CF 3461 ALT, or electronic equivalent, in relation to all portions of the split shipment that arrived within the specified 10 calendar day period. At the conclusion of the specified 10 calendar day period, the importer of record would have to make any adjustments necessary to reflect the actual amount, value, correct classification and rate of duty of the merchandise that was properly included

on the CF 3461/CF 3461 ALT or electronic equivalent. As discussed above, if all portions of the split shipment did not arrive within the required 10 calendar day period, an additional entry or entries as appropriate would have to be filed to cover any remaining portions of the split shipment that subsequently arrived.

Additionally, the importer of record must maintain sufficient documentary evidence to substantiate that the splitting of the shipment was done by the carrier acting on its own, and not at the request of the foreign shipper and/or the importer of record. This documentation should include a copy of the originating bill of lading or waybill under which the shipment was delivered to the carrier in the country of exportation.

Exclusions From Split-Entry Procedure Under Proposed § 142.21(g)

Section 142.21(e) would be revised to make clear that the immediate delivery procedure under proposed § 142.21(g) that would authorize the release of each portion of a split shipment upon its arrival would not be available for merchandise that is subject to quota and/or visa requirements.

Customs also proposes to reserve the right for the port director to deny use of the incremental release procedure as circumstances warrant.

Nevertheless, in the case of quota class merchandise and other classes of merchandise excluded by Customs from incremental release as circumstances warrant, or where incremental release is denied due to Customs need to examine the merchandise, the importer may still file a single entry or special permit for immediate delivery covering the entire split shipment of the merchandise following, and to the extent of, its arrival within the required 10 calendar day period.

Accordingly, to implement 19 U.S.C. 1484(j) insofar as it enables Customs to accept a single entry for split shipments, as described, it is proposed to add a new § 141.57 to the Customs Regulations (19 CFR 141.57). Also, in addition to the proposed amendments to § 142.21, as noted, a minor conforming change would be made as well to § 141.51 of the Customs Regulations (19 CFR 141.51).

Comments

Before adopting the proposed amendments, consideration will be given to any written comments that are timely submitted to Customs. Customs specifically requests comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC.

Regulatory Flexibility Act and Executive Order 12886

The proposed rule is intended to implement the statutory law and to engender cost savings by reducing paperwork for importers, and by reducing the number of entries required for split shipments. Hence, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Nor does the proposed rule result in a ''significant regulatory action'' under E.O. 12866.

Paperwork Reduction Act

The collections of information encompassed within this proposed rule have already been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) and assigned OMB Control Numbers 1515–0065 (Requirement to make entry unless specifically exempt; Requirement to file entry summary form); 1515–0167 (Statement processing and Automated Clearinghouse); 1515–0214 (General recordkeeping and record production requirements); and 1515–0001 (Transportation manifest; cargo declaration). This rule does not propose any substantive changes to the existing approved information collections. An agency may not conduct, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by OMB.

List of Subjects

19 CFR Part 141

Customs duties and inspection, Entry of merchandise, Release of merchandise, Reporting and recordkeeping requirements.

19 CFR Part 142

Computer technology, Customs duties and inspection, Entry of merchandise, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

It is proposed to amend parts 141 and 142, Customs Regulations (19 CFR parts 141 and 142), as set forth below.

PART 141—ENTRY OF MERCHANDISE

1. The general authority citation for part 141 would continue to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

* * * * *

2. It is proposed to revise § 141.51 to read as follows:

§ 141.51 Quantity usually required to be in one entry.

All merchandise arriving on one conveyance and consigned to one consignee must be included on one entry, except as provided in § 141.52. In addition, a shipment of merchandise that arrives by separate conveyances at the same port of arrival in multiple portions, as a split shipment, may be processed under a single entry, as prescribed in § 141.57.

3. It is proposed to amend subpart D of part 141 by adding a new § 141.57 to read as follows:

§ 141.57 Single entry for split shipments.

(a) *At election of importer of record.* At the election of the importer of record, a split shipment, pursuant to section 484(j)(2), Tariff Act of 1930 (19 U.S.C. 1484(j)(2)), may be processed under a single entry, as prescribed under the procedures set forth in this section.

(b) *Split shipment defined.* A ''split shipment'', for purposes of this section, means a shipment:

(1) Which may be accommodated on a single conveyance, and which is delivered to and accepted by a carrier in the exporting country under one bill of lading or waybill, and is thus intended by the importer to arrive in the United States as a single shipment;

(2) Which is thereafter divided by the carrier, acting on its own, into different portions which are transported and consigned to the same party in the United States; and

(3) Of which the first portion and all succeeding portions arrive directly from foreign at the same port of importation in the United States, and all the succeeding portions arrive within 10 calendar days of the date of the first portion.

(c) *Notification by importer.* The importer must notify Customs, in writing, that the shipment has been split at the carrier's initiative, that the

remainder of the shipment will arrive by subsequent conveyance(s), and that an election is being made to file a single entry for all portions. The required notification must be given as soon as the importer becomes aware that the shipment has been split, but in all cases notification must be made before the entry summary is filed.

(d) *Entry or special permit for immediate delivery*. In order to make a single entry for a split shipment or obtain a special permit for the release of a split shipment under immediate delivery, an importer of record may follow the procedure prescribed in paragraph (d)(1) or (d)(2) of this section, as applicable.

(1) *Entry or special permit after arrival of entire shipment*. An importer may file an entry at such time as all portions of the split shipment have arrived. In the alternative, again after the arrival of all portions of a split shipment, the importer may instead file a special permit for immediate delivery provided that the merchandise is eligible for such a permit under § 142.21(a)–(f) and (h) of this chapter. In either case, Customs Form (CF) 3461 or CF 3461 alternate (CF 3461 ALT) as appropriate, or electronic equivalent, must be filed with Customs. The entry or special permit must indicate the total number of pieces in, as well as the total value of, the entire shipment as reflected on the invoice.

(2) *Special permit prior to arrival of entire shipment*. As provided in § 142.21(g) of this chapter, an importer of record may also file a special permit for immediate delivery after the arrival of the first portion of a split shipment, but before the arrival of the entire shipment, thus qualifying the split shipment for incremental release, under paragraph (e) of this section, as each portion of the shipment arrives (see paragraph (g)(2)(ii) of this section). In such case, a CF 3461 or CF 3461 ALT as appropriate, or electronic equivalent, must be filed with Customs. As each portion arrives, the importer must submit a copy of the CF 3461/CF 3461 ALT, adjusted to reflect the quantity of that particular portion. In the event that an entry has been pre-filed with Customs (see § 142.2(b) of this chapter), notification to Customs by the importer of record that a single entry will be filed for shipments released incrementally will serve as a request that the pre-filed entry be converted to an application for a special permit for immediate delivery (see § 142.21(g) of this chapter). The special permit must indicate the total number of pieces in, as well as the total value of, the entire shipment as reflected on the invoice. The release of each portion of the split shipment upon arrival, as permitted under this paragraph, may be limited due to Customs need to examine the merchandise in accordance with paragraph (f) of this section.

(e) *Release*. To secure the separate release upon arrival of each portion of a split shipment under paragraph (d)(2) of this section, the carrier responsible for initially splitting the shipment must present to Customs either on a paper manifest or through an authorized electronic data interchange system manifest information relating to the shipment that reflects exact information for each portion of the split shipment.

(f) *Examination*. Customs examination of any or all parts of the split shipment may be required. For split shipments subject to the immediate delivery procedure of paragraph (d)(2) of this section, Customs reserves the right to deny incremental release should such an examination of the merchandise be necessary. The denial of incremental release does not preclude the use of the procedures specified in paragraph (d)(1) of this section.

(g) *Entry summary*—(1) *Entry*. For merchandise entered under paragraph (d)(1) of this section, an entry summary must be filed within 10 working days from the time of entry.

(2) *Release for immediate delivery*—(i) *Release under paragraph (d)(1) of this section*. For merchandise released under a special permit for immediate delivery pursuant to paragraph (d)(1) of this section, the entry summary, which serves as both the entry and the entry summary, must be filed within 10 working days after the merchandise or any part of the merchandise is authorized for release under the special permit or, for quota class merchandise, within the quota period, whichever expires first (see § 142.23 of this chapter).

(ii) *Release under paragraph (d)(2) of this section*. For merchandise released under a special permit for immediate delivery pursuant to paragraph (d)(2) of this section, the entry summary, which serves as both the entry and the entry summary, must be filed within 10 working days from the date of the first release of a portion of the split shipment. When the entry summary is filed, it must reflect all portions of the split shipment which have been released, to include quantity, value, correct classification and rate of duty. The entry summary cannot include any portions of the split shipment which have not been released.

(3) *Duty payment*. At the time the entry summary is filed under paragraphs (g)(1) and (g)(2)(i) and (ii) of this section, estimated duties, taxes and fees applicable to the released merchandise must be attached. If the entry summary is filed electronically, the estimated duties, taxes and fees must be scheduled for payment at such time pursuant to the Automated Clearinghouse (see § 24.25 of this chapter).

(h) *Classification*. For purposes of section 484(j)(2), Tariff Act of 1930 (19 U.S.C. 1484(j)(2)), the merchandise comprising the separate portions of a split shipment included on one entry will be classified as though imported together.

(i) *Separate entry required*. All those portions of a split shipment that do not arrive within 10 calendar days of the portion that arrived first must be entered separately.

(j) *Requirement of importer to review entry and maintain evidence substantiating splitting of shipment*—(1) *Review of entry*. The importer of record will be responsible for reviewing the total manifested quantity shown on the CF 3461/CF 3461 ALT, or electronic equivalent, in relation to all portions of the split shipment that arrived within the specified 10 calendar day period. At the conclusion of the specified 10 calendar day period, the importer of record must make any adjustments necessary to reflect the actual amount, value, correct classification and rate of duty of the merchandise that was released incrementally under the split shipment procedures. If all portions of the split shipment do not arrive within the required 10 calendar day period, an additional entry or entries as appropriate must be filed to cover any remaining portions of the split shipment that subsequently arrive (see paragraph (i) of this section).

(2) *Evidence for splitting of shipment; recordkeeping*. The importer of record must maintain sufficient documentary evidence to substantiate that the splitting of the shipment was done by the carrier acting on its own, and not at the request of the foreign shipper and/or the importer of record. This documentation should include a copy of the originating bill of lading or waybill under which the shipment was delivered to the carrier in the country of exportation. This documentary evidence as well as all other necessary records received or generated by or on behalf of the importer of record under this section must be maintained and produced, if requested, in accordance with part 163 of this chapter.

(k) *Single entry limited; exclusions from single entry under incremental release procedure*—(1) *Quota/visa merchandise*. Merchandise subject to

quota and/or visa requirements is excluded from incremental release under the immediate delivery procedure set forth in paragraph (d)(2) of this section and § 142.21(g) of this chapter. Additionally, if by splitting a shipment any portion of it is subject to quota, no portion of the split shipment may be released incrementally.

(2) *Other merchandise.* In addition, the port director may deny the use of the incremental release procedure set forth in paragraph (d)(2) of this section and § 142.21(g) of this chapter, as circumstances warrant.

(3) *Limited single entry available.* For merchandise described in paragraphs (k)(1) and (k)(2) of this section, that is excluded from the immediate delivery procedure of paragraph (d)(2) of this section and § 142.21(g) of this chapter, the importer may still file a single entry or special permit for immediate delivery under paragraph (d)(1) of this section covering the entire split shipment of such merchandise following, and to the extent of, its arrival within the required 10 calendar day period.

PART 142—ENTRY PROCESS

1. The general authority for part 142 would continue to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

2. It is proposed to amend § 142.21 as follows:

a. By removing the second sentence in paragraph (e)(1) and adding in its place two new sentences,

b. By removing the second sentence in paragraph (e)(2) and adding in its place two new sentences,

c. By redesignating paragraph (g) as paragraph (h) and adding a new paragraph (g), and

d. By revising newly redesignated paragraph (h).

The additions and revision read as follows:

§ 142. 21 Merchandise eligible for special permit for immediate delivery.

* * * * *

(e) *Quota-class merchandise.* (1) *Tariff rate.* * * * However, merchandise subject to a tariff-rate quota may not be incrementally released under a special permit for immediate delivery as provided in paragraph (g) of this section. Where a special permit is authorized, an entry summary will be properly presented pursuant to § 132.1 of this chapter within the time specified in § 142.23, or within the quota period, whichever expires first. * * *

(2) *Absolute.* * * * However, merchandise subject to an absolute quota under this paragraph may not be incrementally released under a special permit for immediate delivery as provided in paragraph (g) of this section. Where a special permit is authorized, a proper entry summary must be presented for merchandise so released within the time specified in § 142.23, or within the quota period, whichever expires first. * * *

* * * * *

(g) *Incremental release of split shipments.* Merchandise subject to § 141.57(d)(2) of this chapter, which is purchased and invoiced as a single shipment, but which is shipped by the carrier in separate portions to the same port of arrival due to the carrier's inability to accommodate the merchandise on a single conveyance, may be released incrementally under a special permit. Incremental release means releasing each portion of such shipments separately as they arrive.

(h) *When authorized by Headquarters.* Headquarters may authorize the release of merchandise under the immediate delivery procedure in circumstances other than those described in paragraphs (a), (b), (c), (d), (e), (f) and (g) of this section provided a bond on Customs Form 301 containing the bond conditions set forth in § 113.62 of this chapter is on file.

3. It is proposed to amend § 142.22 by removing the first sentence of paragraph (a) and adding in its place the following two sentences to read as follows:

§ 142.22 Application for special permit for immediate delivery.

(a) *Form.* An application for a special permit for immediate delivery will be made on Customs Form 3461, Form 3461 ALT, or its electronic equivalent, supported by the documentation provided for in § 142.3. A commercial invoice will not be required, except for merchandise released under the provisions of 19 U.S.C. 1484(j).* * *

* * * * *

Approved: November 7, 2001.

Charles W. Winwood,

Acting Commissioner of Customs.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 01–28551 Filed 11–15–01; 8:45 am]

BILLING CODE 4820–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 169–0272b; FRL–7100–7]

Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District and South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD), and South Coast Air Quality Management District (SCAQMD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) and oxides of nitrogen (NO_X) emissions from equipment tuning procedure for boilers, steam generators, and process heaters, pumps and compressor seals at petroleum refineries and chemical plants, and residential type, natural gas-fired water heaters. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by December 17, 2001.

ADDRESSES: Mail comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

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

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 ''L'' Street, Sacramento, CA 95812

San Joaquin Valley Unified Air Pollution Control District, 1990 E. Gettysburg, Fresno, CA 93726

South Coast Air Quality Management District, 21865 E. Copley Dr. Diamond Bar, CA 91765–4182

FOR FURTHER INFORMATION CONTACT: Charnjit Bhullar, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 744–1153.

SUPPLEMENTARY INFORMATION: This proposal addresses the following local rules: SJVUAPCD Rule 4304, Equipment Tuning Procedure for Boilers, Steam Generators, and Process Heaters,

SJVUAPCD Rule 4452, Pumps and Compressor Seals at Petroleum Refineries and Chemical Plants, and SCAQMD Rule 1121, Control of Nitrogen Oxides from Residential Type, Natural Gas-fired Water Heaters. In the Rules and Regulations section of this **Federal Register**, we are approving the local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone 3 interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: October 22, 2001.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 01–28344 Filed 11–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[0139–1139; FRL–7104–4]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision concerning the Missouri Control of Gasoline Reid Vapor Pressure (RVP) rule submitted by the Missouri Department or Natural Resources (MDNR). This action would approve amendments to State controls on the summertime Reid Vapor Pressure (RVP) of gasoline distributed in Clay, Jackson, and Platte Counties. This amendment changed the RVP limit from 7.2 pounds per square inch (psi) to 7.0 psi, and from 8.2 psi to 8.0 psi for gasoline containing at least 9.0 percent by volume but not more than 10.0 percent by volume ethanol. This is a part of the state's plan to maintain its clean air quality.

DATES: Comments must be received on or before December 17, 2001.

ADDRESSES: Written comments should be mailed to Leland Daniels, Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of documents relative to this action are available for public inspection during normal business hours at the above-listed Region 7 location. Interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Leland Daniels at (913) 551–7651.

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

What is a SIP?
What is the Federal approval process for a SIP?
What are the criteria for SIP approval?
What does Federal approval of a state regulation mean to me?
What is being addressed in this document?
Have the requirements for approval of a SIP revision been met?
What action is EPA taking?

What Is a SIP?

Section 110 of the Clean Air Act (CAA) requires states to develop air pollution regulations limiting emissions and control strategies to ensure that state air quality meets the national ambient air quality standards established by EPA. These ambient standards are established under section 109 of the CAA, and they currently address six criteria pollutants. These pollutants are: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide.

Each state must submit these regulations and control strategies to us for approval and incorporation into the Federally-enforceable SIP.

Each Federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations.

What Is the Federal Approval Process for a SIP?

In order for state regulations to be incorporated into the Federally-enforceable SIP, states must formally adopt the regulations and control strategies consistent with state and Federal requirements. This process generally includes a public notice, public hearing, public comment period, and a formal adoption by a state-authorized rulemaking body.

Once a state rule, regulation, or control strategy is adopted, the state submits it to us for inclusion into the SIP. We must provide public notice and seek additional public comment regarding the proposed Federal action on the state submission. If adverse comments are received, they must be addressed prior to any final Federal action by us.

All state regulations and supporting information approved by EPA under section 110 of the CAA are incorporated into the Federally-approved SIP. Records of such SIP actions are maintained in the Code of Federal Regulations (CFR) at Title 40, part 52, entitled ''Approval and Promulgation of Implementation Plans.'' The actual state regulations which are approved are not reproduced in their entirety in the CFR outright but are ''incorporated by reference,'' which means that we have approved a given state regulation with a specific effective date.

What Are the Criteria for SIP Approval?

In order to be approved into a SIP, the submittal must meet the requirements of section 110. In determining the approvability of a SIP revision, EPA must evaluate the proposed revision for consistency with the requirements of the CAA and our regulations, as found in section 110 and part D of Title I of the CAA amendments and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans).

The CAA has additional requirements for the approval of SIPs containing certain state fuel controls. Section 211(c)(4)(A) of the CAA prohibits states from prescribing or attempting to enforce regulations respecting fuel characteristics or components if EPA has adopted Federal controls under section 211(c)(1) applicable to such fuel characteristics or components, unless the state control is identical to the Federal control. Section 211(c)(4) includes two exceptions to this prohibition. First, under section 211(c)(4)(B), California is not subject to the preemption in section 211(c)(4)(A). Second, a State may prescribe or enforce such otherwise preempted fuel controls if the measure is approved into a SIP.

Under section 211(c)(4)(C), we may approve such state fuel controls into a SIP, if the state demonstrates that the measure is necessary to achieve the NAAQS. Section 211(c)(4)(C) specifies that a state fuel requirement is ''necessary'' if no other measures would bring about timely attainment, or if other measures exist but are unreasonable or impracticable. As discussed in more detail below, the State rule proposed for SIP approval today merely amends the State fuel

control that has already been approved into the SIP and addresses emissions reductions shortfalls that EPA has already determined are required under the Act. Therefore, a new demonstration of necessity under section 211(c)(4)(C) is not required.

What Does Federal Approval of a State Regulation Mean to Me?

Enforcement of the state regulation before and after it is incorporated into the Federally-approved SIP is primarily a state responsibility. However, after the regulation is Federally approved, we are authorized to take enforcement action against violators. Citizens are also offered legal recourse to address violations as described in section 304 of the CAA.

What Is Being Addressed in This Document?

Background

Ozone monitoring data from 1987 through 1991 demonstrated that the Kansas City nonattainment area had attained the NAAQS for ozone. In accordance with the CAA the MDNR revised the SIP for ozone for the Missouri portion of the Kansas City area to recognize the area's attainment status. We published final approval of the Missouri SIP redesignating the area to attainment on June 23, 1992. The SIP and the redesignation became effective on July 23, 1992.

Section 175A of the CAA requires that states requesting redesignation of a nonattainment area to attainment status must also submit a revision to the state implementation plan that commits the state to provide for the maintenance of the standard for which the area is redesignated. The maintenance plan submitted by the State of Missouri and approved by EPA in 1992 included a commitment to ensure continued compliance with the ozone standard. The states and the region committed to implement the following additional air pollution control contingency measures in the event a future violation of the ozone standard occurred: Implement one or more transportation control measures to achieve at least a 0.5 per cent reduction in actual area-wide volatile organic compound (VOC) emissions; require VOC emission offsets for new and modified major sources; and implement either a Stage II vapor recovery or enhanced vehicle inspection and maintenance program.

On July 11, 12, and 13, 1995, exceedances of the ozone standard were measured at the Liberty monitoring site. These exceedances, in combination with the exceedance measured on July 29, 1993, constituted a violation of the ozone standard for the three-year time period of 1993–1995. This violation triggered the need for the states to implement the contingency measures in the maintenance plan. By letter dated August 17, 1995, EPA agreed to a request from both Kansas and Missouri to substitute other equivalent control measures for those specified in the maintenance plan, provided the substitute measures would achieve substantially equivalent emission reductions and were submitted as SIP revisions.

In partial fulfillment of the requirement to implement contingency measures, Missouri promulgated an emergency rule 10 CSR 10–2.330 to limit the volatility of gasoline sold during the summer months (June 1 through September 15) in the Kansas City area to 7.2 psi. We published conditional approval of Missouri's RVP rule on October 9, 1997 (62 FR 52659). The State fulfilled the conditional requirements by submitting the final rule on November 13, 1997, and we published full approval of the final rule on April 24, 1998 (63 FR 20318). This action addressed a portion of the reductions needed to fulfill the requirement to implement contingency measures. The estimated area-wide reductions needed to maintain the standard was 8.5 tons per day (tpd) of VOC reductions. The 7.2 psi RVP rule would produce an estimated 4.1 tpd of VOC reductions.

An exceedance of the NAAQS for ozone again occurred on July 23, 1997, at the Liberty monitoring site and another on August 28, 1997, at the Kansas City International Airport monitoring site. These exceedances in conjunction with the three exceedances in 1995 resulted in a violation of the ozone standard for the three-year period of 1995–1997, again emphasizing the need to implement additional contingency measures. From 1998 through 2000 seven exceedances have been recorded at the six air quality monitors located in the Kansas City area, although no subsequent violations of the ozone standard have occurred.

In an effort to satisfy the required emissions reductions and address the continuing exceedances, the Governors of Missouri and Kansas opted into the Federal program for reformulated gasoline (RFG) on July 20, 1999. However, on January 4, 2000, the United States Court of Appeals for the District of Columbia Circuit vacated EPA's rule allowing the use of RFG in former nonattainment areas (American Petroleum Inst. v. U.S. Environmental Protection Agency, 198 F. 3d 275 (D.C. Cir.2000)). Thus RFG was no longer a viable option for the area.

In January 2000 the Kansas City Chamber of Commerce and then subsequently the Mid-America Regional Council (MARC) convened meetings with interested stakeholders to determine the most appropriate option for reducing the emissions of ozone forming pollutants. The stakeholders concluded that a lower volatility gasoline was the most appropriate option. At its September 2000 meeting, MARC adopted a resolution supporting the use of a lower volatility gasoline. Then on May 25, 2001, we received a SIP revision from Missouri that lowered the volatility of gasoline during the summertime. This notice and the accompanying technical support document provide an analysis of the SIP revision for a lower volatility gasoline.

Fuel Volatility

RVP is a measure of a fuel's volatility and thereby affects the rate at which gasoline evaporates and emits VOCs, an ozone forming pollutant. VOCs are an important component in the production of ground-level ozone in the hot summer months. RVP is directly proportional to the rate of evaporation. Consequently, the lower the RVP, the lower the rate of evaporation. Lowering the RVP in the summer months can offset the effect of summer temperature upon the volatility of gasoline, which, in turn, lowers emissions of VOCs. Reduction of the RVP will help the state's effort to maintain the NAAQS for ozone.

State Submittal

On May 17, 2001, MDNR requested that we revise the SIP to reflect its amendments to the State RVP controls. On June 13, 2001, Missouri submitted an addendum. Included in the submittal was a letter from Roger Randolph, Director, Air Pollution Control Program, MDNR, to William W. Rice, Acting EPA Region 7 Administrator, requesting a SIP revision, the regulation 10 CSR 10–2.330, and supporting documentation. The state held a public hearing on December 7, 2000; the rule was adopted on February 6, 2001, and the rule became effective on May 30, 2001.

Analysis of the SIP

As mentioned above, section 211(c)(4) of the CAA prohibits states from adopting or attempting to enforce controls or prohibitions respecting certain fuel characteristics or components unless the SIP for the State

so provides.[1] The CAA specifies that we may approve such state fuel controls into a SIP only upon a finding that the control is ''necessary'' to achieve a NAAQS as defined under section 211(c)(4)(C). Section 211(c)(4)(C) does not, however, address the ability of states to modify fuel control programs that have already been deemed necessary and approved into a SIP.

Here Missouri does not seek approval of a new control or prohibition respecting a fuel characteristic or component. Instead, Missouri seeks approval of a change to the approved RVP control to adjust the level of the standard. Given the original 1998 (final approval) determination that the State RVP control was necessary to respond to the violations of the NAAQS, the violation and the additional exceedances which occurred after the implementation of the 7.2 psi RVP control, and the fact that the necessary reductions called for in the State's maintenance plan have still not been achieved, we believe it is reasonable to approve the amendments to the RVP standard without a new demonstration of necessity under section 211(c)(4)(C).[2]

As explained above, when the area experienced violations of the NAAQS in 1995 and 1997, Missouri was required to implement contingency measures as necessary to assure the area's ozone levels continued to meet national standards. By an August 17, 1995, letter, EPA had affirmed that Missouri and Kansas could substitute other equivalent control measures for the contingency measures specified in the approved SIP provided the substitute measures would achieve substantially equivalent emission reductions and that the substitute measures were submitted as SIP revisions.

In 1997, the State adopted a low RVP fuel regulation which required fuel sold between June 1 and September 15 of each year to have an RVP level not higher than 7.2 psi. As part of the SIP submittal, Missouri demonstrated that additional control measures necessary to provide emissions reductions required to meet the contingency plan commitments were unreasonable or impracticable for implementation. EPA found the RVP control was therefore necessary under section 211(c)(4)(C) and approved the 7.2 psi RVP gasoline requirement into the SIP (62 FR 52659, October 9, 1997, and 63 FR 20318, April 4, 1998).

The control adopted into the SIP in 1998, however, was insufficient to meet the VOC reductions required by the contingency measures of the maintenance plan (See 64 FR 3901, January 26, 1999.) As a result, full approval of the SIP submittal addressing the 1995 and 1997 one-hour ozone violations was made contingent upon Missouri implementing one of the following in lieu of the contingency measures in the 1992 SIP which were not implemented: (1) Opting in to the Federal reformulated gasoline (RFG) program; (2) adopting an alternative state fuel regulation; or (3) adopting regulations implementing Stage II vapor recovery at retail gasoline stations (64 FR 28753, May 27, 1999).

In its current SIP submittal, Missouri quantifies the additional VOC reductions needed to make up the shortfall left from the 1997 SIP revision. Missouri estimates that the control measures approved into the SIP in 1998 provide approximately 4.0 of the 8.4 tpd of VOC reductions required. As a result the area needs to achieve approximately 4.4 tpd of additional VOC reductions to replace the reductions that were to be achieved by implementing the required contingency measures.

After unsuccessfully attempting to opt in to the Federal RFG program, the Governor of Missouri committed to implement a 7.0 psi RVP fuel program in Clay, Jackson, and Platte Counties with a target implementation date of the summer of 2001. Reducing the fuel volatility limit from 7.2 to 7.0 psi will reduce VOC emissions by another 2.43 tpd in the Kansas City area. Missouri and Kansas are working to establish control measures for stationary sources to provide the additional emissions reductions called for in the maintenance plan. Missouri submitted additional control measures on May 17 and July 19, 2001, for the control of petroleum liquid storage, loading and transfer and another for the control of emissions from solvent cleanup operations. We expect another control measure reducing the vapor pressure of cold cleaning solvents to be submitted by Missouri later this year. Kansas committed to implementation of a phased program to reduce the vapor pressure of cold cleaning solvents to less than or equal to 1.0 mmHg. We expect this SIP revision will be submitted early next year. EPA action on these submissions will be addressed in future rulemaking. This action proposes approval of the State's amendments to its RVP standards. We are approving these amendments without making a new determination of necessity under section 211(c)(4)(C) because the adjustment in the RVP level from 7.2 psi to 7.0 psi is a continuation of the previous requirement for the area to address the 1995 and 1997 air quality violations. The CAA requirements for approving a State fuel control into a SIP were met with our rulemaking in 1998 when it was demonstrated that a fuel control measure is necessary to achieve the NAAQS. The changes to the level of control do not represent new controls respecting fuel characteristics or components that are not already approved in a SIP.

It is important to note that Missouri could have adopted a 7.0 psi RVP control measure and received SIP approval for such a control in the 1998 SIP revision. While this measure provided some VOC reductions, it did not provide all of the reductions considered necessary to respond to the violations of the ozone NAAQS. The 7.2 psi RVP control was adopted in 1997 as an interim control measure that could be implemented quickly while the State contemplated other control measures to make up the further reductions required. This decision, however, was not compelled by the CAA and, in 1997, Missouri could have made the decision it is making now that the appropriate RVP level is 7.0 psi.

Analysis of the Rule

The Missouri rule specifies that no person shall sell, dispense, supply, offer for sale, offer for supply, transport or exchange in trade for use in Clay, Platte, and Jackson Counties that has an RVP greater than 7.0 psi, or 8.0 psi for gasoline containing at least 9.0 percent by volume but not more than 10.0 percent by volume ethanol. The rule is applicable from June 1 through September 15 of each year. The Kansas rule is similar.

Persons subject to this rule shall maintain records of any RVP testing and test results during the compliance period. These records shall be kept for two years after the date of a completed RVP test.

Each bill of lading, invoice, loading ticket, delivery ticket, and other document that accompanies a shipment of gasoline shall contain a legible and conspicuous statement that the RVP of the gasoline does not exceed 7.0 psi or that the RVP does not exceed 8.0 psi for 9 to 10 percent ethyl alcohol blends.

[1] Under sections 211(h) and 211(c)(1) of the CAA, we have promulgated nationally applicable Federal standards for the RVP level of summertime gasoline. Because a Federal control promulgated under section 211(c)(1) applies to the fuel characteristic RVP, nonidentical state controls on summertime RVP are prohibited under section 211(c)(4)(A).

[2] The documents submitted by the State (see 217/MO–188 in the docket) support a conclusion that the amendments to the RVP standard are necessary as defined under section 211(c)(4)(C). Because we conclude that such a demonstration is not necessary, we have not conducted our own analysis of the State's submittal.

Gasoline that exceeds the RVP limit will not violate this rule if the gasoline is separately stored, sealed, and clearly labeled and not used until it is in compliance with this rule is exempt from this regulation. The label shall state that the gasoline is prohibited from being sold, dispensed, supplied, offered for sale, offered for supply, transported or exchanged in trade until the specific date that the gasoline shall be in compliance with this rule.

An individual consumer of gasoline who dispenses gasoline into his/her personal motor vehicle is exempt from this rule.

Gasoline used only to fuel vehicles on property zoned for agriculture use is exempt from this rule.

Owners and operators of facilities that only dispense gasoline into individual motor vehicles are not required to conduct the RVP testing specified.

The sampling procedures and test methods are those outlined in 40 CFR part 80, appendices D and E. Additional testing is required whenever the RVP is between 7.0 and 7.3 psi for conventional gasoline or when the RVP is between 8.0 and 8.3 psi for 9 to 10 percent ethyl alcohol blends.

Have the Requirements for Approval of a SIP Revision Been Met?

The State submittal has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submittal also satisfied the completeness criteria of 40 CFR part 51, appendix V. In addition, as explained above and in the technical support document which is part of this document, the revision meets the substantive SIP requirements of the CAA, including section 110 and part D of Title I and implementing regulations.

What Action Is EPA Taking?

We are proposing to approve this revision to the Missouri SIP concerning 10 CSR 10–2.330 as it meets the requirements of the CAA.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This proposed rule also does not have 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 proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the 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 proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 5, 2001.

Martha R. Steincamp,

Acting Regional Administrator, Region 7.

[FR Doc. 01–28737 Filed 11–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–7100–5]

Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of Arizona; Arizona Department of Environmental Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to section 112(l) of the 1990 Clean Air Act, EPA granted delegation of specific national emission standards for hazardous air pollutants (NESHAPs) to the Arizona Department of Environmental Quality on March 5, 2001. In the Rules section of this **Federal Register**, EPA is amending regulations to reflect the current delegation status of NESHAPs in Arizona. EPA is taking direct final action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting should do so at this time.

DATES: Written comments must be received by December 17, 2001.

ADDRESSES: Written comments should be addressed to: Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the submitted requests are available for public inspection at EPA's Region IX office during normal business hours (docket number A–96–25).

FOR FURTHER INFORMATION CONTACT: Mae Wang, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, Telephone: (415) 744–1200.

SUPPLEMENTARY INFORMATION: This document concerns the delegation of unchanged NESHAPs to the Arizona Department of Environmental Quality. For further information, please see the information provided in the direct final action which is located in the Rules section of this **Federal Register**.

Authority: This action is issued under the authority of section 112 of the Clean Air Act, as amended, 42 U.S.C. 7412.

Dated: October 30, 2001.

Jack P. Broadbent,

Director, Air Division, Region IX.

[FR Doc. 01–28343 Filed 11–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7101–8]

New York: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: New York has applied to EPA for final authorization of changes to its hazardous waste program under Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to New York for these changes which are described in the ''Rules and Regulations'' section of this **Federal Register**. In that section, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the portion of the immediate final rule that is the subject of the comments, and it will not take effect. We will then respond to those public comments opposing this authorization in a second final authorization notice. This second final notice may or may not include changes based on comments received during the public notice comment period. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by December 17, 2001.

ADDRESSES: Send written comments to Michael Infurna, Division of Environmental Planning and Protection, EPA, Region 2, 290 Broadway, 22nd Floor, New York, NY 10007, Phone number: (212) 637–4177 or e-mail: *Infurna.Michael@epamail.epa.gov.* You can examine copies of the materials submitted by New York during business hours at the following locations: EPA Region II Library, 290 Broadway, 16th Floor, New York, NY 10007, Phone number: (212) 637–3185; or New York State Department of Environmental Conservation, Division of Solid and Hazardous Materials, 625 Broadway, Albany, NY 12233–7250, Phone number: (518) 402–8730.

FOR FURTHER INFORMATION CONTACT: Michael Infurna, Division of Environmental Planning and Protection, EPA Region 2, 290 Broadway, 22nd floor, New York, NY 10007, Phone number (212) 637–4177.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: October 29, 2001.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 01–28628 Filed 11–15–01; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register

Vol. 66, No. 222

Friday, November 16, 2001

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 99–024–1]

Privacy Act of 1974, as Amended; Systems of Records

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of revision of an existing Privacy Act System of Records.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), the U.S. Department of Agriculture is updating three systems of records managed by the Animal and Plant Health Inspection Service. The systems of records being updated are: Plant Protection and Quarantine—Regulatory Actions; Veterinary Services—Animal Quarantine Regulatory Actions; and Veterinary Services—Animal Welfare and Horse Protection Regulatory Actions.

We are combining these three systems of records into one system: Investigative and Enforcement Records Regarding Regulatory Activities. We are also expanding routine uses of the new combined system of records, adding categories of records, and adding categories of individuals on whom we maintain records. In addition, we are changing the location of the new combined system of records, updating the authority for maintaining it, and changing some of the Animal and Plant Health Inspection Service's policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the new combined system.

DATES: The changes covered by this notice will be effective on January 15, 2002.

We invite you to comment on this notice. We will consider all comments we receive that are postmarked by December 17, 2001. If we decide to make changes in this notice based on your comments, we will publish another notice in the **Federal Register**.

ADDRESSES: Please send your comment and three copies to: Docket No. 99–024–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.
Please state that your comment refers to Docket No. 99–024–1.

You may read any comments that we receive on this docket in the APHIS 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.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Kimberly Pacheco, APHIS Privacy Act Officer, Legislative and Public Affairs, APHIS, 4700 River Road Unit 50, Riverdale, MD 20737–1232; (301) 734–4893.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a) (Privacy Act), we must publish a notice in the **Federal Register** advising the public of changes to our systems of records. A system of records is a group of any records under the control of any agency, from which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to an individual.

The Animal and Plant Health Inspection Service (APHIS) must implement the Treasury Offset provisions of the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, 110 Stat. 1321–358) (DCIA). To do this, we must update APHIS' systems of records to add a new routine use. At the same time, we are making various minor changes to APHIS' systems of records.

The Debt Collection Act of 1982, as amended (Pub. L. 97–365, 96 Stat. 1749), and the DCIA authorize the Federal government to collect delinquent debts owed to agencies by using administrative offset. Under the DCIA, APHIS must refer debts that are more than 180 days delinquent to the Treasury Offset Program (TOP). TOP requires all agencies to submit Taxpayer Identification Numbers (TIN's) for all debts referred. For individuals, the TIN is the person's social security number; for businesses, the TIN is the Employer Identification Number or assigned vendor number. When APHIS collects TIN's, we must notify creditors that we are collecting the TIN's for debt collection purposes. We must also notify creditors that we may disclose information about delinquent debtors to Treasury and other officials so the debts can be collected through administrative offset.

APHIS records debts owed to it in several systems of records. APHIS records a majority of debts in billings and collections systems maintained by the United States Department of Agriculture National Finance Center (NFC). We record debts for civil penalties in a separate system maintained by APHIS. We transmit a monthly summary of debt information to Administrative Billings and Collections (ABCO) at the NFC. This ensures that accounting records are accurate.

NFC updated its system of records, USDASS/OCFO–3, ''Administrative Billings and Collections,'' on November 10, 1997, by adding a new routine use to implement the Treasury Offset provisions of the DCIA (see 62 FR 47622–47623, September 10, 1997.) NFC refers most APHIS debts to TOP from the NFC ABCO system. APHIS debts referred to TOP in this way are covered by the NFC system of records. However, we want to refer debts for civil penalties directly to TOP.

APHIS currently has seven systems of records. Civil penalties could possibly be recorded in five of these systems. These systems are:

USDA–APHIS–1—Plant Protection and Quarantine—Regulatory Actions

USDA–APHIS–3—Veterinary Services—Animal Quarantine Regulatory Actions

USDA–APHIS–4—Animal Welfare and Horse Protection Regulatory Actions

USDA–APHIS–6—Brucellosis Information System and Brucellosis Recording and

Reporting System

USDA–APHIS–8—Veterinary Services—Animal Welfare

These systems of records need to be updated to account for debt records we send to TOP. We are updating three of the systems of records in this notice. The systems of records we are updating are those concerned with investigative and enforcement services. We will update the remaining two systems of records in a later notice.

As part of our update, we are combining USDA–APHIS–1, USDA–APHIS–3, and USDA–APHIS–4 into one system of records. The new combined system of records is known as USDA-APHIS–1—Investigative and Enforcement Records Regarding Regulatory Activities. Combining the systems of records brings all records concerning investigation and enforcement together. In addition, we are adding a new routine use—to refer debts to TOP. In connection with this new use, we are amending the new combined system of records to state that we collect TIN's and maintain data on individuals who are indebted to the Federal government and individuals whose debts are serviced by APHIS. Information includes names, addresses, amounts of indebtedness, amounts of current collections, and amounts of total billings. We are also amending the new combined system of records to state that we collect names of Investigative Enforcement Services investigators assigned to cases. Eventually, these records are transferred to a history file, which can be used to answer questions. We are also adding references to the Investigative and Enforcement Services (IES) Tracking System. The IES Tracking System is a computer database developed by APHIS.

Subsequent Notices

We will consider comments that are received within 60 days of publication of this notice in the **Federal Register**. If we receive any comments, we will publish another notice in the **Federal Register**. The notice will include a discussion of any comments we receive and any amendments we are making to the System of Records as a result of the comments.

Report on New System

A ''Report on New System,'' required by 5 U.S.C. 552a(r), as implemented by Transmittal Memoranda 1 and 3 to OMB Circular A–130, was sent to the Chairman, Committee on Governmental Affairs, United States Senate; the Chairman, Committee on Government Reform and Oversight, House of Representatives; and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget, on November 9, 2001.

Done in Washington, DC, this 4th day of October 2001.

Ann M. Veneman,

Secretary of Agriculture.

USDA–APHIS–1

SYSTEM NAME:

Investigative and Enforcement Records Regarding Regulatory Activities, USDA/APHIS.

SYSTEM LOCATION:

Investigative and Enforcement Services (IES) Program, USDA, APHIS, 4700 River Road, Riverdale, MD 20737–1232. The electronic and paper files are maintained by IES Offices at headquarters and area offices. Hard copy files from which IES will compile its database will be kept on file at IES, 4700 River Road, Riverdale, MD, 20737–1232, and at APHIS regional IES offices in Raleigh, NC, and Fort Worth, TX. Addresses for the regional offices may be obtained from the Director, Investigative and Enforcement Services, 4700 River Road, Riverdale, MD, 20737–1232.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Violators, alleged violators, and witnesses of violations of plant protection and quarantine laws, animal quarantine laws, and animal welfare and horse protection laws; individuals who have outstanding civil penalties; individuals who are indebted to the Federal Government and whose debts are serviced by the Animal and Plant Health Inspection Service; and IES investigators assigned to cases.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consists of all paper and electronic investigative files on violators and alleged violators and contains copies of names and addresses, social security numbers or assigned vendor numbers, type of infraction, copies of violation reports, compliance agreements, witness statements, warning notices, Office of General Counsel recommendations to the Department of Justice (DOJ), court disposition documents, complaints, consent decision documents, decisions and orders, and the amount of civil penalties assessed by the Department. The automated Investigative and Enforcement Services Tracking System contains the name and address of each alleged violator, the tracking number assigned to the case, social security number or assigned vendor number, type of violation, names of witnesses, name of inspector, dates of actions taken, status of case, final decision, dollar amount of penalty, name of investigator, and sanction information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 7701–7772; 21 U.S.C. 101–105, 111–134, 7 U.S.C. 2131 *et seq.*; 15 U.S.C. 1821 *et seq.*; 31 U.S.C. 3711–3719; the records in this system are used to issue bills and collect funds due to the Government in compliance with the Debt Collection Act of 1982, Pub.L. 97–365, 96 Stat. 1749, as amended by Pub.L. 98–167, 97 Stat. 1104, and the Debt Collection Improvement Act of 1996, Pub.L. 104–134, 110 Stat. 1321; and case management information in this system is used to monitor compliance with the Government Performance and Results Act of 1996.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Referral to other Federal, State, local or foreign investigative, prosecuting, or enforcement agencies, when information available indicates a violation or potential violation of law, general statute, particular program statute, rule, regulation or order, whether civil, criminal or regulatory in nature.

(2) Disclosure to the DOJ for use in litigation when: (a) The Agency, or any component thereof; or (b) any employee of the Agency or his or her official capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government, is a party to litigation or has an interest in such litigation; and by careful review, the Agency determines that the records are both relevant and necessary to the litigation and the use of such records by the DOJ is therefore deemed by the Agency to be for a purpose that is compatible with the purpose for which the records were collected.

(3) Disclosure to a court or adjudicative body in a proceeding when: (a) The Agency or any component thereof; or (b) any employee of the Agency in his or her official capacity; or (c) any employee of the Agency in his or her individual capacity where the Agency has agreed to represent the employee; or (d) the United States Government, is a party to litigation or has an interest in such litigation, and by careful review, the Agency determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the Agency to be for a purpose that is

compatible with the purpose for which the Agency collected the records.

(4) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(5) Information contained in this system of records may be disclosed to a debt collection agency when USDA determines such referral is appropriate for collecting the debtor's account as provided for in US Government contracts with collection agencies executed pursuant to 31 U.S.C. 3718.

(6) Where prior collection efforts have failed, the USDA will refer to the Department of the Treasury information from this system of records concerning past due legally enforceable debts for offset against tax refunds that may become due the debtors for the tax year in which referral is made in accordance with IRS regulations at 26 CFR 301.6402–6T, offset of past-due Legally Enforceable Debt Against Overpayment, and under the authority contained in 31 U.S.C. 3720A

(7) Information contained in this system of records may be disclosed to a consumer reporting agency in accordance with 31 U.S.C. 3711(f).

(8) Information contained in this system of records, related to non-tax debts or claims that are delinquent for 180 days, will be sent to the Department of the Treasury or to other Federal agencies designated by the Secretary of the Treasury for the purpose of offsetting Federal payments to collect delinquent debts, owed to the Federal Government. Records will be matched by Taxpayer Identification Number (TIN) and name. For an individual, the TIN is the social security number. For a business, the TIN is the Employer Identification Number. The release of this information is in accordance with 31 U.S.C. 3716 and 4 CFR part 102.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Case files are maintained in file folders in file drawers, computer printouts, magnetic tape, and in the databases in the Investigative and Enforcement Services Tracking System.

RETRIEVABILITY:

Records can be accessed by alleged violator's name, name of business if other than alleged violator's name, and violation case number.

SAFEGUARDS:

Records, both paper and electronic, are accessible only to authorized personnel. Multiple security measures are in place to prevent outsiders from entering the system.

RETENTION AND DISPOSAL:

Records are transferred to the Federal Records Center for storage and disposition in accordance with General Services Administration regulations. Master history and magnetic tapes are retained in accordance with tape library management schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Investigative and Enforcement Services, USDA, APHIS, 4700 River Road, Riverdale, MD 20737–1232.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records or request information on whether the system contains records pertaining to him/her from the system manager. A request for information pertaining to an individual should be in writing and should contain: name, address, social security number or assigned vendor number, and particulars involved.

RECORD ACCESS PROCEDURES:

Any individual may obtain information from a record in the system which pertains to him/her by submitting a written request to the Privacy Act Officer, LPA, USDA, APHIS, 4700 River Road, Riverdale, MD, 20737–1232.

CONTESTING RECORD PROCEDURES:

Any individual may contest information contained within a record in the system which pertains to him/her by submitting a written request to the system manager.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from USDA employees or other investigative personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

This system has been exempted pursuant to 5 U.S.C. 552(a)(k)(2) from the requirements of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f). See 7 CFR 1.23. Individual access to these records would impair investigations and alert subjects of investigations that their activities are being scrutinized, and thus allow them time to take measures to prevent detection of illegal action to escape prosecution. Any individual who believes, however, that he or she has been denied any right, privilege or benefit for which he or she would otherwise be eligible as a result of the maintenance of such material may request access to the material. Such requests should be addressed to the APHIS Privacy Act Officer, LPA, USDA, APHIS, 4700 River Road, Riverdale, MD 20737–1232.

[FR Doc. 01–28727 Filed 11–15–01; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Forest Service

Alpine County, CA, Resource Advisory Committee (RAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Alpine County Resource Advisory Committee (RAC) will meet on December 3, 2001, in Markleeville, CA. The purpose of the meeting is to discuss issues relating to implementing the Secure Rural Schools and Community Self-Determination Act of 2000 (Payments to States) and the expenditure of Title II funds benefiting National Forest System lands on the Humboldt-toiyabe, and Stanislaus National Forests in Alpine County.

DATES: The meeting will be held December 3, 2001, from 3 p.m. to 5:30 p.m.

ADDRESSES: The meeting will be held at the Turtle Rock County Park, markleeville, CA.

FOR FURTHER INFORMATION CONTACT: Laura Williams, Committee Coordinator, USDA, Humboldt-Toiyabe National Forest, 1536 S. Carson St., Carson City, NV 89701, (775) 884–8150, email: *ljwilliams@fs.fed.us*.

SUPPLEMENTARY INFORMATION: Agenda items to be covered includel: (1) Welcome and introductions; (2) Overview of Payments to States Act, PL 106–393; (3) Developing organizational guidelines for the Alpine County RAC; (4) Planning processes for projects in Alpine county; (5) Preliminary presentation of some project ideas; (6) Public comment. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the Committee at that time.

Dated: November 8, 2001.

Gary Schiff,

Carson District Ranger.

[FR Doc. 01–28715 Filed 11–15–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Counties Payments Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Forest Counties Payments Committee has scheduled a meeting on November 29, 2001, to discuss how it will provide Congress with the information specified in Section 320 of the Fiscal Year 2001 Interior and Related Agencies Appropriations Act. In order to develop its recommendations to Congress, the Committee would like to hear from both elected officials and the general public. The meeting will consist of a public input session from 9:00 a.m. until 12:00 noon.

DATES: The meeting will be held on November 29, 2001.

ADDRESSES: The meeting will be held at the Wyndham Hotel, 2910 Yale SE, Albuquerque, New Mexico 87106.

Those who cannot be present may submit written responses to the questions listed under **SUPPLEMENTARY INFORMATION** in this notice to Randle G. Phillips, Executive Director, Forest Counties Payments Committee, P.O. Box 34718, Washington, DC 20043–4713, (202) 208–6574 or electronically to *rphillips01@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Randle G. Phillips, Executive Director, Forest Counties Payments Committee, (202) 208–6574; or via e-mail at *rphillips01@fs.fed.us.*

SUPPLEMENTARY INFORMATION: Section 320 of the 2001 Interior and Related Agencies Appropriations Act (Pub L. 106–389) authorizes the payments to States and counties from monies derived from receipts collected on Federal lands. These payments are to be used for the benefit of public education and other public purposes. The Act also created a Forest Counties Payments Committee to gather input from the public and elected officials to help develop recommendations to Congress on a long-term solution for making payments to eligible States and counties in which Federal lands are situated. The Committee will evaluate the methods and use of these payments. The Committee will also consider the impact on eligible States and counties of revenues from the historic multiple use of Federal lands; evaluate the economic, environmental, and social benefits which accrue to counties containing Federal lands; evaluate the expenditures by counties on activities occurring on Federal lands which are Federal responsibilities; and monitor payments and implementation of the Act.

At the November 29 meeting in Albuquerque, the Committee asks that respondents provide information that is responsive to the following questions:

1. Do counties receive their fair share of federal revenue-sharing payments made to eligible States?
2. What difficulties exist in complying with, and managing all of the federal revenue-sharing payments programs? Are some more difficult than others?
3. What economic, social, and environmental costs do counties incur as a result of the presence of public lands within their boundaries?
4. What economic, social, and environmental benefits do counties realize as a result of public lands within their boundaries?
5. What are the economic and social effects from changes in revenues generated from public lands over the past 15 years, as a result of changes in management on public lands in your State or county?
6. What actions has your State or county taken to mitigate any impacts associated with declining economic conditions, or revenue-sharing payments?
7. What effects, both positive and negative, have taken place with education and highway programs that are attributable to the management of public lands within your State or county?
8. What relationship, if any, should exist between federal revenue-sharing programs, and management activities on public lands?
9. What alternatives exist to provide equitable revenue-sharing to States and counties and promote ''sustainable forestry''?
10. What has been your experience regarding implementation of Pub L. 106–291, The Secure Rural Schools and Community Self-Determination Act?

Dated: November 9, 2001.

Timothy DeCoster,

Acting Deputy Chief, Programs and Legislation.

[FR Doc. 01–28752 Filed 11–15–01; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting on December 5, 2001, at the North Tahoe Conference Center, 8318 North Lake Blvd., Kings Beach, CA. This Committee, established by the Secretary of Agriculture on December 15, 1998, (64 FR 2876) is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meeting will be held December 5, 2001, beginning at 9 a.m., and ending at 4:30 p.m.

ADDRESSES: The meeting will be held at the North Tahoe Conference Center, 8318 North Lake Blvd., Kings Beach, CA.

FOR FURTHER INFORMATION CONTACT: Maribeth Gustafson or Jeannie Stafford, Lake Tahoe Basin Management Unit, Forest Service, 870 Emerald Bay Road Suite 1, South Lake Tahoe, CA 96150, (530) 573–2642.

SUPPLEMENTARY INFORMATION: The committee will meet jointly with the Lake Tahoe Basin Executives Committees. Items to be covered on the agenda include: a presentation from the Science Advisory Group, overview of the 2001 TRPA threshold review, USFS Restoration Act project list, NEPA discussion, renewal of the LTFAC Charter, and public comment. All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: November 6, 2001.

Bob Rodman,

Acting Forest Supervisor.

[FR Doc. 01–28335 Filed 11–15–01; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Rural Telephone Bank; Notice Under the Rural Electrification Act's ''Buy American'' Provision

AGENCY: Rural Utilities Service and Rural Telephone Bank, USDA.

ACTION: Notice of the ''Buy American'' status of certain countries under the Rural Electrification Act.

SUMMARY: The Rural Utilities Service (RUS) published notice in the **Federal Register** for February 18, 1997, at 62 FR 7205 that the Uruguay Round Agreements Act, (108 Stat. 4954, Pub. L. 103–465, December 8, 1994), amended the ''Buy American'' provision, (7 U.S.C. 903 note) of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*,) (the ''RE Act''). Under the amendment, the United States Trade Representative (USTR) is authorized to determine which countries (''eligible countries'') are eligible to have their products receive the same treatment as manufactured and unmanufactured products produced in the United States. This notice lists the current eligible countries for RUS electric and telecommunications programs, respectively. Please refer to the **Federal Register** notice published February 18, 1997, at 62 FR 7205, for additional information on RUS Buy American requirements.

FOR FURTHER INFORMATION CONTACT: For electric program matters: George Bagnall, Director, Electric Staff Division, RUS, U.S. Department of Agriculture, STOP 1569, 1400 Independence Ave., SW., Washington, DC 20250–1569. Telephone number (202) 720–1900, fax (202) 720–7491. For telecommunications program matters: Gerald Nugent, Director, Telecommunications Standards Division, RUS, U.S. Department of Agriculture, STOP 1598, 1400 Independence Ave., SW., Washington, DC 20250–1598. Telephone number (202) 720–8663, fax (202) 720–4099.

SUPPLEMENTARY INFORMATION: *For telecommunications program borrowers:* Eligible countries are Canada, Israel, and Mexico.

For electric program borrowers: Eligible countries are Aruba, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Greece, Hong Kong China, Iceland, Ireland, Israel, Italy, Japan, Korea, Liechtenstein, Luxembourg, Mexico, Netherlands, Norway, Portugal, Singapore, Spain, Sweden, Switzerland, and the United Kingdom.

For electric and telecommunications borrowers: Eligibility of contracts with certain countries may be limited by contract amount or other restrictions. Contact RUS for additional information.

The USTR may at any time declare one or more additional countries to be ''eligible countries'' for either electric or telecommunications borrowers. The Chair of Technical Standards Committee ''A'' (Electric) will be the point of contact for RUS with respect to USTR determinations of eligible countries. Each RUS borrower is responsible for assuring that its procurement complies with the requirements of the RE Act ''Buy American'' provision.

Dated: November 8, 2001.

Hilda Gay Legg,

Administrator, Rural Utilities Service and Governor, Rural Telephone Bank.

[FR Doc. 01–28748 Filed 11–15–01; 8:45 am]

BILLING CODE 3410–15–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the Procurement List.

SUMMARY: This action adds to the Procurement List a commodity to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: December 17, 2001.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740.

SUPPLEMENTARY INFORMATION: On October 9, 2001, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (66 F.R. 50397) of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the commodity and impact of the addition on the current or most recent contractors, the Committee has determined that the commodity listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity to the Government.

2. The action will not have a severe economic impact on current contractors for the commodity.

3. The action will result in authorizing small entities to furnish the commodity to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodity proposed for addition to the Procurement List.

Accordingly, the following commodity is added to the Procurement List:

Commodity

Cap, Utility, USMC
8405–00–NSH–1001
8405–00–NSH–1002
8405–00–NSH–1003
8405–00–NSH–1004
8405–00–NSH–1005
8405–00–NSH–1006
8405–00–NSH–1007
8405–00–NSH–1008
8405–00–NSH–1009
8405–00–NSH–1010
8405–00–NSH–1011
8405–00–NSH–1012
8405–01–485–4313
8405–01–485–4314
8405–01–485–4315
8405–01–485–4316
8405–01–485–4317
8405–01–485–4318
8405–01–485–4299
8405–01–485–4304
8405–01–485–4305
8405–01–485–4307
8405–01–485–4308
8405–01–485–4309

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–28749 Filed 11–15–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Addition Corrections

In the document appearing on page 51006, FR Doc. 01–25043, in the issue of October 5, 2001, in the first column the Committee published a notice of addition to the Procurement List of, among other things, EcoLab Water Soluble Cleaners/Detergents, National Stock Number (NSN) 7930–01–380–6404. This notice is amended to correct the NSN to 7930–01–380–*8*404.

In the document appearing on page 55635, FR Doc. 01–27570, in the issue of November 2, 2001, in the second column the Committee published a

notice of proposed addition to the Procurement List of, among other things, Compact Disc Duplication and Printing, U.S. Department of Agriculture, Beltsville, Maryland. This notice is amended to read Compact Disc Duplication and Printing, USDA/Food Safety Inspection Services, Beltsville, Maryland.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–28750 Filed 11–15–01; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: December 17, 2001.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly (703) 603–7740

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each commodity and service will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action will result in authorizing small entities to furnish the commodities and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46—48c) in connection with the commodities and services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Brush, Tooth Brush Style
7920–00–900–3577
NPA: Industries for the Blind, Inc. Milwaukee, Wisconsin.
Government Agency: GSA/General Products Commodity Center

Mop, Twist-Wring and Twist-Wring Head.
7920–01–448–0218
7920–01–448–0220
NPA: L.C. Industries For The Blind, Inc. Durham, North Carolina.
Government Agency: GSA/General Products Commodity Center.

Services

Consolidated Document Retention
Various Army Installations
NPA: Didlake, Inc. Manassas, Virginia.
Government Agency: Department of the Army.

Grounds Maintenance
Basewide
Fort Bragg, North Carolina
NPA: Employment Source, Inc. Fayetteville, North Carolina.
Government Agency: Department of the Army, Fort Bragg

Janitorial/Custodial
Naval Sea Systems Command (NAVSEA) Building
Washington Navy Yard, DC.
NPA: Melwood Horticultural Training Center Upper Marlboro, Maryland
Government Agency: Department of the Navy, NAVSEA.

Janitorial/Custodial
VA Primary Care Clinic
620 South Route 31
McHenry, Illinois
NPA: The Chicago Lighthouse for People who are Blind or Visually Impaired Chicago, Illinois.
Government Agency: Department of Veterans Affairs.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. 01–28751 Filed 11–15–01; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–810, C–475–819, A–489–805, C–489–806, A–588–838]

Continuation of Countervailing and Antidumping Duty Orders: Pasta from Italy and Turkey, and Clad Steel Plate From Japan

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

ACTION: Notice of continuation of Countervailing and Antidumping Duty Orders: Pasta from Italy and Turkey, and Clad Steel Plate from Japan.

SUMMARY: The Department of Commerce (''the Department''), pursuant to sections 751(c) of the Tariff Act of 1930, as amended (''the Act''), determined that revocation of the countervailing and antidumping duty orders on certain pasta (''pasta'') from Italy and Turkey, and the antidumping duty order on clad steel plate from Japan, would be likely to lead to continuation or recurrence of a countervailable subsidy or dumping.[1] On November 2, 2001, the International Trade Commission (''the Commission''), pursuant to section 751(c) of the Act, determined that revocation of the countervailing and the antidumping duty orders on pasta from Italy and Turkey, and antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time (66 FR 55697). Therefore, pursuant to 751(d)(2) of the Act and 19 CFR 351.218(f)(4), the Department is publishing this notice of the continuation of the countervailing and antidumping duty orders on pasta from Italy and Turkey, and antidumping duty order on clad steel plate from Japan.

EFFECTIVE DATE: November 16, 2001.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482–5050.

SUPPLEMENTARY INFORMATION:

[1] *Final Results of Expedited Sunset Reviews: Certain Pasta From Italy and Turkey*, 66 FR 51015 (October 5, 2001). *Final Results of Sunset Review: Countervailing Duty Order on Certain Pasta From Italy*, 66 FR 51640 (October 10, 2001). *Final Results of Expedited Sunset Review: Countervailing Duty Order on Certain Pasta From Turkey*, 66 FR 51019 (October 5, 2001). *Final Results of Expedited Sunset Review; Clad Steel Plate From Japan*, 66 FR 51007 (October 5, 2001).

Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930 (the Act). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR part 351 (2001).

Background

On June 1, 2001, the Department initiated (66 FR 29771), and the Commission instituted (66 FR 29771), sunset reviews of the countervailing and the antidumping duty orders on pasta from Italy and Turkey, and antidumping duty order on clad steel plate from Japan pursuant to section 751(c) of the Act. As a result of these reviews, the Department found that revocation of the countervailing and antidumping duty orders would be likely to lead to continuation or recurrence of a countervailable subsidy or dumping, and notified the Commission of the magnitude of the margins likely to prevail were the orders revoked.[2]

On November 2, 2001, the Commission determined, pursuant to section 751(c) of the Act, that revocation of the countervailing and antidumping duty orders on pasta from Italy and Turkey, would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.[3]

Scope of Orders

Italy and Turkey: Pasta

The scope of the order covers shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastasis, vitamins, coloring and flavorings, and up to two percent egg white. Pasta covered by this order is typically sold in the retail market, in fiberboard or cardboard cartons or polyethylene or polypropylene bags, of varying dimensions. Excluded from the order on pasta from Turkey and Italy are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Excluded from the order on pasta from Italy are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Istituto Mediterraneo Di Certificazione (''IMC''), by Bioagricoop Scrl, by QC&I International Services, by Ecocert Italia, by the Conzorzio per il Controllo dei Prodotti Biologici, or by the Associazione Italiana per l'Agricoltura Biologica.

The subject merchandise is currently classifiable under subheading 1902.19.20 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheading is provided for convenience and Customs purposes, our written description of the scope of these orders is dispositive.

Japan: Clad Steel Plate

The scope of the order is all clad steel plate of a width of 600 millimeters (''mm'') or more and a composite thickness of 4.5 mm or more. Clad steel plate is a rectangular finished steel mill product consisting of a layer of cladding material (usually stainless steel or nickel) which is metallurgically bonded to a base or backing of ferrous metal (usually carbon or low alloy steel) where the latter predominates by weight. Cladding is the association of layers of metals of different colors or natures by molecular interpenetration of the surfaces in contact. This limited diffusion is characteristic of clad products and differentiates them from products metalized in other manners (*i.e.,* by normal electroplating). The various cladding processes include pouring molten cladding metal onto the basic metal followed by rolling; simple hot-rolling of the cladding metal to ensure efficient welding to the basic metal; any other method of deposition of superimposing of the cladding metal followed by any mechanical or thermal process to ensure welding (*i.e.,* electrocladding), in which the cladding metal (nickel, Chromium, etc.) is applied to the basic metal by electroplating, molecular interpenetration of the surfaces in contact then being obtained by heat treatment at the appropriate temperature with subsequent cold rolling. *See* Harmonized Commodity Description and Coding System Explanatory Notes, Chapter 72, General Note (IV)(C)(2)(e). Stainless clad steel plate is manufactured to American Society for Testing and Materials (''ASTM'') specifications A263 (400 series stainless types) and A264 (300 series stainless types). Nickel and nickel-base alloy clad steel plate is manufactured to ASTM specification A265. These specifications are illustrative but not necessarily all-inclusive. Clad steel plate within the scope of this order is classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') 7210.90.10.00. Although the HTSUS subheading is provided for convenience and Customs purposes, our written description of the scope of these orders is dispositive.

Determinations

As a result of the determinations by the Department and the Commission that revocation of the countervailing and antidumping duty orders would be likely to lead to continuation or recurrence of a countervailable subsidy or dumping, and material injury, to an industry in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the countervailing and antidumping duty orders on pasta from Italy and Turkey, and the antidumping duty order on clad steel plate from Japan. The effective date of continuation of these orders will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act, the Department intends to initiate the next five-year review of these orders not later than October 2006.

Dated: November 9, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–28757 Filed 11–15–01; 8:45 am]

BILLING CODE 3510–DS–P

[2] *Final Results of Expedited Sunset Reviews: Certain Pasta From Italy and Turkey*, 66 FR 51015 (October 5, 2001). *Final Results of Sunset Review: Countervailing Duty Order on Certain Pasta From Italy*, 66 FR 51640 (October 10, 2001), *Final Results of Expedited Sunset Review: Countervailing Duty Order on Certain Pasta From Turkey*, 66 FR 51019 (October 5, 2001). *Final Results of Expedited Sunset Review: Clad Steel Plate From Japan*, 66 FR 51007 (October 5, 2001).

[3] *See* USITC Publication 3462, (October 2001), Investigations Nos. 701–TA–365–366 (Review) and 731–TA–734–735 (Review)(66 FR 55697).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Germany; Notice of Amended Final Results of Antidumping Duty Administrative Reviews Pursuant to Final Court Decision

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

ACTION: Notice of amended final results of administrative reviews pursuant to final Court decision.

SUMMARY: The United States Court of International Trade and the United States Court of Appeals for the Federal Circuit have affirmed the Department of

Commerce's final remand results affecting final assessment rates for the administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Germany. The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof, cylindrical roller bearings and parts thereof, and spherical plain bearings and parts thereof. The period of review is May 1, 1992, through April 30, 1993. As there is now a final and conclusive court decision in this case, we are amending our final results of reviews and we will instruct the Customs Service to liquidate entries subject to these reviews.

EFFECTIVE DATE: November 16, 2001.

FOR FURTHER INFORMATION CONTACT: Katja Kravetsky or Mark Ross, AD/CVD Enforcement 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions in effect as of December 31, 1994. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to the regulations as codified at 19 CFR part 353 (1995).

Background

On February 28, 1995, the Department published its final results of administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Singapore, Sweden, Thailand, and the United Kingdom, covering the period May 1, 1992, through April 30, 1993. See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews, Partial Termination of Administrative Reviews, and Revocation in Part of Antidumping Duty Orders,* 60 FR 10900 (February 28, 1995). These final results were amended on February 28, 1995, June 13, 1995, and September 26, 1995 (see 60 FR 10967, 60 FR 31142, and 60 FR 49568, respectively). The classes or kinds of merchandise covered by these reviews are ball bearings and parts thereof (BBs), cylindrical roller bearings and parts thereof (CRBs), and spherical plain bearings and parts thereof (SPBs). A domestic producer, the Torrington Company, and a number of respondent interested parties challenged the final results in the United States Court of International Trade (CIT).

In *INA Walzlager Schaeffler KG, and INA Bearing Company, Inc., FAG Kugelfischer Georg Schafer AG, FAG Bearings Corporation, SKF USA Inc., and SKF GmbH* v. *United States,* 957 F. Supp. 251 (CIT 1997), the CIT ordered the Department to make methodological changes and to recalculate the antidumping margins for INA, FAG, and SKF. Specifically, the CIT ordered the Department, *inter alia,* to make the following changes:

(1) Deduct imputed interest for INA's credit expenses and inventory carrying expenses from cost of production (COP);

(2) Adjust the profit calculation for INA for the differences between sales COP and constructed value COP;

(3) Apply a tax-neutral amount methodology in computing the value-added tax (VAT) adjustment;

(4) Deny the adjustment to foreign market value (FMV) for FAG's negative billing adjustments, post-sale price adjustments, and third-party discounts;

(5) Allow a direct adjustment to FMV for SKF's rebate two; and

(6) Explain the circumstances in which the Department will apply the reimbursement regulation in exporter's-sales-price (ESP) situations.

On June 3, 1997, the Department submitted the recalculated results consistent with the CIT's remand order. The Department deducted imputed interest for INA's credit and inventory carrying costs from COP and adjusted the profit calculation for the differences between sales COP and constructed value COP; applied a tax-neutral methodology in computing the VAT adjustment for all three respondents; denied the indirect selling expense adjustment to FMV for FAG's negative billing adjustments, post-sale price adjustments, and third-party discounts; allowed a direct adjustment to FMV for SKF's rebate two; and explained the circumstances under which we will apply the regulation regarding reimbursement of antidumping duties in ESP situations.

On September 29, 1997, the CIT affirmed the Department's Final Results of Redetermination on Remand (Slip Op. 97–141).

One respondent, SKF, appealed two issues, the Department's denial of SKF's billing adjustment two and cash discounts, to the Court of Appeals for the Federal Circuit (CAFC).

On June 10, 1999, the CAFC agreed that the Department properly disallowed SKF's billing adjustment two and cash discounts because the claimed adjustments were not limited to merchandise within the scope of the antidumping duty order. *SKF USA Inc. and SKF GmbH* v. *U.S.,* 180 F. 3d 1370 (Fed. Cir. 1999). This decision was not appealed.

As there is a final and conclusive court decision in this action, we are amending our final results of review in this matter, and we will instruct the Customs Service to liquidate entries subject to these reviews.

Amendment to Final Results

Pursuant to section 516A(e) of the Act, we are now amending the final results of the administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from Germany for the period May 1, 1992, through April 30, 1993. The revised weighted-average percentage margins are as follows:

Company	BBs	CRBs	SPBs
INA Walzlager Schaeffler KG	26.62	9.72	(1)
FAG Kugelfischer Georg Schafer AG	9.38	12.32	14.46
SKF GmbH	14.48	9.97	21.35

[1] No shipments during the period of review.

Assessment Rates

Accordingly, the Department will determine, and the Customs Service will assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages listed above. For companies covered by these amended results, the Department will issue appraisement instructions to the

Customs Service after publication of these amended final results of reviews.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: November 2, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–28758 Filed 11–15–01; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–791–810]

Amended Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products From South Africa

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

ACTION: Notice of amended final affirmative countervailing duty investigation.

SUMMARY: On October 3, 2001, the Department of Commerce (the Department) published in the **Federal Register** its final affirmative determination in the countervailing duty investigation of certain hot-rolled carbon steel flat products from South Africa. The Department is now amending its final affirmative determination to correct a ministerial error in the calculations. The amended final subsidy rates are listed below in the ''Subsidy Rates'' section of this notice.

EFFECTIVE DATE: November 16, 2001.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon at (202) 482–0162, Mark Hoadley at (202) 482–0666, or Julio Fernandez at (202) 482–0190, Office of AD/CVD Enforcement VII, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the Tariff Act of 1930 (the Act), as amended. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2000).

Background

On October 3, 2001, the Department published its *Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from South Africa,* 66 FR 50412 (October 3, 2001). On October 3, 2001, Saldanha Steel Ltd. (Saldanha Steel), one of three respondents in this investigation, submitted comments to the Department alleging two ministerial errors in the calculation of the combined Saldanha Steel/Iscor Ltd. (Iscor) countervailable subsidy rate (Iscor is another respondent in this investigation). Specifically, Saldanha Steel contends that the Department made ministerial errors in calculating the benefit from loan guarantees provided by the Industrial Development Corporation (IDC), and in calculating the benefit from the Findevco Ltd. loan. On October 9, 2001, petitioners in this investigation rebutted Saldanha Steel's allegations by stating that they did not relate to errors of a ministerial nature.

Scope of the Investigation

The merchandise subject to this investigation is certain hot-rolled carbon steel flat products of a rectangular shape, of a width of 0.5 inch or greater, neither clad, plated, nor coated with metal and whether or not painted, varnished, or coated with plastics or other non-metallic substances, in coils (whether or not in successively superimposed layers), regardless of thickness, and in straight lengths, of a thickness of less than 4.75 mm and of a width measuring at least 10 times the thickness. Universal mill plate (*i.e.,* flat-rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 mm, but not exceeding 1250 mm, and of a thickness of not less than 4 mm, not in coils and without patterns in relief) of a thickness not less than 4.0 mm is not included within the scope of this investigation.

Specifically included within the scope of this investigation are vacuum degassed, fully stabilized (commonly referred to as interstitial-free (IF)) steels, high strength low alloy (HSLA) steels, and the substrate for motor lamination steels. IF steels are recognized as low carbon steels with micro-alloying levels of elements such as titanium or niobium (also commonly referred to as columbium), or both, added to stabilize carbon and nitrogen elements. HSLA steels are recognized as steels with micro-alloying levels of elements such as chromium, copper, niobium, vanadium, and molybdenum. The substrate for motor lamination steels contains micro-alloying levels of elements such as silicon and aluminum.

Steel products included in the scope of this investigation, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products in which: (i) iron predominates, by weight, over each of the other contained elements; (ii) the carbon content is 2 percent or less, by weight; and (iii) none of the elements listed below exceeds the quantity, by weight, respectively indicated:

1.80 percent of manganese, or
2.25 percent of silicon, or
1.00 percent of copper, or
0.50 percent of aluminum, or
1.25 percent of chromium, or
0.30 percent of cobalt, or
0.40 percent of lead, or
1.25 percent of nickel, or
0.30 percent of tungsten, or
0.10 percent of molybdenum, or
0.10 percent of niobium, or
0.15 percent of vanadium, or
0.15 percent of zirconium.

All products that meet the physical and chemical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products, by way of example, are outside or specifically excluded from the scope of this investigation:

- Alloy hot-rolled steel products in which at least one of the chemical elements exceeds those listed above (including, *e.g.,* American Society for Testing and Materials (ASTM) specifications A543, A387, A514, A517, A506).
- Society of Automotive Engineers (SAE)/American Iron & Steel Institute (AISI) grades of series 2300 and higher.
- Ball bearings steels, as defined in the HTSUS.
- Tool steels, as defined in the HTSUS.
- Silico-manganese (as defined in the HTSUS) or silicon electrical steel with a silicon level exceeding 2.25 percent.
- ASTM specifications A710 and A736.
- USS Abrasion-resistant steels (USS AR 400, USS AR 500).
- All products (proprietary or otherwise) based on an alloy ASTM specification (sample specifications: ASTM A506, A507).
- Non-rectangular shapes, not in coils, which are the result of having been processed by cutting or stamping and which have assumed the character of articles or products classified outside chapter 72 of the HTSUS.

The merchandise subject to this investigation is classified in the HTSUS at subheadings: 7208.10.15.00,

7208.10.30.00, 7208.10.60.00, 7208.25.30.00, 7208.25.60.00, 7208.26.00.30, 7208.26.00.60, 7208.27.00.30, 7208.27.00.60, 7208.36.00.30, 7208.36.00.60, 7208.37.00.30, 7208.37.00.60, 7208.38.00.15, 7208.38.00.30, 7208.38.00.90, 7208.39.00.15, 7208.39.00.30, 7208.39.00.90, 7208.40.60.30, 7208.40.60.60, 7208.53.00.00, 7208.54.00.00, 7208.90.00.00, 7211.14.00.90, 7211.19.15.00, 7211.19.20.00, 7211.19.30.00, 7211.19.45.00, 7211.19.60.00, 7211.19.75.30, 7211.19.75.60, and 7211.19.75.90. Certain hot-rolled carbon steel flat products covered by this investigation, including vacuum degassed fully stabilized; high strength low alloy; and the substrate for motor lamination steel may also enter under the following tariff numbers: 7225.11.00.00, 7225.19.00.00, 7225.30.30.50, 7225.30.70.00, 7225.40.70.00, 7225.99.00.90, 7226.11.10.00, 7226.11.90.30, 7226.11.90.60, 7226.19.10.00, 7226.19.90.00, 7226.91.50.00, 7226.91.70.00, 7226.91.80.00, and 7226.99.00.00. Subject merchandise may also enter under 7210.70.30.00, 7210.90.90.00, 7211.14.00.30, 7212.40.10.00, 7212.40.50.00, and 7212.50.00.00. Although the HTSUS subheadings are provided for convenience and U.S. Customs purposes, the Department's written description of the merchandise under investigation is dispositive.

Amended Final Determination

Saldanha Steel's first allegation is that we made a ministerial error in our calculation of the benefit from loan guarantees provided by the IDC by calculating the difference between the IDC's guarantee fee and a commercial guarantee fee, as well as the difference between the actual interest rate and a commercial interest rate for an unguaranteed loan. We disagree. We believe that Saldanha Steel's allegation constitutes an argument with the Department's methodology in calculating the benefit from these loan guarantees, rather than a ministerial error. Section 351.224(f) of the Department's regulations defines a ministerial error as ''an error in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.'' 19 CFR 351.224(f). Saldanha Steel's disagreement with our method for calculating the benefit from the guarantee program does not constitute an allegation of an ''unintentional error.'' The Department intentionally used the formula described above, as well as an unguaranteed commercial loan benchmark, in calculating the amount of the benefit. *See Memorandum from Joseph Spetrini to Faryar Shirzad, Regarding Issues and Decision Memorandum in the Final Affirmative Countervailing Duty Determination: Certain Hot-Rolled Carbon Steel Flat Products from South Africa* (September 21, 2001), at 17. Likewise, the Department explicitly and intentionally rejected the use of Saldanha Steel's actual loans as possible benchmarks. *Id.,* at 8.

Saldanha Steel's second allegation is that we made a ministerial error in our calculation of the benefit from the Findevco Ltd. loan. Saldanha Steel claims that the Department verified that it made actual and scheduled interest payments before 2003 on the loan it received from Findevco Ltd., which loan was determined to be countervailable by the Department, and that such interest payments were omitted from the calculation. We agree that this omission constitutes a ministerial error within the meaning of section 351.224(f) of the Department's regulations. We have, therefore, corrected our calculation to include these payments.

This correction resulted in the total combined countervailable subsidy rate attributable to Saldanha Steel and Iscor decreasing from 6.37 percent *ad valorem* to 5.76 percent *ad valorem.* Because the ''all others'' rate is based on the combined Saldanha Steel and Iscor rate, the correction also results in an identical change in the ''all others'' rate.

Subsidy Rates

Producer/exporter	Subsidy rate
Saldanha Steel/Iscor	5.76 % *Ad Valorem.*
All Others	5.76 % *Ad Valorem.*

This determination is issued and published pursuant to section 351.224(e) of the Department's regulations.

Dated: November 8, 2001.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 01–28756 Filed 11–15–01; 8:45 am]

BILLING CODE 3510–DS–P

CONSUMER PRODUCT SAFETY COMMISSION

Proposed Collection; Comment Request—Customer Satisfaction Surveys (Fast Track Recall Survey, Ombudsman Survey, State Partner Survey, Hotline Survey, and Clearinghouse Survey)

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: As required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Consumer Product Safety Commission (CPSC) requests comments on proposed surveys to determine customers' level of satisfaction with existing services. The Commission will consider all comments received in response to this notice before requesting approval of this collection of information from the Office of Management and Budget.

DATES: Written comments must be received by the Office of the Secretary not later than January 15, 2002.

ADDRESSES: Written comments should be captioned ''Customer Satisfaction Surveys'' and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to the attention of that office, room 419, North Tower, 4330 East-West Highway, Bethesda, Maryland, 20814. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at *cpsc-os@cpsc.gov.*

FOR FURTHER INFORMATION CONTACT: For information about the proposed collection of information, or to obtain a copy of the questions to be used for this

collection of information, call or write Linda L. Glatz, management and program analyst, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; (301) 504–0416, Ext. 2264.

SUPPLEMENTARY INFORMATION:

A. Background

This request for clearance of several planned customer satisfaction surveys is in response to the Government Performance and Results Act (GPRA)-related evaluations of service quality and customer satisfaction. ''Customers'' of CPSC include any individual or entity interested in or affected by agency activities. These would include, but not be limited to, (1) Consumers telephoning the Hotline to report product-related incidents, or to receive information; (2) consumers, industry members, or others contacting the National Injury Information Clearinghouse for information; (3) State representatives who work with CPSC on cooperative programs; (4) firms using CPSC's Fast-Track Product Recall Program to report and simultaneously propose satisfactory product recall plans; and (5) small businesses that have sought information or assistance from the CPSC's small business ombudsman.

The information will be used by the CPSC Office of Planning and Evaluation to prepare sections of the agency's annual performance report (required by the GPRA). This information will provide measures of the quality and effectiveness of agency efforts related to three goals in its strategic plan (informing the public, industry services, and customer satisfaction). If this information is not collected, the Commission would not have useful measures of its effectiveness in providing useful services to consumers and others, and information necessary to guide program development would not be available.

B. Estimated Burden

The surveys will be conducted by in-house staff through telephone or in writing by (1) Customer service follow-up queries with samples of telephone Hotline callers, (2) surveying a sample of firms using the Fast-track Product Recall Program to assess their views and suggestions for improvements in the service aspects of the program, and (3) conducting mail surveys of state partners and samples of customers of the National Injury Information Clearinghouse. Fewer than 5 customer surveys or information collection activities a year would be conducted using this clearance.

The Commission staff estimates the number of annual respondents to be about 1,504. Among the anticipated sources and annual respondents are:

Hotline	1,000
National Injury Information Clearinghouse	300
Small Businesses	50
State Partners	54
Fast Track Product Recall Program	100
	1,504

The average time needed for each response is estimated at 3.5 minutes. Thus, the annual time burden would be about 5,264 ($3.5 \times 1{,}504$) minutes or 88 hours. Using $13.50 an hour (the average hourly wage for all private industry workers, according to the 2000 edition of the *Statistical Abstract of the U.S.*) times 88 hours, the cost would be negligible (a total of about $1,188 per year).

C. Requests for Comments

The Commission solicits written comments from all interested persons about the proposed surveys. The Commission specifically seeks information relevant to the following topics:

—Whether the surveys described above are necessary for the proper performance of the Commission's functions, including whether the information would have practical utility;

—Whether the estimated burden of the proposed collections of information are accurate;

—Whether the quality, utility, and clarity of the information to be collected could be enhanced; and

—Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other forms of information technology.

Dated: November 9, 2001.

Todd Stevenson,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 01–28685 Filed 11–15–01; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Correction notice.

SUMMARY: On November 1, 2001, a 60-day notice inviting comment from the public was inadvertently published for the ''High School Equivalency Program (HEP) and College Assistance Migrant Program (CAMP)'' in the **Federal Register** (Volume 66, Number 212) dated November 1, 2001. This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collection (1890–0001). Therefore, this notice amends the public comment period for this program to 30 days. The Leader, Regulatory Information Management, Office of the Chief Information Officer, hereby issues a correction notice on the submission for OMB review as required by the Paperwork Reduction Act of 1995. Since an incorrect public notice was published on November 1, the Department of Education is correcting the end date to the 30 days as required for discretionary grants instead of 60 days.

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

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Karen Lee, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the Internet address *Karen_F._Lee@OMB.EOP.GOV.* Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651 or should be electronically mailed to the Internet address OCIO_IMB_Issues@ed.gov, or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Kathy Axt at (540) 776–7742.

Dated: November 9, 2001.

John Tressler,

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

[FR Doc. 01–28686 Filed 11–15–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.004D]

Desegregation of Public Education-Equity Assistance Center (EAC) Program Notice Inviting Applications for New Awards for Fiscal Year (FY) 2002

Purpose of Program: To award grants (cooperative agreements) to operate regional equity assistance centers to provide technical assistance and training, at the request of school boards and other responsible governmental agencies, on issues related to equity in education to ensure that all children, regardless of race, gender, or national origin, have equal access to quality education and the opportunity to develop high academic skills in reading, math, and other core subject areas.

Eligible Applicants: A public agency (other than a State educational agency or a school board) or private, non-profit organization.

Deadline Date for Transmittal of Applications: December 31, 2001.

Deadline Date for Intergovernmental Review: March 1, 2002.

Applications Available: November 16, 2001.

Available Funds: $7,344,000.

Estimated Range of Awards: $300,000 to $1,000,000 per year.

Estimated Average Size of Awards: $730,000.

Estimated Number of Awards: 10.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85 and 86; except that 34 CFR 75.232 does not apply to grants under 34 CFR parts 272; and (b) the regulations for this program in 34 CFR parts 270 and 272.

Priorities

Invitational Priorities: While applicants may propose any project within the scope of 34 CFR 272.10, the Equity (Desegregation) Assistance Center Program regulations, pursuant to 34 CFR 75.105 (c)(1) the Secretary is particularly interested in applications that meet one or more of the following invitational priorities related to the overall goal of higher academic achievement for all students. However, an application that meets one or more of the invitational priorities does not receive competitive or absolute preference over the other applications.

Invitational Priority 1—Projects that will give priority to assisting public school districts to maintain or advance the desegregation of their schools in a manner that will result in higher achievement in reading, mathematics, and other core subjects.

Invitational Priority 2—Projects that will give priority to assisting public school districts to promote equity in education by ensuring access to qualified teachers, quality instruction, and challenging curricula, in order to help students meet high standards of achievement.

Invitational Priority 3—Projects that will use effective methods to assess the impact of the program on schools, and particularly on student achievement.

Invitational Priority 4—Projects that will give priority to supporting public school choice by assisting public school districts, public charter schools and public chartering agencies to identify, design and implement sound policies and practices related to student recruitment, admissions, and selection that provide all students with equitable access to magnet schools, charter schools, and other public school options.

For Applications or Information Contact: Sandra H. Brown, U. S. Department of Education, 400 Maryland Avenue, SW., Room 3C122, Washington, DC 20202–6140. Telephone (202) 260–2638. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.,* Braille, large print, audiotape, or computer diskette) on request from the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternative format, also, by contacting that person. However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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Program Authority: 42 U.S.C. 2000c-2000c–2, 2000c–5.

Dated: November 14, 2001.

Susan B. Neuman,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 01–28875 Filed 11–16–01; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Nos: 84.031S, 84.031A, 84.031T, 84.031N, 84.031W]

Office of Postsecondary Education; Developing Hispanic-Serving Institutions, Strengthening Institutions, American Indian Tribally Controlled Colleges and Universities, and Alaska Native and Native Hawaiian-Serving Institutions Programs; Notice Inviting Participants to Pre-Application Technical Assistance Workshop for Prospective Fiscal Year (FY) 2002 Applicants

SUMMARY: The Department of Education, Office of Postsecondary Education, will conduct a technical assistance workshop for prospective applicants for funding under the following programs: The Developing Hispanic-Serving Institutions (HSI) Program, authorized under Title V of the Higher Education Act of 1965, as amended (HEA); and the Strengthening Institutions Program, American Indian Tribally Controlled Colleges and Universities, and Alaska Native and Native Hawaiian-Serving Institutions Programs authorized under Title III, Part A of the HEA. At this workshop, Department staff will assist prospective applicants in preparing individual development, cooperative arrangement and planning grant applications under the Title III, Part A programs; and in preparing individual development and cooperative arrangement grant applications under the HSI program. Additionally, assistance will be provided in preparing eligibility data. Department staff also will provide budget information as well as deal with project design issues.

The Department is holding this workshop to give early assistance to potential applicants even though we have not yet received appropriations for these programs or officially announced a closing date for receipt of applications.

SUPPLEMENTARY INFORMATION: The technical assistance workshop will be held as follows:

Date: Wednesday, December 5, 2001.

Time: 8:30 am–4:30 pm.

Location: University of the District of Columbia, 4200 Connecticut Ave., NW, Building 41 A03 Auditorium, Washington, DC 20008.

Contact: Cynthia Belton.

E-mail: cbelton@firebirds.udc.edu.

Fax: 202–274–5304 Cynthia Belton.

Telephone: 202–274–5100.

The contact person at the hosting institution listed previously serves as an emergency contact in the event that anyone needs to reach a workshop attendee during the workshop. We ask that this individual be contacted only in an emergency. Please contact the Department of Education contact persons cited under **FOR FURTHER INFORMATION CONTACT** if you have any questions about the details of the meeting. You will need to pre-register at our web site cited under **FOR FURTHER INFORMATION CONTACT**; however, there is no registration fee.

Assistance to Individuals With Disabilities at the Technical Assistance Workshop

The technical assistance workshop site is accessible to individuals with disabilities. If you will need an auxiliary aid or service to participate in the workshop (*e.g.*, interpreting service, assistive listening device or materials in an alternative format), notify the contact person listed under **FOR FURTHER INFORMATION CONTACT** at least two weeks before the scheduled workshop date. Although we will attempt to meet a request we receive after this date, we may not be able to make available the requested auxiliary aid or service because of insufficient time to arrange it.

FOR FURTHER INFORMATION CONTACT: Darlene B. Collins, Title III, Part A Team Leader or Carnisia Proctor, Title V-Developing Hispanic-Serving Institutions Program, Office of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., 6th Floor, Room 6049, Washington, DC 20202–5335. Telephone number: (202) 502–7777 for Mrs. Collins, and (202) 502–7606 for Ms. Proctor, or via Internet: *darlene.collins@ed.gov carnisia.proctor@ed.gov*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Registration information and the registration form for the technical assistance workshop will be posted on the internet at the following sites:

For Title III—*http://www.ed.gov/offices/OPE/HEP/idues/title3a*

For Title V—*http://www.ed.gov/hsi*

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact persons listed under **FOR FURTHER INFORMATION CONTACT**.

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Program Authority: 20 U.S.C. 1057–1059d, 1101–1103g.

Dated: November 13, 2001.

Maureen A. McLaughlin,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 01–28730 Filed 11–15–01; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Bonneville Power Administration

Condon Wind Project

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of availability of Record of Decision (ROD).

SUMMARY: This notice announces the availability of the ROD to enter into power purchase and transmission service agreements to acquire and connect the scheduled output of up to 49.8 megawatts of the Condon Wind Project located in central Oregon. This decision is based on the Condon Wind Project Final Environmental Impact Statement (DOE/EIS–0321, August 2001) and Supplement Analysis (DOE/EIS–0321/SA–01). The Condon Wind Project will be developed by SeaWest WindPower, Inc.

ADDRESS: Copies of the ROD, Environmental Impact Statement, and Supplement Analysis may be obtained by calling BPA's toll-free document request line, 1–800–622–4520; or at our Web site, *www.efw.bpa.gov.*

FOR FURTHER INFORMATION CONTACT: Sarah T. Branum, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon, 97208–3621; toll-free telephone number 1–800–282–3713; fax number 503–230–5699; or e-mail *stbranum@bpa.gov.*

Issued in Portland, Oregon, on November 6, 2001.

Stephen J. Wright,

Acting Administrator and Chief Executive Officer.

[FR Doc. 01–28726 Filed 11–15–01; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–263–000, et al.]

Alliant Energy Corporate Services, Inc., et al. Electric Rate and Corporate Regulation Filings

November 8, 2001.

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

1. Alliant Energy Corporate Services, Inc.

[Docket No. ER02–263–000]

Take notice that on November 6, 2001, Alliant Energy Corporate Services, Inc. tendered for filing with the Federal Energy Regulatory Commission (Commission) revised tariff sheets relating to its System Coordination and Operating Agreement (SCOA) in the above referenced docket.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce and the Public Service Commission of Wisconsin.

Comment date: November 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

2. People's Electric Cooperative

[Docket No. ER02–264–000]

Take notice that on November 6, 2001, People's Electric Cooperative, tendered for filing with the Federal Energy Regulatory Commission (Commission) proposed changes in its FERC Rate Schedule No.2. People's

proposes to amend appendix A of its Transmission Service Agreement with the Byng Public Works Authority (BPWA) to provide for an additional delivery point. This change reflects an agreement between the parties.

Copies of the filing were served upon Byng Public Works Authority, Ada, Oklahoma, and the Oklahoma Corporation Commission.

Comment date: November 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

3. Louisville Gas and Electric Company/ Kentucky Utilities Company

[Docket No. ER02–265–000]

Take notice that on November 6, 2001, Louisville Gas and Electric Company (LG&E)/Kentucky Utilities (KU) (hereinafter Companies) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Netting Agreement between the Companies and CMS Marketing Services and Trading Company.

Comment date: November 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

4. Progress Energy Inc., on behalf of Carolina Power & Light Company

[Docket No. ER02–266–000]

Take notice that on November 6, 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, Monroe Power Company. 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 October 17, 2001 for this Service Agreement.

Comment date: November 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

5. Arizona Public Service Company

[Docket No. ER02–268–000]

Take notice that on November 6, 2001, Arizona Public Service Company (APS) tendered for filing with the Federal Energy Regulatory Commission (Commission) a cancellation of two service agreements with Tohono O'odham Utility Authority.

A copy of this filing has been served on Tohono O'odham Utility Authority and the Arizona Corporation Commission.

Comment date: November 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

6. Mill Run WindPower LLC

[Docket No. ER02–269–000]

Take notice that on November 6, 2001, Mill Run Windpower LLC (Mill Run), filed with the Federal Energy Regulatory Commission (Commission) the Power Purchase Agreement by and between Mill Run and Exelon Generation Company, LLC (Exelon), dated as of February 14, 2001, as amended by the First Amendment Power Purchase Agreement, (PPA). The filing is made pursuant to Mill Run's authority to sell power at market-based rates under its Market-Based Rate Tariff, Original Sheet No. 1, Original Volume No. 1, approved by the Commission on July 17, 2001 in Docket No. ER01–1710–001.

Comment date: November 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

7. Somerset Windpower LLC

[Docket No. ER02–270–000]

Take notice that on November 6, 2001, Somerset Windpower LLC (Somerset), filed with the Federal Energy Regulatory Commission (Commission) the Power Purchase Agreement by and between Somerset and Exelon Generation Company, LLC (Exelon), dated as of April 4, 2001. The filing is made pursuant to Somerset's authority to sell power at market-based rates under its Market-Based Rate Tariff, Second Revised Sheet No. 1, Original Volume No. 1 (Docket No. ER01–2139–002), approved by the Commission on July 20, 2001 in Docket No. ER01–2139–001.

Comment date: November 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

8. American Transmission Company LLC

[Docket No. ER02–272–000]

Take notice that on November 6, 2001, American Transmission Company LLC (ATCLLC) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Distribution-Transmission Interconnection Agreement between ATCLLC and Marshfield Electric & Water Department. ATCLLC requests an effective date of June 19, 2001.

Comment date: November 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

9. American Transmission Company LLC

[Docket No. ER02–273–00]

Take notice that on November 6, 2001, American Transmission Company LLC (ATCLLC) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Distribution-Transmission Interconnection Agreement between ATCLLC and City of Sturgeon Bay. ATCLLC requests an effective date of June 25, 2001.

Comment date: November 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

10. NRG McClain LLC

[Docket No. ER02–68–001]

Take notice that on November 6, 2001, NRG McClain LLC (NRG McClain) filed a Notice of Succession informing the Federal Energy Regulatory Commission (Commission) that the name Duke Energy McClain, LLC had been changed to NRG McClain. NRG McClain also submitted with the Notice of Succession tariff sheets with the changed name, that is, NRG McClain. The tariff sheets submitted by NRG McClain were designated ''Revised'' Sheet Nos. 1, 2 and 3. However, the tariff sheets should instead have been designated ''Original'' Sheet Nos. 1, 2 and 3. Accordingly, on November 6, 2001, NRG McClain amended its October 10, 2001 filing, withdrew the tariff sheets filed on October 10, 2001 and replaced the tariff sheets filed on October 10, 2001 with those filed on November 6, 2001.

Comment date: November 27, 2001, in accordance with Standard Paragraph E at the end of this notice.

11. Somerset Windpower LLC and EWO Wind, LLC

[Docket No. EC02–18–000]

Take notice that on November 2, 2001, Somerset Windpower LLC (Somerset) and EWO Wind, LLC (EWO and, collectively with Somerset, Applicants) filed with the Federal Energy Regulatory Commission (Commission) a joint application pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby Applicants request approval of the transfer of between 98% and 100% of the membership interests in Somerset from Atlantic Renewable Energy Corporation and Zilkha Renewable Energy, LLC to EWO.

Somerset is engaged exclusively in the business of owning and operating a 9 MW wind-powered electric generating facility located in Somerset Township,

Somerset County, Pennsylvania (the ''Facility''), and selling its capacity and energy at wholesale to Exelon Power Generation LLC. The Applicants request privileged treatment by the Commission of the detailed Term Sheet between Zilkha Renewable Energy, LLC and Entergy Power Generation Corp. that governs the proposed transfer.

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

12. Northern Iowa Windpower LLC and EWO Wind, LLC

[Docket No. EC02–19–000]

Take notice that on November 2, 2001, Northern Iowa Windpower LLC (Northern Iowa) and EWO Wind, LLC (EWO and, collectively with Northern Iowa, the Applicants) filed with the Federal Energy Regulatory Commission a joint application pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby Applicants request approval of the transfer of between 98% and 100% of the membership interests in Northern Iowa from Midwest Renewable Energy Corporation and Zilkha Renewable Energy, LLC to EWO.

Northern Iowa is engaged exclusively in the business of owning and operating a 80 MW wind-powered electric generating facility located in Worth County, Iowa (the ''Facility''), and selling its capacity and energy at wholesale to Wisconsin Power and Light Company. The Applicants request privileged treatment by the Commission of the detailed Term Sheet between Zilkha Renewable Energy, LLC and Entergy Power Generation Corp. that governs the proposed transfer.

Comment date: November 23, 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. 01–28723 Filed 11–15–01; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice

November 13, 2001.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: November 20, 2001, 10:00 a.m.

PLACE: Room 2C, 888 First Street, NE., Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*** Note:** Items Listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Secretary, Telephone (202) 208–0400, For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

779th—Meeting November 20, 2001; Regular Meeting, 10:00 A.M.

Administrative Agenda

A–1.
DOCKET# AD02–1, 000, Agency Administrative Matters

A–2.
DOCKET# AD02–2, 000, Legislative Matters

A–3.
DOCKET# AD02–3, 000, Customer Matters

A–4.
DOCKET# AD02–4, 000, Reliability, Security and Market Operations

Miscellaneous Agenda

M–1.
OMITTED

Markets, Tariffs and Rates—Electric

E–1.
OMITTED

E–2.
DOCKET# EL01–92, 000, Bangor Hydro-Electric Company v. ISO New England Inc.

E–3.
DOCKET# ER01–2462, 000, PG&E Fossil LLC, PSEG Energy Resources & Trade LLC and PSEG Nuclear LLC
OTHER#S ER01–2462, 001, PG&E Fossil LLC, PSEG Energy Resources & Trade LLC and PSEG, Nuclear LLC
ER01–2462, 002, PG&E Fossil LLC, PSEG Energy Resources & Trade LLC and PSEG Nuclear LLC

E–4
DOCKET# ER01–3111, 000, Tucson Electric Power Company
OTHER#S ER00–2998, 001, Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.

E–5.
DOCKET# ER01–2390, 002, Huntington Beach Development, L.L.C.

E–6.
DOCKET# ER01–3112, 000, New York Independent System Operator, Inc.
OTHER#S ER01–3112, 001, New York Independent System Operator, Inc.
ER01–3112, 002, New York Independent System Operator, Inc.

E–7.
DOCKET# ER01–2924, 000, WPS Resources Operating Companies
OTHER#S ER01–2924, 001, WPS Resources Operating Companies

E–8.
DOCKET# ER01–3123, 000, American Electric Power Service Corporation

E–9.
DOCKET# ER01–3122, 000, Appalachian Power Company

E–10.
DOCKET# ER01–3120, 000, Kentucky Power Company

E–11.
DOCKET# ER01–3074, 000, San Diego Gas & Electric Company
OTHER#S ER01–3074, 001, San Diego Gas & Electric Company

E–12.
DOCKET# ER01–3141, 000, American Electric Power Service Corporation

E–13.
DOCKET# ER01–3155, 000, New York

Independent System Operator, Inc.
E–14.
DOCKET# ER01–3147, 000, New York Independent System Operator, Inc.
E–15.
DOCKET# ER02–92, 000, Virginia Electric and Power Company
OTHER#S ER02–93, 000, Virginia Electric and Power Company
E–16.
DOCKET# ER02–42, 000, GWF Energy LLC
OTHER#S ER00–2998, 001, Southern Company Services, Inc.
ER00–2999, 001, Southern Company Services, Inc.
ER00–3000, 001, Southern Company Services, Inc.
ER00–3001, 001, Southern Company Services, Inc.
E–17.
DOCKET# ER02–52, 000, Carolina Power & Light Company
E–18.
OMITTED
E–19.
OMITTED
E–20.
DOCKET# EC01–151, 000, Otter Tail Power Company
E–21.
OMITTED
E–22.
DOCKET# ER01–2534, 000, New England Power Company
OTHER#S ER01–2534, 001, New England Power Company
ER01–2534, 002, New England Power Company
E–23.
DOCKET# ER01–3149, 000, Nevada Power Company
E–24.
DOCKET# ER01–1587, 002, Consumers Energy Company
E–25.
OMITTED
E–26.
DOCKET# ER96–2495, 015, AEP Power Marketing, Inc., AEP Service Corporation, CSW Power Marketing, Inc., CSW Energy Services, Inc. and Central and South West Services, Inc.
OTHER#S ER97–1238, 010, AEP Power Marketing, Inc., AEP Service Corporation, CSW Power Marketing, Inc., CSW Energy Services, Inc. and Central and South West Services, Inc.
ER97–4143, 003, AEP Power Marketing, Inc., AEP Service Corporation, CSW Power Marketing, Inc., CSW Energy Services, Inc. and Central and South West Services, Inc.
ER98–542, 005, AEP Power Marketing, Inc., AEP Service Corporation, CSW Power Marketing, Inc., CSW Energy Services, Inc. and Central and South West Services, Inc.
ER98–2075, 009, AEP Power Marketing, Inc., AEP Service Corporation, CSW Power Marketing, Inc., CSW Energy Services, Inc. and Central and South West Services, Inc.
ER91–569, 009, Entergy Services, Inc.
ER97–4166, 008, Southern Company Energy Marketing, L.P.
E–27.
DOCKET# ER99–396, 000, Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, PECO Energy Company, PP&L, Inc., Potomac Electric Power Company, Public Service Electric and Gas Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company and UGI Utilities, Inc.
E–28.
DOCKET# TX97–5, 000, Tennessee Power Company
E–29.
DOCKET# EL00–62, 034, ISO New England Inc.
E–30.
OMITTED
E–31.
DOCKET# ER99–4392, 001, Southwest Power Pool, Inc.
E–32.
DOCKET# EL99–90, 001, City of Wichita, Kansas v. Western Resources, Inc.
OTHER#S EL99–90, 002, City of Wichita, Kansas v. Western Resources, Inc.
E–33.
DOCKET# ER99–3719, 001, Mountain West Independent System Administrator
OTHER#S EC99–100, 001, Sierra Pacific Power Company and Nevada Power Company
E–34.
OMITTED
E–35.
DOCKET# EL01–45, 001, Consolidated Edison Company of New York, Inc.
OTHER#S ER01–1385, 001, Consolidated Edison Company of New York, Inc.
E–36.
DOCKET# ER01–2596, 001, NEU Management Committee
E–37.
OMITTED
E–38.
DOCKET# NJ01–9, 000, Umatilla Electric Cooperative Association
E–39. OMITTED
E–40.
DOCKET# EL01–77, 000, Cogeneration Association of California, Coalinga Cogeneration Company, Kern River Cogeneration Company, Mid-Set Cogeneration Company, Sycamore Cogeneration Company, Texaco Kern Field Projects, Sargent Canyon Cogeneration Company, Salinas River Cogeneration Company, Texaco North Midway Cogeneration Project, Texaco McKittrick Cogeneration Project, Midway Sunset Cogeneration Company and Watson Cogeneration Company v. California Public Utilities Commission
E–41.
OMITTED
E–42.
DOCKET# EL00–99, 000, Maine Public Utilities Commission v. ISO New England, Inc.
OTHER#S EL00–100,000, United Illuminating Company v. ISO New England, Inc.
EL00–112, 000, Bangor Hydro-Electric Company v. ISO New England, Inc.
E–43.
DOCKET# EL01–19, 000, H.Q. Energy Services (U.S.), Inc. v. New York Independent System Operator, Inc.
OTHER#S EL02–16, 000, PSEG Energy Resource & Trade LLC v. New York Independent System Operator, Inc.
E–44.
DOCKET# EL01–115, 000, Kinder Morgan Power Company v. Southern Company Services, Inc.
E–45.
OMITTED
E–46.
DOCKET# EL02–7, 000, Reliant Energy Power Generation, Inc., Reliant Energy Services, Inc., Mirant Americas Energy Marketing, LP and Mirant California, LLC v. the California Independent System Operator, Corporation
E–47.
DOCKET# EL01–118, 000, Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorizations

Markets, Tariffs and Rates—Gas

G–1.
OMITTED
G–2.
OMITTED
G–3.
DOCKET# RP01–511, 000, Florida Gas Transmission Company
G–4.
OMITTED
G–5.
DOCKET# RP02–24, 000, Northwest Pipeline Corporation

G–6.
OMITTED
G–7.
DOCKET# RP00–347, 001, Canyon Creek Compression Company
G–8.
DOCKET# RP96–312, 017, Tennessee Gas Pipeline Company
OTHER#S RP96–312, 025, Tennessee Gas Pipeline Company
RP96–312, 026, Tennessee Gas Pipeline Company
G–9.
DOCKET# GT01–25, 001, ANR Pipeline Company
G–10.
DOCKET# RP99–301, 029, ANR Pipeline Company
G–11.
DOCKET# RP99–301, 030, ANR Pipeline Company
G–12.
OMITTED
G–13.
DOCKET# RP01–350, 005, Colorado Interstate Gas Company
OTHER#S RP01–200, 003, Colorado Interstate Gas Company
RP01–350, 002, Colorado Interstate Gas Company
RP01–350, 004, Colorado Interstate Gas Company
RP01–350, 003, Colorado Interstate Gas Company
G–14.
DOCKET# RP00–344, 003, Dominion Transmission, Inc.
OTHER#S RP00–601, 004, Dominion Transmission, Inc.
G–15.
DOCKET# IS01–441, 002, Olympic Pipe Line Company
G–16.
DOCKET# MG01–23, 001, Florida Gas Transmission Company

Energy Projects—Hydro

H–1.
DOCKET# UL98–1, 005, Great Northern Paper, Inc.
OTHER# UL98–1, 004, Great Northern Paper, Inc.
H–2.
DOCKET# DI99–2, 001, Alaska Power & Telephone Company
H–3.
DOCKET# P–2689, 021, N.E.W. HYDRO Incorporated

Energy Projects—Certificates

C–1.
DOCKET# CP01–161, 000, Southern Natural Gas Company
C–2.
DOCKET# CP01–360, 000, Tennessee Gas Pipeline Company
C–3.
DOCKET# CP00–437, 000, El Paso Natural Gas Company
C–4.
DOCKET# CP01–70, 001, Columbia Gas Transmission Corporation
OTHER#S CP01–70, 002, Columbia Gas Transmission Corporation
C–5.
DOCKET# CP01–423, 000, Dynegy LNG Production Terminal, L.P.
C–6.
DOCKET# CP01–36, 000, Zia Natural Gas Company, An Operating Division of Natural Gas Processing Company v. Raton Gas Transmission Company
OTHER#S CP01–382, 000, Zia Natural Gas Company, an Operating Division of Natural Gas Processing Company v. Raton Gas Transmission Company
CP01–383, 000, Raton Gas Transmission Company
CP01–52, 000, Raton Gas Transmission Company
C–7. DOCKET# GP01–1, 000, Shell Deepwater Development Inc., Shell Deepwater Production Inc. and Shell Offshore Inc.
C–8.
DOCKET# CP01–443, 000, K N Wattenberg Transmission Limited Liability Company
C–9. DOCKET# CP01–92, 001, East Tennessee Natural Gas Company

David P. Boergers,
Secretary.
[FR Doc. 01–28819 Filed 11–14–01; 12:15 pm]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Regulations Governing Off-the-Record; Communications; Public Notice

November 9, 2001.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications received in the Office of the Secretary within the preceding 14 days. Copies of this filing are on file with the Commission and are available for public inspection. The documents may be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

Exempt

1. Project No. 1895–000, 10–30–01, Nicholas Jayjack.

2. Project No. 1494–232, 10–30–01, Mike Brady (Duck Creek Homeowners).

3. Project No. 2042–000, 11–06–01, Timothy Batchelder

4. Docket No. CP01–384–000, 11–06–01, Joanne Watchelder (Meeting record).

5. Docket No. CP01–12–000, 11–09–01, Anne Howard.

Linwood A. Watson, Jr.,
Acting Secretary.
[FR Doc. 01–28722 Filed 11–15–01; 8:45 am]
BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7104–2]

Proposed Settlement Agreement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed settlement agreement; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended, 42 U.S.C. 7413(g), notice is hereby given of a proposed settlement agreement in *Cement Kiln Recycling Coalition* v. *U.S. Environmental Protection Agency*, No. 99–1457 (D.C. Cir.).

This case concerns a challenge to the rule entitled National Emission Standards for Hazardous Air Pollutants for Hazardous Waste Combustors, published in the **Federal Register** at 64 FR 52828 on September 30, 1999. These standards are based on the performance of Maximum Achievable Control Technology (MACT), and implement section 112(d) of the Clean Air Act.

A number of parties, representing different interests of both industrial sources and of the environmental community, sought judicial review of the rule. On July 24, 2001, the United States Court of Appeals for the District of Columbia Circuit granted the Sierra Club's petition for review and vacated the challenged portions of the rule. 255 F. 3d 855. The proposed settlement is between EPA and the Sierra Club and provides that EPA will promulgate final regulations fully compliant with the court's opinion and section 112(d) of the Clean Air Act by June 14, 2005.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed settlement if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

EPA and the other parties to this case also have filed a joint motion with the court requesting that the court stay issuance of its mandate until February 14, 2002 so that EPA may issue interim regulations (i.e. regulations bridging the gap between February 14, 2002 and June 14, 2005) establishing emission standards for hazardous waste combustors, and making certain other amendments relating to implementation of those standards. The joint motion, and its attachment, set out in detail the steps EPA intends to take should the court grant the motion. Although this joint motion is not a settlement agreement, in order to provide context for the settlement agreement with Sierra Club which is the subject of this notice, we are also making available to the public for comment the joint motion and its attachment.

Copies of the settlement, and the joint motion plus attachment, are available from Phyllis Cochran, (202) 564–5566. Written comments should be sent to Steven Silverman, Office of General Counsel (2366A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and must be submitted on or before December 17, 2001.

Dated: November 1, 2001.

Alan W. Eckert,

Associate General Counsel.

[FR Doc. 01–28735 Filed 11–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6623–7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated May 18, 2001 (66 FR 27164).

Draft EISs

ERP No. D–AFS–J65342–00 Rating EC2, Wasatch-Cache National Forest Revised Land and Resource Management Plan, Implementation, several counties, UT and Uinta County, WY.

Summary: EPA expressed environmental concerns associated with user-created trails, and with inadequate protection of areas with wilderness values. These impacts, especially to water quality and biodiversity should be reduced, avoided or mitigated to meet the purpose and need and to protect ecosystem function.

ERP No. D–AFS–L65381–ID Rating EC2, Caribou National Forest Land and Resource Management Plan, Implementation Revised Forest Plan, Bannock, Bear Lake. Bingham, Bonneville, Caribou, Franklin, Oneida and Power Counties, Cache and Rich Counties, UT, Lincoln County, WY.

Summary: EPA expressed environmental concerns about the inadequacies of the cumulative effects analysis and explanations of environmental consequences among the alternatives, and about the lack of discussion on further selenium impacts.

ERP No. D–AFS–L65389–OR Rating EC2, Shore 'Nuf Timber Sale, Timber Harvesting on the Detroit Ranger District, Willamette National Forest, Linn and Marion Counties, OR

Summary: EPA expressed environmental concerns with the lack of discussion on residual smoke expected to affect downwind communities as well as how the Forest Service (FS) will meet its obligations under the Safe Drinking Water Act. EPA requested that the FS identify a pre-burn action plan, collaborate with local and state agencies to protect water sources, and complete a survey for mollusks and the red tree vole.

ERP No. D–BLM–K65231–CA Rating LO, Northern and Eastern Mojave Planning Area (NEMO), Implementation, California Desert Conservation Area Plan Amendments, Mojave Desert, CA.

Summary: EPA had no objections to the proposed plan amendments, and recommended that BLM provide beneficial use designations for travel routes to be retained in the planning area.

ERP No. D–FHW–B50013–RI Rating EC2, Sakonnet River Bridge Rehabilitation or Replacement Project, Portsmouth & Tiverton, Newport County, RI.

Summary: EPA expressed environmental concerns and asked the FHWA/RIDOT to expand the analysis of stormwater controls, to evaluate means to better control emissions from diesel construction equipment, to consider end of pipe pollution control retrofits for construction equipment and to make sure the project is designed to avoid precluding future commuter rail service to the area.

ERP No. D–FHW–C40154–NY Rating EC2, Interstate 86/Route 15 Interchange and Route 15/Gang Mills Interchange, New Roadway and Ramp Construction, Intersection Reconstruction, New Bridges and Bridge Rehabilitation, Town of Erwin, Steuben County, NY.

Summary: EPA raised environmental concerns regarding indirect impacts to wetlands.

ERP No. D–FHW–E40790–00 Rating EC2, Corridor 19/Interstate 69 Proposed

Improvements from the U.S. 412/U.S. 51 Interchange to the U.S. 51 Fulton Bypass/Purchase Parkway Interchange, Dyer and Obion Counties, TN and Fulton County, KY.

Summary: EPA had environmental concerns about potential water quality, environmental justice, and secondary and cumulative impacts in the study area, specifically related to connected roadway improvements and other segments of the proposed I–69.

ERP No. D–FHW–K40247–CA Rating EC2, CA–22/West Orange County Connection Project, Transportation Improvements between Interstate 605 and State Route 55, In the cities of Los Alamitos, Seal Beach, Garden Grove, Westminster, Santa Ana, and Orange, Orange County, CA.

Summary: EPA expressed environmental concerns regarding a lack of air quality mitigation for criteria air pollutants, potential impacts due to hazardous air pollutants from project construction and operation, and environmental justice. EPA asked that the Final EIS provide additional information on these issues and include appropriate mitigation measures.

ERP No. D–FRC–K03025–00 Rating EC2, North Baja Pipeline Project, Docket Nos. CP01–22–000 and CP01–23–000, Construction and Operation A New Natural Gas Transmission Pipeline, Land Use Plan Amendment, Right-of-Way Grant, NPDES, COE Section 10 and 404 Permits, La Praz and Yuma Counties, AZ and Imperial, Kern, Riverside, Palo Verde, San Bernardino and San Diego Counties.

Summary: EPA expressed environmental concerns regarding the need for more comprehensive disclosure of impacts from the proposed action, particularly impacts to air and water quality.

ERP No. DA–COE–K36100–CA Rating EC2, American River Watershed Long-Term Study, Updated Information, To Provide Flood Damage Reduction and Ecosystem Restoration, between Folson Dam and the Sacramento River, Sacramento, Placer and Sutter Counties, CA.

Summary: EPA expressed environmental concerns regarding the feasibility and acceptability of a detention dam to effects on unique natural resources of national significance on the North and Middle Forks of the American River. EPA also stated concerns regarding the alternatives analysis, compliance with Clean Water Act Section 404, cumulative impacts analysis, water supply and safety.

Final EISs

ERP No. F–COE–B32011–RI Providence River and Harbor Maintenance Dredging Project, To Restore the Navigation Efficiency, Providence River Shipping Channel, Narragansett Bay, RI.

Summary: EPA expressed environmental concerns related to the impacts of the preferred disposal site, the CAD cell, the Clean Water Act Section 404(b)(1) evaluation, project sequencing and monitoring. EPA recommended that additional information should be provided before the conclusion of the NEPA process.

ERP No. F–FAA–E51049–KY, Cincinnati/Northern Kentucky International Airport, Construction and Operation of a New 8,000-foot Runway 17/35 (Future 18R/36L); 2,000-foot Extension of Runway 9/27, Funding and Airport Layout Plan,(ALP) Boone County, KY.

Summary: EPA had remaining environmental concerns regarding noise, wetlands, cumulative impacts, induced impacts and other impacts, and recommended that these be addressed in the FAA ROD.

ERP No. F–NPS–F61019–MN, Voyageurs National Park General Management, Visitor Use and Facilities Plans, Implementation, Koochiching and St. Louis Counties, MN.

Summary: EPA continued to express environmental concerns over future management of the impacts to water quality from motorboat use, fueling stations and snowmobile use.

ERP No. FA–FHW–F40347–IL, FAP Route 340 Transportation Project, Construction from I–55 to I–80, Funding, US Coast Guard Permit and COE Section 404 Permit, Cook, Dupage and Will Counties, IL.

Summary: EPA continues to have environmental concerns with regard to indirect effects such as land use changes and with regard to cumulative effects to wetlands and other natural features. EPA recommended that the ROD discuss commitments that have been made at a local level to manage growth and its impacts on the environment.

Dated: November 13, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–28746 Filed 11–15–01; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6623–6]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *www.epa.gov/oeca/ofa.*

Weekly receipt of Environmental Impact Statements

Filed November 05, 2001 Through November 09, 2001

Pursuant to 40 CFR 1506.9

EIS No. 010418, Draft EIS, COE, MS, Yalobusha River Watershed, Demonstration Erosion Control Project, Construction of Six Floodwater-Retarding Structures, Yazoo Basin, Webster, Calhoun and Chickasaw Counties, MS, Due: January 02, 2002, Contact: Wendell King (601) 631–5967. This document is available on the Internet at: *http://www.mvk.usace.army.mil/*

EIS No. 010419, Draft EIS, AFS, UT, Ray's Valley Road Realignment, Proposal to Reduce or Eliminate Adverse Impacts to Watershed, and Aquatic Species, Provide Safer Driving Conditions, Uinta National Forest, Spanish Fork Ranger District, Utah County, UT, Due: January 02, 2002, Contact: Renee Flanagan (801) 342–5145. This document is available on the Internet at: *http://www.fs.fed.us/r4/uinta.*

EIS No. 010420, Draft EIS, FHW, LA, Louisiana 1 Improvements Project, Between Golden Meadow to Port Fourchon Construction of Four-Lane Fully Controlled Access Elevated Highway, Funding, COE Section 10 and 404 Permits, NPDES and Coast Guard Bridge Permits, Lafourche Parish, LA, Due: January 07, 2002, Contact: William C. Farr (225) 757–7615.

EIS No. 010421, Final EIS, FHW, MN, I–494 Reconstruction Corridor Study, I–394 on the west to the Minnesota River, Funding and Section 404 Permit, Hennepin County, MN, Due: December 17, 2001, Contact: Stanley Graczyk (651) 291–6119.

EIS No. 010422, Draft EIS, GSA, CA, Los Angeles Federal Building U.S. Courthouse, Proposal to Construct a New U.S. Courthouse in Civic Center Areas of Downtown Los Angeles, City of Los Angeles, Los Angeles County, CA, Due: December 31, 2001, Contact: Javad Soltani (415) 522–3493.

EIS No. 010423, Draft EIS, UAF, OR, Altus Air Force Base (AFB), Proposes Airfield Repairs, Improvements, and Adjustments to Aircrew Training,

Install an Instrument Landing System (ILS) and a Microwave Landing System (MLS), Jackson County, OR, Due: December 31, 2001, Contact: Ron Voorhees (210) 652–3656.

EIS No. 010424, Draft Supplement, COE, FL, Central and Southern Florida Project, Water Preserve Areas (WPA) Feasibility Study, To Provide a Mechanism for Increased Aquifer Recharge and Surface and Subsurface Water Storage Capacity, Comprehensive Everglades Restoration Plan, Broward and Miami-Dade Counties, FL, Due: December 31, 2001, Contact: Steve Sutherfield (904) 232–1104.

EIS No. 010425, Final EIS, FAA, NC, Piedmont Triad International Airport, Construction and Operation, Runway 5L/23R and New Overnight Express Air Cargo Sorting and Distribution Facility, and Associated Developments, Funding, NPDES and COE Section 404 Permit, City of Greensboro, Guilford County, NC, Due: December 17, 2001, Contact: Donna M. Meyer (404) 305–7150.

EIS No. 010426, Draft EIS, DOE, KY, Kentucky Pioneer Integrated Gasification Combined Cycle Demonstration Project, Constructing and Operating a 540 megawatt-electric Plant, Clean Coal Technology Program, Clark County, KY, Due: December 31, 2001, Contact: Roy Spears (202) 285–5460.

EIS No. 010427, Draft EIS, AFS, MT, WA, ID, Programmatic EIS—Kootena, Idaho Panhandle, and Lolo National Forests, Forest Plan Amendments for Access Management within the Selkirk and Cabinet-Yaak Grizzly Bear Recovery Zones, ID, WA, MT, Due: December 31, 2001, Contact: Rob Carlin (406) 882–4451.

EIS No. 010428, Draft EIS, FHW, KY, ID, Louisville-Southern Indiana Ohio River Bridges Projects, To Improve Cross-River Mobility between Jefferson County, KY and Clark County, ID, Coast Guard Bridge Permit, COE Section 10 and 404 Permits, Jefferson County, KY and Clark County, ID, Due: February 25, 2002, Contact: John Ballantyne (502) 223–6747. This document is available on the Internet at: *http://www.kyinbridges.com.*

EIS No. 010429, Draft EIS, COE, TX, Bayport Channel Container/Cruise Terminal Project, To Construct and Operate a Marine Terminal Complex on the Bayport Ship Channel, Issuance of Permit, Section 404 and 10 Permits, Harris County, TX, Due: February 11, 2002, Contact: Kerry M. Stanley (409) 766–6345.

EIS No. 010430, Draft EIS, COE, 00, Mississippi River and Tributaries Morganza, Louisiana to the Gulf of Mexico Hurricane Protection Plan, To Reduce Flood Damages from Tropical Storms and Hurricane Induced Tidal Flooding along Louisiana to the Gulf of Mexico, Due: December 31, 2001, Contact: Nathan Dayan (504) 862–2530.

EIS No. 010431, Draft EIS, SFW, 00, Programmatic EIS-Double crested Cormorant (DCCOs) Management Plan, To Reduce Resource Conflicts, Enhance the Flexibility of Natural Resource Agencies in dealing with DCCO Related Resource Conflicts and to ensure the Conservation of Healthy, Viable DCCO Population, Implementation, The Contiguous United States, Due: January 15, 2002, Contact: Shauna Hanisch (703) 358–1714.

EIS No. 010432, Final Supplement, FTA, WA, Central Link Light Rail Transit Project, (Sound Transit) Construct and Operate an Electric Rail Transit System, Funding and COE Section 10 and 404 Permits, In the Cities of Seattle, Sea Tac and Tuckwila, King County, WA, Due: December 17, 2001, Contact: John Witmer (206) 220–4463.

Amended Notices

EIS No. 010371, Draft Supplement, AFS, CA, Herger-Feinstein Quincy Library Group Forest Act Pilot Project, Proposal to Analyze Options for Maintaining Defensible Fuel Profile Zones (DFPZs), Lassen, Plumas and Tahoe National Forests, Shasta, Lassen, Tehama, Yuba, Plumas and Battle Counties, CA, Due: December 19, 2001, Contact: David Arrasmith (916) 492–7559. Revision of FR Notice Published on 09/28/2001: CEQ Comment Period Ending 11/19/2001 has been extended to 12/19/2001.

EIS No. 010404, Final EIS, AFS, AK, Emerald Bay Timber Sale, Implementation, Ketchikan-Misty Fiords Ranger District, Tongass National Forest, U.S. Coast Guard Bridge Permit, NPDES Permit, and COE Section 10 and 404 Permits, Cleveland Peninsula, AK, Due: December 03, 2001, Contact: Colleen Grundy (907) 228–4114. Revision of FR notice published on 11/02/2001: CEQ Due Date Corrected from 12/10/2001 to 12/03/2001.

EIS No. 010406, Draft EIS, USA, PA, Fort Indiantown Gap National Guard Training Center, To Enhance Training and Operations, Pennsylvania National Guard (PANG), Annville, Dauphin and Lebanon Counties, PA, Due: December 17, 2001, Contact: Richard H. Shertzer (717) 861–2548. Revision of FR notice published on 11/02/2001: CEQ Comment Period Ending 12/10/2001 has been Corrected to 12/17/2001.

Dated: November 13, 2001.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 01–28747 Filed 11–15–01; 8:45 am]

BILLING CODE 6560–50–U

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collections Approved by Office of Management and Budget

November 6, 2001.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission

OMB Control No.: 3060–0997.

Expiration Date: 04/30/2002.

Title: 47 CFR Section 52.15(k), Numbering Utilization and Compliance Audit Program.

Form No.: N/A.

Respondents: Business or other for-profit.

Estimated Annual Burden: 25 respondents; 33 hour per response (avg.); 825 total annual burden hours.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Frequency of Response: On occasion; Third Party Disclosure.

Description: The state of the nation's numbering resources has a direct effect on the growth of competition in the telecommunications industry. The nation's numbering resources are depleting rapidly. Under the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Congress granted the Federal Communications Commission (FCC) exclusive jurisdiction over the United States' portion of the North American Numbering Plan (NANP). Consistent with this authority, the FCC adopted an audit requirement to preserve numbering resources. The

purpose of the audits is to monitor telecommunications carriers' compliance with FCC rules and to verify the accuracy and validity of the numbering data submitted to the FCC. The audits will also allow the FCC to identify inefficiencies in the manner in which carriers use numbers, including excessive use of certain categories of numbers (e.g., administrative, aging, or intermediate numbers). By ensuring compliance with FCC rules and providing in-depth information, these audits will help preserve the nation's numbering resources. The FCC staff developed a standardized audit program consisting of audit procedures and guidelines, a internal control questionnaire, and a corresponding data request, for the independent auditor to follow in conducting audits. The independent auditor would conduct audits using these tools. The audit procedures generally require the audited carrier to respond to requests for information from the independent auditor. The independent auditor will report its audit findings to the FCC. The FCC will use the audit results to determine whether the audited carriers are complying with the FCC's rules, and whether the audited carriers' numbering data submitted to the FCC, e.g., FCC Form 502, is accurate and valid. To the extent that the FCC finds evidence of potential violations, possible enforcement action may be taken.
Obligation to respond: Mandatory.

Public reporting burden for the collections of information are as noted above. Send comments regarding the burden estimates or any other aspect of the collections of information, including suggestions for reducing the burden to Performance Evaluation and Records Management, Washington, DC 20554.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 01–28683 Filed 11–15–01; 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 11:00 a.m. on Friday, November 9, 2001, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and resolution 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)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B) and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Dated: November 9, 2001.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 01–28777 Filed 11–13–01; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center 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 December 10, 2001.

A. Federal Reserve Bank of Cleveland (Stephen J. Ong, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101–2566:

1. Wesbanco Inc., Wheeling, West Virginia, to acquire 19.9 percent of the voting shares of American Bancorporation, Wheeling, West Virginia, and thereby indirectly acquire Wheeling National Bank, St. Clairsville, Ohio.

1. AB Corporation, Wheeling, West Virginia, to become a bank holding company by acquiring 100 percent of the voting shares of American Bancorporation, Wheeling, West Virginia, and thereby indirectly acquire Wheeling National Bank, St. Clairsville, Ohio.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. CFB Holding Company, Clinton, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens First Bank, Clinton, Iowa.

C. Federal Reserve Bank of Kansas City (Susan Zubradt, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198–0001:

1. First National of Nebraska, Inc., Omaha, Nebraska; to acquire First National of Illinois, Inc., Omaha, Nebraska, and Castle Bank Group, Inc., DeKalb, Illinois, and thereby indirectly acquire voting shares of Castle Bank, N.A., DeKalb, Illinois.

In connection with this application, First National of Illinois has applied to become a bank holding company.

2. First National Bancshares, Inc., Goodland, Kansas; to acquire 86.4 percent of the voting shares of Security State Bank, Bird City, Kansas.

Board of Governors of the Federal Reserve System, November 9, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–28713 Filed 11–15–01; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That Are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 29, 2001.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Community First Financial Group, Inc., Corydon, Indiana; to acquire Harrington Bank, Chapel Hill, North Carolina, a *de novo* savings bank, and thereby operate a savings bank, pursuant to § 225.28(b)(4)(ii) of Regulation Y. Comments on this application must be received not later than December 10, 2001.

2. Mainline Bankshares of Portland, Inc., Portland, Arkansas; to engage in lending activities, pursuant to § 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, November 9, 2001.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 01–28714 Filed 11–15–01; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–177]

Public Health Assessments Completed

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces those sites for which ATSDR has completed public health assessments during the period from July through September 2001. This list includes sites that are on or proposed for inclusion on the National Priorities List (NPL), and includes sites for which assessments were prepared in response to requests from the public.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Assistant Surgeon General, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 498–0007.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments was published in the **Federal Register** on August 7, 2001 [66 FR 41241]. This announcement is the responsibility of ATSDR under the regulation, Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities [42 CFR part 90]. This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA) [42 U.S.C. 9604(i)].

Availability

The completed public health assessments and addenda are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 605–6000. NTIS charges for copies of public health assessments and addenda. The NTIS order numbers are listed in parentheses following the site names.

Public Health Assessments Completed or Issued

Between July 1 and September 30, 2001, public health assessments were issued for the sites listed below:

NPL Sites

Arizona

Tucson International Airport Area—Pima City—(PB2002–100078)

Missouri

Lake City Army Ammunition Plant (a.k.a. Lake City Army Ammunition Plant (Northwest Lagoon)—Jackson County—(PD2001–108228)

New Jersey

Picatinny Arsenal (a.k.a. Picatinny Arsenal (USARMY)—Morris County—(PB2001–108226)

Lightman Drum Company Site (a.k.a. Lightman Drum Company)—Camden County—(PB2001–108229)

New York

Cross County Sanitation Landfill (a.k.a. Kessman Site)—Putnam County—(PB2001–108586)

Ohio

Kirby Tire Recyclers Site (a.k.a. Kirby Tire Company)—Wyandot County (PB2001–108587)

Non NPL Petitioned Sites

None.

Dated: November 9, 2001.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 01–28708 Filed 11–15–01; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Public Information Collection Requirement Proposed To Be Submitted to the Office of Management and Budget (OMB) for Clearance

AGENCY: Administration on Aging (AoA).

The Administration on Aging (AoA), Department of Health and Human Services, provides an opportunity for comment on the following proposal for the collection of information in

compliance with the Paperwork Reduction Act (PRA; Pub. L. 96–511): Title VI Native American Caregiver Support Program Reports.

Title of Information Collection: Title VI Native American Caregiver Support Program Report.

Type of Request: New.

Use: Collection of information, from Title VI grantees, to use in reporting information on programs funded by Title VI as required under section 202(a)(19), section 614(a)(2), and section 614(a)(3) of the Older Americans Act, as amended.

Frequency: Semi-Annually.

Respondents: Tribal Organizations.

Estimated Number of Responses: 110.

Estimated Burden Hours: 110.

Additional Information or Comments: A copy of the above mentioned Title VI Native American Caregiver Support Program Report can be obtained by calling M. Yvonne Jackson, Ph.D., Director, Office for American Indian, Alaskan Native and Native Hawaiian Programs, Administration on Aging, 330 Independence Avenue, SW., Washington, DC 20201; telephone (202) 619–2713. Written comments and recommendations regarding the Native American Caregiver Support Program Report should be sent within 60 days of the publication of this notice to the following address: Administration on Aging, Wilbur J. Cohen Federal Building, 330 Independence Avenue, SW., Room 4743, Washington, DC 20201. Attn: M. Yvonne Jackson, Ph.D.

Dated: November 9, 2001.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. 01–28729 Filed 11–15–01; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Oxytetracycline in Fish; Availability of Data

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of human food safety data that sponsors may use in support of a new animal drug application (NADA) or supplemental NADA for the treatment of walleye and northern pike with oxytetracycline in medicated feed for bacterial infections. The U.S. Geological Survey, Upper Midwest Environmental Sciences Center (UMESC), La Crosse, WI, compiled the data that is contained in Public Master File (PMF) 5646.

ADDRESSES: Submit NADAs or supplemental NADAs to the Document Control Unit (HFV–199), Center for Veterinary Medicine, Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855.

FOR FURTHER INFORMATION CONTACT: Julia A. Oriani, Center for Veterinary Medicine (HFV–151), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6976, e-mail: joriani@cvm.fda.gov.

SUPPLEMENTARY INFORMATION: Oxytetracycline, used for the treatment of bacterial infections in walleye and northern pike, is a new animal drug under section 201(v) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(v)). As a new animal drug, oxytetracycline is subject to section 512 of the act (21 U.S.C. 360b), which requires that its use in walleye and northern pike for bacterial infections be the subject of an approved NADA or supplemental NADA. Walleye and northern pike are minor species under 21 CFR 514.1(d)(1)(ii).

Researchers from UMESC have provided human food safety data for the use of oxytetracycline in walleye and northern pike. The researchers conducted oxytetracycline tissue residue depletion studies in northern pike and walleye. These studies were conducted in accordance with good laboratory practices.

Juvenile northern pike were fed medicated feed containing oxytetracycline at either 70.9 milligrams per kilogram (mg/kg) body weight/day for 10 days or 94.2 mg/kg body weight/day for 10 days at a water temperature of 13.8 °C. Juvenile walleye were fed medicated feed containing oxytetracycline at 89.0 mg/kg body weight/day for 10 days at a water temperature of 17.5 °C. The treated fish were sampled at various timepoints.

The tissues were analyzed for oxytetracycline residues using a validated high performance liquid chromatography (HPLC) method entitled ''Determination of Oxytetracycline in the Edible Tissue of Fish Fillets'' (UMESC, SOP No. CAP 413.1, 3/30/98). This HPLC method has been bridged to the regulatory microbiological assay for oxytetracycline in tissue entitled ''Antibiotic Residues in Milk, Dairy Products, and Animal Tissues: Methods, Reports, and Protocol'' (U.S. HHS/PHS/FDA, Washington, DC, revised October, 1968). The tissue residues were below the tolerance of 2 parts per million at all timepoints (21 CFR 556.500) as shown in table 1 and 2 of this document.

TABLE 1.—MEAN OXYTETRACYCLINE (OTC) CONCENTRATIONS (PARTS PER MILLION (PPM)) IN SKIN-ON FILLET FROM WALLEYE FED 89.0 MILLIGRAMS PER KILOGRAM PER DAY OTC FOR 10 DAYS AT WATER TEMPERATURE OF 17.5 °C (N=20 FOR ALL TIMEPOINTS EXCEPT ON DAY 2, N=18)

Withdrawal Time (Days)	Mean OTC Residues (ppm)
1	0.721±0.244
2	0.549±0.148
3	0.667±0.217
4	0.689±0.233
7	0.449±0.170
9	0.444±0.184
11	0.361±0.110
14	0.301±0.093

TABLE 2.—MEAN OXYTETRACYLINE LEVELS (PARTS PER MILLION) IN SKINLESS NORTHERN PIKE MUSCLE FOLLOWING DOSING FOR 10 DAYS WITH MEDICATED FEED AT 13.8 °C (N=40 FOR ALL SAMPLING TIMEPOINTS EXCEPT FOR DAY 10 SAMPLES, N=39)

Withdrawal Time (Days)	Fish Fed Biodiet Grower (Trout Feed) at 70.9 Milligrams Per Kilogram Per Day (mg/kg/day)	Fish Fed Walleye Grower (Walleye Feed) at 94.2 mg/kg/day
1	0.203±0.042	0.314±0.091
2	0.198±0.056	0.319±0.098
4	0.162±0.034	0.267±0.068
6	0.122±0.039	0.211±0.053
8	0.098±0.026	0.147±0.049
10	0.068±0.017	0.125±0.034

Data and information on safety are contained in PMF 5646. When you submit NADAs or supplemental NADAs, you may, without further authorization, reference the PMF to support approval of an application filed under 21 CFR 514.1(d). You must include a reference to the PMF and other information needed for approval when you submit an NADA or supplemental NADA. The information needed for approval in addition to the reference to the PMF includes effectiveness data; target animal safety data; data concerning manufacturing methods, facilities, and controls; animal drug labeling; and information addressing potential environmental impacts. If you need more information concerning the PMF or requirements for approval of an NADA or supplemental NADA, contact Julia A. Oriani (address above).

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety data and information provided in this PMF to support approval of an application may, upon approval of such application, be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 6, 2001.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 01–28680 Filed 11–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01D–0475]

Draft Guidance for Industry on Providing Regulatory Submissions in Electronic Format—ANDAs; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—ANDAs.'' This draft guidance provides information for applicants on how to submit abbreviated new drug applications (ANDAs) in electronic format.

DATES: Submit written or electronic comments on the draft guidance by January 15, 2002. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Submit written requests for single copies of the draft guidance to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Ruth Warzala, Center for Drug Evaluation and Research (HFD–600), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–5845, e-mail: ESUB_OGD@CDER.fda.gov.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—ANDAs.'' In the Prescription Drug User Fee Act as amended by the Food and Drug Administration Modernization Act of 1997 (Public Law 105–115), the agency stated its plans to develop and update its information management capabilities to allow electronic submissions by 2002. In the **Federal Register** of January 28, 1999, the agency announced the availability of two guidances for industry entitled ''Providing Regulatory Submissions in Electronic Format—NDAs'' (64 FR 4432) and ''Providing Regulatory Submissions in Electronic Format—General Considerations'' (64 FR 4433). These guidances were the first two of a series of guidances for industry on making regulatory submissions in electronic format. In the 1999 guidance on general considerations, the agency stated that guidance would be forthcoming on other submission types and structured formats, including ANDAs, investigational new drug applications, and product licensing applications. When finalized, this draft guidance should be used in conjunction with the two previously issued guidances (64 FR 4432 and 4433, respectively).

CDER has encouraged the electronic submission of some types of data on a voluntary basis since 1997. However, these electronic submissions could not previously be archived and could only be made in addition to a complete paper submission. The electronic data submission program is now being expanded to include all parts of ANDA so that the electronic submission can replace the paper submission as the archival copy of ANDA.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115).

This draft guidance, when finalized, will represent the agency's current thinking on providing ANDAs in electronic format. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Comments

Interested persons may submit to the Dockets Management Branch (address above) written or electronic comments on the draft guidance. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments and requests are to be identified with the docket number found in brackets in the heading of this document. The draft guidance document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

III. Electronic Access

Persons with access to the Internet may obtain the document at either http://www.fda.gov/cder/guidance/index.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: November 7, 2001.

Margaret M. Dotzel,

Associate Commissioner for Policy.

[FR Doc. 01–28681 Filed 11–15–01; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Diacylglycerol Compounds Useful as Protein Kinase C Activators and Apoptosis Inducers

Victor E. Marquez, Peter M. Blumberg, Jeewoo Lee, Marcelo Kazanietz (NCI)
DHHS Reference No. E–088–01/0 filed 06 Aug 2001
Licensing Contact: Jonathan Dixon; 301/496–7056 ext. 270; dixonj@od.nih.gov

This invention discloses new diacylglycerol (DAG) compounds that may be useful as chemotherapeutic agents. DAG activates many of the isozymes in the Protein Kinase C (PKC) family, a phospholipid-dependent serine/threonine-specific kinase that plays an important role in cellular growth and differentiation. The activation of PKC by DAG is important in mediating the actions of a variety of hormones, neurotransmitters, and other biological control factors. This new class of DAG compounds is proving to be superior at inducing apoptosis in androgen-sensitive LNCaP prostate cancer cells by specifically activating the alpha isozyme. The compounds are believed to receive their superior properties from the replacement of the ester oxygen with a nitrogen attached to a hydroxyl group (N-OH). The presence of the hydroxamate functionality endows the molecule with improved solubility properties making these compounds the most potent and least lipophilic DAG analogues known to date.

Differentiation of Stem Cells to Pancreatic Endocrine Cells

Nadya Lumelsky et al. (NINDS)
Serial No. 60/266,917 filed 06 Feb 2001
Licensing Contact: Norbert Pontzer; 301/496–7736 ext. 284; e-mail: np59n@nih.gov

Diabetes, which effects 16 million people in the United States alone, results at least in part from decreased production of insulin by the pancreas. In the pancreas, insulin is produced by specialized structures called the islets of Langerhans. Adult mammalian islets are composed of four major cell types: The α, β, δ and PP cells which produce glucagons, insulin, somatostatin, and pancreatic polypeptides respectively. The physical proximity and resulting interaction of each of these modulators of carbohydrate metabolism may be necessary for the proper control of insulin secretion. The lack of tight feedback control of insulin secretion is thought to be responsible for pathologies arising after the long-term injection of insulin for diabetics.

This invention provides a method for differentiating stem cells into endocrine cells that produce insulin and other pancreatic hormones. The cells self-assemble to form three-dimensional clusters similar in topology to normal pancreatic islets. Glucose triggers insulin release from these cell clusters by mechanisms similar to those employed *in vivo.* When injected into experimental animals, the insulin producing cells undergo rapid vascularization and maintain an islet-like organization. These cells could provide both a model system for *in vitro* study of pancreatic islets and a potential therapy for replacing lost pancreatic function through transplantation.

Dated: November 6, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 01–28705 Filed 11–15–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing: Method of Treating HIV With 2′, 3′-Dideoxyinosine (ddI; didanosine)

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for nonexclusive licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for non-exclusive licensing.

(1) U.S. Patent No. 4,861,759, issued August 29, 1989, entitled ''Antiviral Compositions and Methods'' (PHS Reference No. E–081–87/1)

(2) U.S. Patent No. 5,254,539, issued October 19, 1993, entitled ''Antiviral Compositions and Methods'' (PHS Reference No. E–081–87/4)

(3) U.S. Patent No. 5,616,566, issued April 01, 1997, entitled ''Method of Inhibiting HIV Replication with 2′, 3′-Dideoxyadenosine'' (PHS Reference No. E–081–87/6)
(4) U.S. Patent Application No. 08/246,916, filed May 20, 1994, entitled ''Antiviral Compositions and Methods'' (PHS Reference No. E–081–87/7)
(5) U.S. Patent No. 5,026,687, issued June 25, 1991, entitled ''Treatment of Human Retroviral Infections with 2′, 3′-Dideoxyinosine'' (PHS Reference No. E–051–90/0)
(6) U.S. Patent No. 5,376,642, issued December 27, 1994, entitled ''Treatment of Human Retroviral Infections with 2′, 3′-Dideoxyinosine'' (PHS Reference No. E–051–90/2)

ADDRESSES: Licensing information may be obtained by contacting Sally Hu, Ph.D., M.B.A., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; Telephone: 301/496–7056 ext. 265; Fax: 301/402–0220; E-mail: hus@od.nih.gov.

SUPPLEMENTARY INFORMATION: Human Immunodeficiency Virus (HIV) and other retroviruses need three viral enzymes for replication: reverse transcriptase (RT), protease and integrase. The current focus for treatment of acquired immune deficiency syndrome (AIDS) is the development of antiviral drugs that target the infection and replication of HIV. The patents and patent applications describe group novel compounds discovered by Dr. Hiroaki Mitsuya, Dr. Robert Yarchoan and Dr. Samuel Broder at the National Cancer Institute. It has been shown that the drugs 2′, 3′-dideoxyinosine (ddI), 2′, 3′-dideoxyadenosine (ddA), and 2′, 3′-dideoxyguanosine (ddG), and their triphosphate derivatives are useful for treatment of retroviral infections, particularly HIV-infection and AIDS. ddI, ddA, and ddG are metabolized *in vivo* to active triphosphate derivatives that inhibit HIV and retroviral reverse transcriptase, an enzyme required for retroviral replication. Liposomal encapsulated dideoxynucleosides, salts and esters are also claimed since triphosphates ordinarily do not penetrate cell membranes and the triphosphate derivatives of this invention are delivered by liposomes, small particles that serve as intracellular transport systems. ddI (didanosine) is licensed for human use in the U.S. and around the world as a treatment for HIV infections.

Dated: November 6, 2001.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 01–28706 Filed 11–15–01; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee D—Clinical Studies.

Date: December 4–5, 2001.

Time: 7 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: William D. Merritt, PhD, Scientific Review Administrator, Grants Review Branch, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8129, MSC 8328, Bethesda, MD 20892–8328, 301–496–9767.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: November 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–28694 Filed 11–15–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institutes of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: November 27, 2001.

Time: 2 pm to 5 pm.

Agenda: To review and evaluate grant applications.

Place: 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Raul A. Saavedra, PhD., Scientific Review Administrator Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: November 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–28696 Filed 11–15–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, The disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: November 27, 2001.

Time: 4 PM to 6 PM.

Agenda: To review and evaluate contract proposals.

Place: 6001 Executive Blvd., Rockville, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Phillip F. Wiethorn, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: November 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–28697 Filed 11–15–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Training and Career Development.

Date: November 29, 2001.

Time: 3 pm to 4 pm.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Mark Swieter, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1389.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: November 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–28698 Filed 11–15–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: December 12, 2001.

Time: 5 pm to 6:30 pm.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Joel Sherrill, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6149, MSC 9606, Bethesda, MD 20892–9606, 301–443–6102, *jsherril@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: November 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–28700 Filed 11–15–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: December 28, 2001.

Time: 2 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, National Institute of Mental Health, DEA, National Institutes of Health, 6001 Executive Blvd., Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–6102, *rweise@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: November 30, 2001.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Bethesda Marriott Suites 6711 Democracy Boulevard, Bethesda, MD 20817.
Contact Person: Peter J. Sheridian, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6142, MSC9606, Bethesda, MD 20892–9606, 301–443–1513, *psherida@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel.
Date: November 30, 2001.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Richard E. Weise, PhD, Scientific Review Administrator, National Institute of Mental Health, DEA, National Institutes of Health, 6001 Executive Boulevard, Room 6140, MSC9606, Bethesda, MD 20892–9606, 301–443–1340, *rweise@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: November 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–28701 Filed 11–15–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, ''Bioengineering Research Partnerships''.
Date: December 11, 2001.
Time: 9:30 am to 12:30 pm.
Agenda: To review and evaluate grant applications.
Place: 6700–B Rockledge Drive, Bethesda, MD 20892–7616 (Telephone Conference Call).
Contact Person: Robert C. Goldman, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 496–8424, *rg159w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: November 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–28702 Filed 11–15–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–D(J2).
Date: November 27–28, 2001.
Time: 7 pm to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Marriott Atlanta, 270 Carpenter Drive, Atlanta, GA 30328.
Contact Person: Ned Feder, MD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 645, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–D(J2).
Date: December 18, 2001.
Time: 8 am to 5 pm.
Agenda: To review and evaluate grant applications.
Place: Courtyard by Marriott, 2899 Jefferson Davis Highway, Arlington, VA 22203.
Contact Person: Neal A. Musto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 750, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892—6600, (301) 594–7798, *muston@extra.niddk.nih.gov*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: November 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–28703 Filed 11–15–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel.
Date: November 28, 2001.
Time: 7 pm to 10 pm.
Agenda: To review and evaluate grant applications.
Place: Carolina Inn, 211 Pittsboro Street, Chapel Hill, NC 27516.
Contact Person: Laura K. Moen, PhD, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 1AS–13H, Bethesda, MD 20892, 301–594–3998, *moenl@nigms.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: November 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–28704 Filed 11–15–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Board of Scientific Counselors, National Library of Medicine, December 3, 2001, 7 pm to December 4, 2001, 2 pm, National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894 which was published in the **Federal Register** on October 15, 2001, 66 FR 52440.

The meeting will be held on December 4, 2001 from 8:30 am to 4 pm. The meeting is closed to the public.

Dated: November 6, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–28695 Filed 11–15–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 13, 2001.

Time: 1 pm to 2 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Syed M. Quadri, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4144, MSC 7804, Bethesda, MD 20892, (301) 435–1211.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 16, 2001.

Time: 10 am to 11 am.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel.

Date: November 19, 2001.

Time: 9 am to 10 am.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lee S. Mann, PhD, JD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892 (301) 435–0677.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: November 7, 2001.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 01–28699 Filed 11–15–01; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Fiscal Year (FY) 2002 Funding Opportunities

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of funding availability.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA) Center for Substance Abuse Treatment (CSAT) announces the availability of FY 2002 funds for cooperative agreements for the following activity. This notice is not a complete description of the activity; potential applicants *must* obtain a copy of the Guidance for Applicants (GFA), including Part I, Cooperative Agreements for Addiction Technology Transfer Centers (includes ATTC Sites and the ATTC National Office), and Part II, General Policies and Procedures Applicable to all SAMHSA Applications for Discretionary Grants and Cooperative Agreements, before preparing and submitting an application.

Activity	Application deadline	Est. Funds FY 2002	Est. Number of awards	Project period
Cooperative Agreements for Addiction Technology Transfer Centers.	January 3, 2002	$4.4 million	7 sites and 1 National Office	5 years

The actual amount available for the award may vary, depending on unanticipated program requirements and the number and quality of applications received. FY 2002 funds for the activity discussed in this announcement were appropriated by the Congress under Public Law 106–310. SAMHSA's policies and procedures for peer review and Advisory Council review of grant and cooperative agreement applications were published in the **Federal Register** (Vol. 58, No. 126) on July 2, 1993.

General Instructions: Applicants must use application form PHS 5161–1 (Rev. 7/00). The application kit contains the two-part application materials (complete programmatic guidance and instructions for preparing and submitting applications), the PHS 5161–1 which includes Standard Form 424 (Face Page), and other documentation and forms. Application kits may be obtained from: National Clearinghouse for Alcohol and Drug Information (NCADI), P.O. Box 2345, Rockville, MD 20847–2345, Telephone: 1–800–729–6686.

The PHS 5161–1 application form and the full text of the activity are also available electronically via SAMHSA's World Wide Web Home Page: *http://www.samhsa.gov.*

When requesting an application kit, the applicant must specify the particular activity for which detailed information is desired. All information necessary to apply, including where to submit applications and application deadline instructions, are included in the application kit.

Purpose: The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Substance Abuse Treatment (CSAT) announces the availability of fiscal year (FY) 2002 funds for cooperative agreements to support the creation or continuation of Addiction Technology Transfer Centers (ATTCs). The ATTC program is comprised of 14 regional ATTCs and one ATTC National Office which together form a network. The ATTC Network members, individually and collaboratively, will develop research-based and culturally appropriate substance abuse treatment and recovery curricula and provide academic and continuing education, professional development, and practicum training to students and practitioners in the substance abuse treatment and related fields. This is a modified reissuance of SAMHSA/CSAT's Fiscal Year 2001 GFA No. TI 01–008, entitled ''Cooperative Agreements for Addiction Technology Transfer Centers (ATTCs).'' The ATTC program is being reannounced to solicit applications for 7 ATTC sites to serve ATTC Regions not covered by FY 2001 awards, and for an ATTC National Office.

Eligibility: Applications for these cooperative agreements for either an ATTC site or the ATTC National Office may be submitted by public and domestic private nonprofit entities such as units of State or local government, recovery and other community-based organizations, faith-based organizations, and State or private, non-profit universities, colleges, and hospitals. Current CSAT ATTC grantees in ATTC Regions 5, 7, 8, 9, 10 and 13 with a project period that ended on or before September 30, 2001, and who meet the above requirements, are also eligible to apply.

An organization may submit an application for an ATTC site and/or the ATTC National Office. A separate application is required for each function. Although the ATTC National Office may be established by an organization which also has an ATTC site, it must be set up as a separate entity with dedicated staff, a separate and independent project director, a separate budget, audit, and specific responsibilities.

Availability of Funds: Approximately $4,400,000 will be available to fund 7 ATTC sites and one National Office. The average award for ATTC sites and the ATTC National Office is expected to range from $450,000 to $550,000 per year in total costs (direct and indirect).

Period of Support: Cooperative agreements will be awarded for a period of 5 years. Annual awards will be made subject to continued availability of funds to SAMHSA/CSAT and progress achieved.

Criteria for Review and Funding

General Review Criteria: Competing applications requesting funding under this activity will be reviewed for technical merit in accordance with established PHS/SAMHSA peer review procedures. Review criteria that will be used by the peer review groups are specified in the application guidance material.

Award Criteria for Scored Applications: Applications will be considered for funding on the basis of their overall technical merit as determined through the peer review group and the appropriate National Advisory Council review process. Availability of funds will also be an award criteria.

Additional award criteria specific to the programmatic activity may be included in the application guidance materials.

Catalog of Federal Domestic Assistance Number: 93.230.

Program Contact: For questions concerning program issues, contact:

Susanne R. Rohrer, RN, Office of Evaluation, Scientific Analysis, and Synthesis CSAT/SAMHSA, Rockwall II, Suite 840, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–8521, E-mail: *srohrer@samhsa.gov.*

For questions regarding grants management issues, contact: Steve Hudak, Division of Grants Management, OPS/SAMHSA, Rockwall II, 6th floor, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–9666, E-mail: *shudak@samhsa.gov.*

Public Health System Reporting Requirements: The Public Health System Impact Statement (PHSIS) is intended to keep State and local health officials apprised of proposed health services grant and cooperative agreement applications submitted by community-based nongovernmental organizations within their jurisdictions.

Community-based nongovernmental service providers who are not transmitting their applications through the State must submit a PHSIS to the head(s) of the appropriate State and local health agencies in the area(s) to be affected not later than the pertinent receipt date for applications. This PHSIS consists of the following information:

a. A copy of the face page of the application (Standard form 424).

b. A summary of the project (PHSIS), not to exceed one page, which provides:

(1) A description of the population to be served.

(2) A summary of the services to be provided.

(3) A description of the coordination planned with the appropriate State or local health agencies.

State and local governments and Indian Tribal Authority applicants are not subject to the Public Health System Reporting Requirements. Application guidance materials will specify if a particular FY 2001 activity is subject to the Public Health System Reporting Requirements.

PHS Non-use of Tobacco Policy Statement: The PHS strongly encourages all grant and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of a facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the PHS mission to protect and advance the physical and mental health of the American people.

Executive Order 12372: Applications submitted in response to the FY 2001 activity listed above are subject to the intergovernmental review requirements of Executive Order 12372, as implemented through DHHS regulations at 45 CFR part 100. E.O. 12372 sets up a system for State and local government review of applications for Federal financial assistance. Applicants (other than Federally recognized Indian tribal governments) should contact the State's

Single Point of Contact (SPOC) as early as possible to alert them to the prospective application(s) and to receive any necessary instructions on the State's review process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC of each affected State. A current listing of SPOCs is included in the application guidance materials. The SPOC should send any State review process recommendations directly to: Division of Extramural Activities, Policy, and Review Substance Abuse and Mental Health Services Administration Parklawn Building, Room 17–89, 5600 Fishers Lane, Rockville, Maryland 20857.

The due date for State review process recommendations is no later than 60 days after the specified deadline date for the receipt of applications. SAMHSA does not guarantee to accommodate or explain SPOC comments that are received after the 60-day cut-off.

Dated: November 8, 2001.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 01–28721 Filed 11–15–01; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4644–N–46]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, room 7266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act 942 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Brian Rooney, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Clifford Taffet at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: GSA: Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0052; (These are not toll-free numbers).

Dated: November 8, 2001.

John D. Garrity,

Director, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 11/16/01

Unsuitable Properties

Buildings (by State)

Florida

U.S. Courthouse
311 West Monroe Street
Jacksonville Co: Duval FL 32209–
Landholding Agency: GSA
Property Number: 54200140010
Status: Excess
Reason: Within airport runway clear zone
GSA Number: 4–G–FL–1178

New Jersey

Holmdel Housing Site
Telegraph Hill Road
Holmdel Co: Monmouth NJ 07733–
Location: redetermination based on additional information from landholding agency
Landholding Agency: GSA
Property Number: 54200040005
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 1–N–NJ–622

[FR Doc. 01–28557 Filed 11–15–01; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (LCRA) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: The Lower Colorado River Authority (LCRA) has applied for an incidental take permit (TE–046500–0) pursuant to section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and operation of three wastewater lift stations and associated wastewater force mains in the Tahitian Village Subdivision in Bastrop County, Texas.

DATES: Written comments on the application should be received within 30 days of the date of this publication.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Person wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–046500–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: The LCRA plans to construct three wastewater lift stations and associated wastewater force mains in the Tahitian Village Subdivision in Bastrop County, Texas. This action will eliminate 0.6 acres or less of Houston toad habitat. The LCRA proposes to compensate for this incidental take of the Houston toad by providing $1,656.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

Steven M. Chambers,

Acting Regional Director, Region 2.

[FR Doc. 01–28709 Filed 11–15–01; 8:45 am]

BILLING CODE 4510–55–M

DEPARTMENT OF THE INTERIOR

National Park Service

Record of Decision; Final Fort Bowie General Management Plan and Final Environmental Impact Statement; Fort Bowie National Historic Site, Arizona

The Department of the Interior, National Park Service has prepared this Record of Decision on the General Management Plan and Final Environmental Impact Statement for Fort Bowie National Historic Site. This Record of Decision includes a description of the background of the project, a statement of the decision made, synopses of other alternatives considered, the basis for the decision, findings on impairment of park resources and values, a description of the environmentally preferable alternative, a listing of measures to minimize environmental harm, and an overview of public and agency involvement in the decision-making process.

Background of the Project

A comprehensive general management plan (GMP) is needed to manage resources and guide development and use. The master plan approved for Fort Bowie in 1975 is outdated and inadequate to deal with the variety of issues facing the historic site.

The purpose of the new GMP is to decide what kinds of resource conditions and visitor experiences should ultimately be achieved and maintained throughout the historic site. The process started in early May 1998 and involved joint scoping for GMPs for both Fort Bowie NM and Fort Bowie NHS. A newsletter invited the public to attend meetings to discuss both plans. Notices of the public meetings were also sent to nearby newspapers. Four meetings were held the week of May 18th in the towns of Portal, Willcox, and Bowie, and at a school just outside of Fort Bowie NM. A total of 19 people attended the meetings. The GMP process was described at each meeting, as were the two parks. There was general appreciation expressed for the parks, and recommendations were made not to change them. All suggestions were discussed and notes were taken. Another 24 mailed responses were received from newsletter readers. In addition to the newsletter, letters were also sent to three Apache tribes (White Mountain, San Carlos and Tonto), the Yavapai Tribe, Mohave Tribe and one nation (Mescalero) in Arizona, New Mexico, and Oklahoma, and to two interested individuals (American Indians). No responses were received.

A Notice of Intent to publish an Environmental Impact Statement was published in the **Federal Register** in June of 1999. A 30-day public comment period followed ending on July 15, 1999. A Web site (*http://www.nps.gov/planning/fobo*) was established to facilitate making information about the planning process available to the public. A total of 5 responses were received requesting information on the planning process. Groups included one organization interested in land issues, one interested in handicapped accessibility, and two unaffiliated individuals.

The purpose of the Fort Bowie General Management Plan is to present a comprehensive management plan and guide the management of the Fort Bowie National Historic Site for the next 12 to 15 years. Two alternatives were considered—a no-action and the park proposal. The proposed general management plan for the Fort Bowie National Historical Site continues the concept established—the principle of a very low level of development, intended to allow the visitor a ''discovery'' experience in a place of ''historic abandonment.'' Alternatives A (the NPS Proposal) recognizes that the current level of development, interpretation, and the pattern of visitor use with some minor modifications are appropriate for Fort Bowie and would be maintained.

The concepts presented in the Final Fort Bowie NHS General Management Plan/FEIS are based on a thorough consideration of the best-available information on park resources and the visitor experience. Alternative A in the Final Fort Bowie NHS General Management Plan/FEIS presents a distinct vision for preserving the resources that contribute to Fort Bowie National Historic Site's cultural and natural values while making the resources available to people for their enjoyment, education, and recreation.

Decision (Selected Action)

The National Park Service will implement Alternative A as described in the Fort Bowie National Historic Site General Management Plan and Final Environmental Impact Statement issued in March 2001. The selected alternative provides an overall combination of actions to restore natural processes, preserve cultural resource values, reduce harmful environmental impacts and continue to provide opportunities for high quality visitor experiences based on resource values. With the exceptions described below, the current level of development and interpretation and the pattern of visitor use would be maintained. In summary, the following would be implement. This is also documented in more detail in the plan.

Apache Pass Road—The approach to Fort Bowie, on the existing Apache Pass Road, serves as an introduction to the undeveloped nature of the park, and the park would encourage that it be retained as a dirt road. Paving the road could lead to its widening and straightening, and hence to higher speeds that might cause accidents and injury to wildlife. Therefore the NPS would request that Apache Pass Road not be paved from Emigrant Canyon across Apache Pass. The park would use its influence to prevent its paving unless the road is rerouted to the north, outside the park.

Overlook—The only spot from which the fort can be seen from the road is from a minimally developed overlook. Because the overlook is on Bureau of Land Management (BLM) land, the park would work in partnership with BLM to improve the parking and make the trail to the lookout handicapped accessible.

Park Entrance/Trailhead/Trail—Under the proposal, the entrance area/trailhead would be redesigned into a setting that is appropriate for the spot that introduces visitors to the fort trail and the fort itself. An open-sided information and interpretation shelter, about 15 feet by 20 feet, would be the formal introduction to the park. It would be located at the roadside, near the existing rest room. The shelter would be built of slump block to give an adobe look and match existing buildings. The shelter would provide a description of the trail and the historic resources along it and would encourage the reader to take the trail, by describing it as an informational and scenic introduction to the fort. Information on how to reach the fort by road will be provided to visitors with mobility impairments.

A phone or radio at the shelter would connect the visitor directly to the ranger station at the fort for additional information about accessibility or other matters. A surfaced handicapped parking space would be provided close to the shelter and rest room. No changes are anticipated to the route or historic nature of the trail. The trail would continue to serve as the primary interpretive route to the historic spots along the way and as a mood-setter for the visit to the fort itself.

When additional research provides the necessary guidance, the cemetery's enclosing fence would be relocated to its historic location, as would the incorrectly placed grave markers (information is based upon historical park data.) More complete interpretation would be provided.

Park Landscape—The park would continue to maintain the landscape in the valley along the access trail to its 1862–1894 appearance by removing mesquite and exotic vegetation. The area of mesquite and exotic removal would be increased from its present acreage and maintained by an active fire management program.

Ruins Preservation—The first fort area would continue to receive routine preservation treatment of the exposed stone foundations and would be interpreted. There would be no changes to the site or its visitor use.

Until a better means of preserving exposed adobe is available (one that is esthetically and historically acceptable), the second fort ruins would remain encapsulated within lime plaster. In the meantime, the park would pursue two objectives:

- Seek adequate and assured funding to maintain and test the encapsulated ruins.
- Contribute to preservation research and experimentation.

The park would cooperate with and encourage such research, both generally and at Fort Bowie. As successful techniques are developed, the NPS would consider their applicability to the park ruins.

An interpretive theme for the park would deal with this preservation problem, especially

- the nature of adobe and why it melts
- the problem of finding a satisfactory adobe preservation technique for a historic site
- the benefits and disadvantages of encapsulation and why it is being used
- an exhibition adobe wall (historic or new) showing the means of construction and the results of melting

Vegetation Management—Vegetation in and near the fort would continue to be managed to retain the open, easily viewed appearance. Exotic vegetation would be removed.

Visitor Center—No changes are recommended for the visitor center building, unless the construction of a new rest room is incorporated with the existing structure.

This plan recognizes the need to provide accessibility into the fort and visitor center and recognizes that the only feasible means of doing it is from the housing/maintenance area. A short driveway would be constructed from the maintenance area to the visitor center along the existing utility corridor. Parking for two vehicles would be provided close to the visitor center.

Accessibility—As stated previously, the best and most satisfying means of getting to the fort is via the long trail from the trailhead, because from it the historical and scenic character of the NHS is revealed bit by bit to the walker. Visitors who are disabled, entering from the maintenance area, miss that introduction. Therefore, it would be necessary to replace the actual experience with interpretive material at the visitor center. This printed or audiovisual material would try to capture the experience of the trail and its unfolding historical resources for those who are unable to enjoy it in person.

An accessible rest room would be provided in the fort area, and as many of the paths among the ruins as feasible would also be made accessible. The park would discuss with accessibility experts the most practical type of wheelchair to have at the visitor center for loan to visitors.

Administrative Area—This plan recommends no changes to the park housing area. Within the existing ''footprint'' of the maintenance area, a pad with utility hookups would be constructed for a volunteer-owned recreation vehicle. The existing administrative road would continue to provide access to the housing/maintenance area and maintenance access to the fort and visitor center.

Water System—A new well would be dug closer to the housing area and piped into the system, additional water storage

would be added, and a fire sprinkler system would be added to the visitor center. The existing well would be capped (unless it is needed for providing water to cattle), the 2/3 mile of surface pipe would be removed, and the ground restored to a natural condition.

Old Butterfield Trail—The Old Butterfield Trail, west of its junction with the main park trail, and its section of the park, would not be altered. This area would retain its ''discovery'' environment.

Grazing—Grazing would be phased out and the park boundary would be fenced. Historic Apache Spring would continue to be piped out of the park for livestock use. The current Permittee has ½ water right to Apache Spring.

Boundary—The entire park would be fenced and a boundary study would be conducted.

Operating Expenses—The proposed rest room, the boundary fence, and the accessible route to the visitor center will require some maintenance, but it will be minimal and will be offset by the removal of the cattle fence and the 2/3-mile-long water pipe. The changes recommended by this GMP would cause little or no increase to operating expenses.

Commercial Services—Individual business permits (covering both Fort Bowie and Chiricahua) allow guided horseback, hiking, and bus tours. Books are sold in the visitor center by the Southwest Parks and Monuments Association. No addition commercial services are needed or recommended.

Park Museum and Collections—The proposal calls for improvement in the heating, ventilation, and air conditioning system for the protection of collections.

Other Alternatives

No-Action Alternative

Under the no-action alternative, existing conditions as described below would continue at Fort Bowie NHS.

Visitors would continue to reach the historic site by traveling on the Apache Pass Road, a partially paved, graded county road. The primitive pullout a short distance before the trailhead, with a dirt parking area, trail to the overlook, and fort sighting pipe would be retained.

Visitors would continue to reach the fort from the existing trailhead. The unimproved parking area, accessible composting toilet, a metal and wood shade structure with benches, and three interpretive waysides would be retained. Visitors would continue to leave their cars and approach the ruins of the fort via a 1½-mile trail. The existing fence, grave markers, and interpretive signs describing the cemetery would be retained. In the triangular valley leading to the fort, vegetation would continue to be managed, at a very slow rate, to restore and maintain the appearance of the historic fort based on the results of the cultural landscape report. In the first and second fort areas, the routine preservation of stone and adobe masonry foundations would continue. Vegetation would be managed by removing trees growing next to and among the ruins in order to retain the open area to protect and view ruins. Exotic species would be removed to protect native species. The visitor center, pit toilet, and trails throughout the fort areas would be retained. Interpretation, sales activities, and office space would continue to be the main functions in the visitor center.

Under the no-action alternative, the houses, maintenance complex, offices, and utilities would be retained. Water would continue to be piped over ground to the housing/administrative area. Administrative access to the fort would continue along the existing dirt road, including one paved section on a steep segment of the road.

The Butterfield Trail would continue to be used and maintained as a horse and hiking trail, with vegetation management to control exotic species.

Grazing in the park would continue at its present rate under the no-action alternative. The historic Apache Spring would continue to be used as a water source for cattle grazing off of park land.

Basis for Decision

After careful consideration of public comments received throughout the planning process, including comments on the Fort Bowie NHS General Management Plan/Draft Environmental Impact Statement, Alternative A has been selected for this Record of Decision. This alternative best accomplishes the legislated purposes of Fort Bowie National Historic Site and the statutory mission of the National Park Service to provide long-term protection of Fort Bowie National Historic Site's resources and values while allowing for visitor use and visitor enjoyment. The selected action also best accomplishes the stated purposes of the Fort Bowie NHS General Management Plan. Consequently, the selected action conserves values embodied in the Organic Act to:

- Accomplish the mission of the National Park Service
- Achieve the purposes and criteria of the Fort Bowie NHS General Management Plan, and
- Prevents impairment of park resources in a manner that meets legal and policy requirements

Protect and Enhance Natural and Cultural Resources

Through its combination of restoration of areas to natural conditions, resource protection, and the location or relocation of facilities, Alternative A exceeds the other alternatives in its protection and enhancement of natural resources and removal of facilities from highly valued resource areas.

Alternative A protects highly valued natural and cultural resources through the restoration Arizona vegetation communities. Habitat connectivity encourages biodiversity and promotes a more stable biological system.

Alternative A preserves cultural and historic features of the park through a shift in interpretive them emphasizing understanding of cultural and natural resources and their environment—(*ie.* the nature of adobe and why it melts, the problem of finding a satisfactory adobe preservation technique for a historic site, the benefits and disadvantages of encapsulation and why it is being used) The importance of the park landscape and ruins preservation is also emphasized.

Alternative A will better preserve the historic integrity of the area than the other action alternatives by retaining character-through the park's request that Apache Pass Road not be paved from Emigrant Canyon across Apache Pass. The park would use its influence to prevent its paving unless the road is rerouted to the north, outside the park.

In summary, Alternative A includes actions that are beneficial to the natural resources and cultural resources than other alternatives.

Enhance Visitor Experience

The criteria to enhance the visitors' experience by fostering a diversity of opportunities and by encouraging a high degree of resource stewardship through interpretation, orientation, and education, will be best achieved by implementing Alternative A. This would be done through increased awareness and understanding of park resources and accessibility improvements for disabled.

Alternative A provides increased opportunities for experiencing Fort Bowie NHS on foot by providing additional trails.

Provide Effective Operations

The management of park-wide operations would retain its existing operational structure. Small functional improvements would be made to facilities.

Provide Appropriate Land Uses

The criterion articulated in the Purpose and Need of the Final Fort Bowie NHS General Management Plan/FEIS to site new facilities so that, in aggregate, they help achieve a benefit for park resources, will be met under Alternative A. Application of management prescriptions guide appropriate land uses.

Findings on Impairment of Park Resources and Values

The National Park Service has determined that implementation of Alternative A of the Fort Bowie NHS General Management Plan will not constitute an impairment to Fort Bowie National Historic Site's resources and values. This conclusion is based on a thorough analysis of the environmental impacts described in the Final Fort Bowie NHS General Management Plan/FEIS, the public comments received, relevant scientific studies, and the professional judgment of the decision-maker guided by the direction Management Policies 2001. While the plan has some negative impacts, in all cases these adverse impacts are the result of actions taken to preserve and restore other park resources and values. Overall, the plan results in benefits to park resources and values, opportunities for their enjoyment, and it does not result in their impairment.

In determining whether impairment may occur, park managers consider the duration, severity, and magnitude of the impact; the resources and values affected; and direct, indirect, and cumulative effects of the action. According to National Park Service Policy, ''An impact would be more likely to constitute an impairment to the extent that it affects a resource or value whose conservation is: (a) Necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park; (b) Key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or (c) Identified as a goal in the park's general management plan or other relevant National Park Service planning documents.''

This policy does not prohibit impacts to park resources and values. The National Park Service has the discretion to allow impacts to park resources and values when necessary and appropriate to fulfill the purposes of a park, so long as the impacts do not constitute impairment. Moreover, an impact is less likely to constitute impairment if it is an unavoidable result of an action necessary to preserve or restore the integrity of park resources or values.

Human activity and past development have resulted in the ongoing disruption of natural systems and processes in Fort Bowie NHS for generations. The No Action Alternative would result in future unplanned and uncoordinated actions that are merely reactive to immediate concerns. Furthermore, these actions would likely be responsive to immediate, short-term, adverse impacts that demand attention, but may result in long-term impairment to park values and resources.

The actions comprising Alternative A will achieve the goals of the Fort Bowie NHS General Management Plan (which include protecting and enhancing the natural and cultural resources of Fort Bowie NHS and providing opportunities for high-quality, resource-based visitor experiences) in a comprehensive, integrated manner that takes into account the interplay between resource protection and visitor use. Beneficial effects identified in the Final FEIS include effects related to restoring and protecting park resources and values.

In conclusion, the National Park Service has determined that the implementation of Alternative A will not result in impairment of resources and values in Fort Bowie National Historic Site.

Environmentally Preferable Alternative

Environmentally preferable is defined as ''the alternative that will promote the national environmental policy as expressed in the National Environmental Policy Act's Section 101. NEPA Section 101 states that ''* * * it is the continuing responsibility of the Federal Government to * * * (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations; (2) assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings; (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences; (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice; (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.'' The environmentally preferable alternative for the Fort Bowie NHS General Management Plan is based on these national environmental policy goals.

Alternative A

This alternative will realize each of the provisions of the national environmental policy goals stated in NEPA Section 101. Alternative A will protect and enhance the natural and cultural resources of Fort Bowie NHS, providing opportunities for high-quality, resource-based visitor experiences in a comprehensive, integrated manner. Alternative A takes into account the interplay between resource protection and visitor use and also restores and protects park resources and values. Alternative A will protect and enhance values of Fort Bowie NHS. These actions will further goals 1, 3, and 4 of NEPA Section 101.

No Action

This alternative represents the current management direction with no dramatic or comprehensive changes taking place in the management of Fort Bowie NHS. Although the No Action alternative would include the least change to cultural resources, it would not result in the same level of environmental protection and restoration for natural resources, including floodplains as would occur under the various action alternatives. In having lesser protection and restoration of natural resources, including highly valued resources, the No Action alternative would not fully achieve provisions 1, 3, 4, and 5 of Section 101 of NEPA. Although existing patterns of visitor use would continue, traffic congestion and existing impacts upon visitor experience in Fort Bowie NHS would not be remedied. Compared to the action alternatives, the No Action alternative would be least effective in attaining goal 3 of NEPA, as described in Section 101, in that it would have the narrowest range of beneficial uses that would occur without degradation of natural and cultural resources in Fort Bowie NHS. Because of existing impacts that are not remedied and that relate to provisions 1, 2, 3, 4, and 5 of Section 101 (as discussed above), these provisions would not be realized by the No Action Alternative.

Summary

The National Park Service has determined that the environmentally preferable alternative is Alternative A. While some specific actions under other alternatives may achieve similar or in

some cases greater levels of protection for certain cultural resources, natural resources, and/or visitor experience than under Alternative A, in aggregate, this alternative best achieves the six conditions prescribed under Section 101 of NEPA. While many of the actions in other alternatives may be similar to Alternative A in their effect and consequence, Alternative A (1) provides a high level of protection of natural and cultural resources while concurrently attaining the widest range of neutral and beneficial uses of the environment without degradation; (2) maintains an environment that supports diversity and variety of individual choice; and (3) integrates resource protection with opportunities for an appropriate range of visitor uses.

Measures To Minimize Environmental Harm

The National Park Service has investigated all practical means to avoid or minimize environmental impacts that could result from implementation of the selected action. The measures have been incorporated into Alternative A, and are presented in detail in the Final Fort Bowie NHS General Management Plan/ Supplemental Environmental Impact Statement.

A consistent set of mitigation measures would be applied to actions that result from this plan. Monitoring and enforcement programs will oversee the implementation of mitigation measures. These programs will assure compliance monitoring; biological and cultural resource protection; traffic management, noise, and dust abatement; noxious weed control; pollution prevention measures; visitor safety and education; revegetation; architectural character; and other mitigation measures.

Mitigation measures will also be applied to future actions that are guided by this plan. In addition, the National Park Service will prepare appropriate compliance reviews (*i.e.*, National Environmental Policy Act, National Historic Preservation Act, and other relevant legislation) for these future actions.

Public and Interagency Involvement

On June 14, 199, the National Park Service published in the **Federal Register** (Vol 64 pp 31874) a notice of intent to prepare an environmental impact statement for the Fort Bowie NHS General Management Plan. The Final Fort Bowie General Management Plan/FEIS has been developed pursuant to sections 102(2)'' of the National Environmental Policy Act (Public Law 91–190) and the Council on Environmental Quality regulations (40 CFR 1508.22). Through scoping, a formal public comment process, public meetings and outreach, and meetings with government entities on the Draft Fort Bowie NHS General Management Plan/DEIS, the National Park Service conducted this planning process in consultation with affected federal agencies, state and local governments, tribal groups, and interested organizations and individuals.

Scoping

Scoping typically occurs at the beginning of a planning process. However, in the case of the Draft Fort Bowie NHS General Management Plan/ FEIS, scoping began in 1992. Scoping sessions by the park staff, a public open house, a press release, and a letter to 392 people on the mailing list for both Chiricahua NM and Fort Bowie National Historic Site (NHS) raised a series of issues. After a national reorganization in the National Park Service, the general management planning process was restarted in 1996 with a different planning team. The first step in the second process was a review of the work previously done and the incorporation of the 1992 public comments.

In early May 1998, a newsletter was mailed to all interested parties and those on the park mailing list informing them of GMP projects for both Chiricahua NM and Fort Bowie NHS. The newsletter invited the public to attend meetings to discuss both plans. Notices of the public meetings were also sent to nearby newspapers. Four meetings were held the week of May 18th in the towns of Portal, Willcox, and Bowie, and at a school just outside of Fort Bowie NM. A total of 19 people attended the meetings. The GMP process was described at each meeting, as were the two parks. There was general appreciation expressed for the parks, and recommendations were made not to change them.

All suggestions were discussed and notes were taken. Another 24 mailed responses were received from newspaper readers. Letters were also sent to six Apache tribes and one nation in Arizona, New Mexico, and Oklahoma, and to two interested individual American Indians. No responses were received.

A Notice of Intent to publish an Environmental Impact Statement was published in the **Federal Register** in June of 1999. A 30-day public comment period followed ending on July 15, 1999. A website (*http://www.nps.gov/planning/fobo*) was established to facilitate making information about the planning process available to the public. A total of 5 responses were received requesting information on the planning process. Groups included one organization interested in land issues, one interested in handicapped accessibility, and two unaffiliated individuals.

The DEIS Notice of Availability (NOA) was published in the **Federal Register** (Vol 64 pp 66640–66641) on November 29, 1999 announcing the availability of the Draft Fort Bowie NHS General Management Plan/DEIS and solicited comments from the public through January 2000. The final incorporation of public comment is part of the Final Fort Bowie NHS General Management Plan/FEIS and documented in Appendix 3 and published in March 2001. It was made available for public review per the Notice of Availability published in the **Federal Register**, March 26, 2001 (Vol 66 Number 58 pg 16488).

Conclusion

Alternative A provides the most comprehensive and effective method among the alternatives considered for meeting the National Park Service's purposes, goals, and criteria for managing Fort Bowie National Historic Site and for meeting national environmental policy goals. The selection of Alternative A, as reflected by the analysis contained in the environmental impact statement, would not result in the impairment of park resources and would allow the National Park Service to conserve park resources and provide for their enjoyment by visitors.

Dated: June 18, 2001.

Alan W. Cox,

Superintendent, Fort Bowie National Historic Site, National Park Service.

Dated: June 28, 2001.

William Ladd,

Director, Intermountain Region, National Park Service.

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DEPARTMENT OF THE INTERIOR

National Park Service

Record of Decision; Final Environmental Impact Statement General Management Plan; Zion National Park; Utah

Introduction

The Department of the Interior, National Park Service (NPS), has prepared this Record of Decision (ROD) on the Final General Management Plan/

Environmental Impact Statement for Zion National Park, Utah. This ROD includes a statement of the decision made, synopses of other alternatives considered, the basis for the decision, a description of the environmentally preferable alternative, a discussion of impairment of park resources or values, a listing of measures to minimize environmental harm, and an overview of public involvement in the decision-making process.

Decision (Selected Action)

The National Park Service will implement the preferred alternative as described in the Final General Management Plan/Environmental Impact Statement issued in January 2001. Under the selected action, park managers will make several changes to proactively address impacts resulting from increased levels of visitor use in Zion National Park. The park will be zoned to ensure that resources are protected and opportunities are provided for a range of quality visitor experiences. Most of the park (90%) will continue to be recommended for wilderness designation and will be managed according to the provisions of the Wilderness Act. In the frontcountry no new major visitor facilities will be provided; however, small visitor facilities, such as picnic sites and restrooms, could be built in several areas, including the Kolob Canyons and the east entrance. Voluntary visitor shuttles may run along the Zion-Mt. Carmel Highway to the east entrance. The Zion Canyon Lodge will continue to operate as it has in the past. Part of the North Fork of the Virgin River in the main Zion Canyon will be restored to a more natural condition.

In the backcountry several management actions will be taken. Three existing research natural areas (21% of the park) will be deauthorized, while new research natural areas covering 6% of the park will be designated. Group size limits and new group encounter rates will be instituted as interim standards, pending the completion of a wilderness management plan. Park managers may need to limit or reduce visitor numbers on 12 trails and routes in the recommended wilderness, depending on visitor use levels, including part of the Narrows, Middle Fork of Taylor Creek, and La Verkin Creek. Only authorized research and NPS-guided educational groups will be allowed in 9,031 acres in mostly remote backcountry areas (including Parunuweap Canyon) due to their designation as research natural areas.

The selected action calls for the National Park Service to propose five Bureau of Land Management (BLM) areas, totaling approximately 950 acres, for transfer to the park. Nine access easements, totaling about 15 miles, and three conservation easements, totaling 2,220 acres, would be sought on private lands adjacent to the park. Congressional authorization would be required for all these actions.

Five streams and their tributaries in the park, and six tributaries on BLM lands adjacent to the park, will be recommended for inclusion in the national wild and scenic rivers system. The five streams in the park are: the North Fork of the Virgin River above and below the Temple of Sinawava, the East Fork of the Virgin River, North Creek, La Verkin Creek, and Taylor Creek. The tributaries extending from the park and partly on BLM lands are: Kolob Creek, Goose Creek, Shunes Creek, Willis Creek, Beartrap Canyon, and the Middle Fork of Taylor Creek. Congressional authorization will be required for inclusion of these streams and tributaries in the national wild and scenic rivers system.

Other Alternatives Considered

Three other alternatives for managing Zion National Park were evaluated in the draft and final environmental impact statements.

The no-action alternative provides a baseline for evaluating the changes and impacts of the three action alternatives. Under the no-action alternative, park managers would continue to manage Zion as it has in the past, relying on the 1977 master plan and related existing plans. No new construction or major changes would take place, except for previously approved developments. All of the park's existing facilities would continue to be operated and maintained as they have in the past. The three existing research natural areas would be managed as they have been in the past. Most of the park (90%) would continue to be recommended for wilderness and be managed under the provisions of the Wilderness Act.

Alternative A would provide opportunities for more widespread and increased use of Zion, providing opportunities for a range of visitor experiences, while protecting resources. New management zones would be applied throughout the front and backcountry to proactively manage visitor use. The upgrading or building of trails and the designation of new routes would improve access inside the park. Additional visitor facilities, including picnic areas, information facilities, and backcountry campsites, would be provided at Lava Point, the Kolob Canyons area, the east entrance area, and along the Kolob-Terrace Road and Zion-Mt. Carmel Highway. The Zion Canyon Lodge would continue to operate as it has as in the past. Part of the North Fork of the Virgin River in the main Zion Canyon would be restored to a more natural condition. Most of the park (90%) would continue to be recommended for wilderness designation and be managed according to the provisions of the Wilderness Act. Group size limits and new encounter rates would be instituted as interim standards in the backcountry. Depending on visitor use levels, park managers may need to limit or reduce visitor numbers in four areas in the recommended wilderness. New research natural areas, covering about 4% of the park, would be designated, while the three existing research natural areas would be deauthorized. Only authorized research and NPS-guided educational groups would be allowed on 6,145 acres in remote backcountry areas due to their designation as research natural areas. However, under this alternative Parunuweap Canyon would be open to limited NPS or NPS-sanctioned guided interpretive trips along the river.

Alternative B focuses on providing increased protection for park resources while still providing opportunities for a range of visitor experiences. Management zones would be applied throughout the front and backcountry to proactively manage visitor use. In the frontcountry a full-service visitor facility would be built near the east entrance, and a mandatory shuttle system would be implemented along the Zion-Mt. Carmel Highway. Alternative B would limit other new development in the park to a minimum. In several areas trailheads would be removed and trailhead parking would be reduced. The Zion Canyon Lodge would be converted to a research/environmental education facility. Part of the North Fork of the Virgin River in the main Zion Canyon would be restored to a more natural condition. The number and frequency of shuttles going from the Zion Canyon Lodge to the Temple of Sinawava would be reduced. As in all of the alternatives, most of the park (about 90%) would continue to be recommended for wilderness designation and would be managed according to provisions of the Wilderness Act. Limits on group size and new limits on encounter rates would be instituted as interim standards in the backcountry. Depending on visitor use levels, park managers may need to limit or reduce visitor numbers on 17 trails and routes in the recommended wilderness. About 14%

of the park (including Parunuweap Canyon) would be designated as research natural areas, while the three existing research natural areas would be deauthorized. Only authorized research and NPS-guided educational groups would be allowed on 20,348 acres in mostly remote backcountry areas due to their designation as research natural areas.

Alternatives A and B are identical to the selected action in the following ways: (1) The BLM areas that would be proposed for transfer to the park; (2) the acquisition of access and conservation easements; and (3) the streams in the park and on adjacent BLM lands recommended for inclusion in the national wild and scenic rivers system.

Basis for Decision

The Organic Act established the National Park Service in order to ''promote and regulate the use of parks. * * *'' The Organic Act defined the purpose of the national parks as ''to conserve the scenery and natural and historic objects and wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.'' The Organic Act provides overall guidance for the management of Zion National Park.

In reaching its decision to select the preferred alternative, the National Park Service considered the purposes for which Zion National Park was established, and other laws and policies that apply to lands in Zion National Park, including the Organic Act, the Wilderness Act, National Environmental Policy Act, existing formal agreements (e.g., the Zion National Park Water Rights Settlement Agreement), and the NPS Management Policies. The National Park Service also carefully considered public comments received during the planning process.

Each alternative in the General Management Plan presents a different framework for managing Zion National Park. As a result, each alternative would have different impacts on park resources and visitors.

Compared to all of the alternatives considered, the preferred alternative (selected action) best accomplishes protection of park resources and maintenance of a range of quality visitor experiences. The preferred alternative would have both positive and negative impacts on the park's natural resources, but most of the negative impacts would be minor and localized. The new management zones would help ensure that opportunities for experiencing solitude and natural quiet were available in most of the park, although the zones also may adversely affect some groups (e.g., saddle stock groups). Providing a few new small visitor facilities also would have minor, beneficial effects on visitor experiences.

Unlike the no-action alternative, the preferred alternative addresses many of the issues that have arisen since the master plan was approved in 1977, including management of the existing research natural areas, restoration of the North Fork of the Virgin River's floodplain, ensuring access to the park in several areas from adjacent lands, and protection of the park's scenic qualities along its boundaries. The preferred alternative provides a comprehensive approach for addressing impacts from increasing visitor use, particularly in the backcountry. In comparison, the no-action alternative does not fully address many of these issues or addresses them in a piecemeal fashion. As a result, the preferred alternative would have a lower potential than the no-action alternative for adverse impacts to such resources as Virgin spinedace habitat and desert bighorn sheep. Unlike the no-action alternative, restoring part of the North Fork of the Virgin River's floodplain would have beneficial effects on the river's values, riparian/wetland communities, and possibly southwestern willow flycatcher habitat. Also the preferred alternative would be expected to have a positive effect on most visitors' experiences, based on the application of the new management zones and the development of a few new visitor facilities. In contrast, the no-action alternative would likely result in a gradual decrease in the quality and range of recreational opportunities, increased crowding, declining condition of park resources, and diminished opportunities for quiet and solitude in areas not closely managed.

The preferred alternative would have a lower potential than alternative A for adverse impacts to natural resources in certain areas, such as the potential for impacts to the desert bighorn sheep range—there would be a greater potential in alternative A than in the preferred alternative for adverse impacts caused by increased visitor use within a large portion of the desert bighorn sheep range in canyons along the Zion-Mt. Carmel Highway. The preferred alternative also would have a lower potential than Alternative A for loss of microbiotic soils due to the amount of new development proposed and higher use levels. In addition, impacts to the natural soundscape would be lower under the preferred alternative than alternative A due to expected higher use levels in the former alternative.

Compared to alternative B, the preferred alternative would result in far fewer adverse impacts on visitor use and personal choice in much of the park. Unlike the preferred alternative, under alternative B there would be the potential for moderate to major adverse impacts to the experiences of many visitors. For example, there would be fewer opportunities in alternative B to experience Zion Canyon above the lodge, to stay overnight in the park, to ride horses, and to visit many parts of the backcountry.

Environmentally Preferable Alternative

Records of decision are required under Council on Environmental Quality regulations to identify the environmentally preferable alternative. Environmentally preferable is defined as ''the alternative that will promote the national environmental policy as expressed in § 101 of the National Environmental Policy Act. Section 101 states that ''* * *it is the continuing responsibility of the Federal Government to* * *(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations; (2) assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings; (3) attain the widest range of beneficial uses of the environment without degradation, risk to heath or safety, or other undesirable and unintended consequences; (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice; (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.''

The environmentally preferable alternative is the NPS preferred alternative in the Final Zion National Park General Management Plan/ Environmental Impact Statement because it surpasses the other alternatives in realizing the full range of national environmental policy goals in section 101. This alternative provides a high level of protection of natural and cultural resources while concurrently providing for a wide range of neutral and beneficial uses of the environment. The alternative maintains an environment that supports a diversity and variety of individual choices. And it integrates resource protection with an appropriate range of visitor uses.

The no-action alternative does not provide as much resource protection as the preferred alternative '' resource impacts would be expected to increase with increasing use levels, particularly in the backcountry. Visitor experience impacts also would likely increase under this alternative. Thus, compared to the preferred alternative, the no-action alternative does not meet as well national environmental policy goals 3 (attain the widest range of beneficial uses of the environment without degradation), 4 (preserve important natural aspects and maintain an environment that supports diversity and variety of individual choice), 5 (achieve a balance between population and resource use), and 6 (enhance the quality of renewable resources).

Alternative A provides for the greatest range of visitor experiences and access to Zion National Park. However, there would be a higher potential for impacts to natural resources under this alternative compared to the preferred alternative. Thus, alternative A does not meet policy goals 3 (attain the widest range of beneficial uses without degradation), 4 (preserve important natural aspects), and 6 (enhance the quality of renewable resources) to the same degree as the preferred alternative.

Although alternative B provides a higher level of resource protection than the preferred alternative, it restricts visitor experiences and thus does not fully achieve goals 3 (providing the widest range of beneficial uses of the environment without degradation) and 5 (achieving a balance between population and resource use) '' alternative B does not realize these national environmental policy goals to the same extent as the preferred alternative.

Findings on Impairment of Park Resources and Values

The National Park Service may not allow the impairment of park resources and values unless directly and specifically provided for by legislation or proclamation establishing the park. Impairment that is prohibited by the NPS Organic Act and the General Authorities Act is an impact that, in the professional judgment of the responsible NPS manager, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values. In determining whether an impairment would occur, park managers examine the duration, severity and magnitude of the impact; the resources and values affected; and direct, indirect, and cumulative effects of the action. According to NPS policy, ''An impact would be more likely to constitute an impairment to the extent that it affects a resource or value whose conservation is: a) Necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park; b) Key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park; or c) Identified as a goal in the park's general management plan or other relevant NPS planning documents.''

This policy does not prohibit all impacts to park resources and values. The National Park Service has the discretion to allow impacts to park resources and values when necessary and appropriate to fulfill the purposes of a park, so long as the impacts do not constitute an impairment. Moreover, an impact is less likely to constitute an impairment if it is an unavoidable result, which cannot be further mitigated, of an action necessary to preserve or restore the integrity of park resources or values.

After analyzing the environmental impacts described in the Final General Management Plan / Environmental Impact Statement and public comments received, the National Pak Service has determined that implementation of the preferred alternative will not constitute an impairment to Zion National Park's resources and values. The actions comprising the preferred alternative are intended to protect and enhance the park's natural and cultural resources, and provide for high-quality visitor experiences. Overall, the alternative would have minor to moderate, beneficial effects on such resources as air quality, riparian/wetland communities, hanging gardens, and Virgin spinedace; major beneficial effects on the floodplain of the North Fork of the Virgin River; and a minor, positive effect on most visitors' experiences. From an overall, parkwide perspective, no major adverse impacts to the park's resources or the range of visitor experiences and no irreversible commitments of resources (other than the loss of soil) would be expected. While the alternative would have some adverse effects on park resources and visitor experiences, most of these impacts would be site-specific, minor to moderate, short-term impacts. There is the potential for moderate to major impacts to microbiotic soils due to developments and use, but these impacts would occur in relatively small, localized areas. Most park lands supporting microbiotic soils would not be subject to disturbance.

Some pack stock users and hikers may be displaced by the application of the new management zones. However, other destinations in the park are available to these groups. None of the impacts of this alternative would adversely affect resources or values to a degree that would prevent the National Park Service from fulfilling the purposes of the park, threaten the natural integrity of the park, or eliminate opportunities for people to enjoy the park.

Measures To Minimize Environmental Harm

Measures to avoid or minimize environmental harm that could result from implementation of the selected action have been identified and incorporated into the preferred alternative and are described in detail in the Final General Management Plan / Environmental Impact Statement. Natural resource mitigation measures are described in the ''Park Policies and Practices'' chapter, the description of the preferred alternative, and in the analysis of environmental impacts. Measures to minimize environmental harm include, but are not limited to: timing of trail openings/closures; restricting visitor activities at certain times and locations; siting projects and facilities in previously disturbed or developed locations; employing erosion control measures, restoration of habitats using native plant materials; visitor education programs, ranger patrols, erecting barriers and signs to reduce or prevent impacts; allowing only the use of weed-free materials and equipment in the park; conducting visitor surveys and monitoring visitor use patterns; monitoring changes in the condition of natural and cultural resources; monitoring construction activities; and consulting with the Utah state historical preservation officer and U.S. Fish and Wildlife Service when appropriate.

Public Involvement

The National Park Service provided numerous opportunities for the public to participate in the Zion National Park general management planning process. The planning team primarily used newsletters and workbooks to solicit public comments and suggestions for the plan. During the course of the planning process six newsletters and one workbook were sent to the park's mailing list, which consisted of over 1,000 names. Each of the newsletters and the workbook provided the opportunity for feedback and comments from the public. The planning team held three focus group meetings to gain public input on aircraft overflights, river recreation, and climbing/canyoneering. Meetings were also held with the Springdale Planning Commission, Southwest Utah Planning Authorities

Council, Five County Association of Governments, the Utah Natural Resource Coordinating Committee, and the Utah Rural Summit. In addition, members of the planning team consulted with and sought the views of several agencies and governments, including the Kaibab Paiute, Moapa, and Paiute Indian Tribes, U.S. Fish and Wildlife Service, Bureau of Land Management, and the Utah state historic preservation officer.

The comment period on the draft plan initially ran from December 6, 1999, through February 11, 2000. A notice of availability was published in the December 6, 1999, **Federal Register**. After several requests were received, the comment period was extended to February 29, 2000. The planning team held five public meetings on the draft environmental impact statement from January 6 through January 13, 2000. Meetings were held in Cedar City, Springdale, Kanab, St. George, and Salt Lake City. Over 500 separate written responses were received during the comment period.

One individual and one business sent in comments on the Final General Management Plan/Environmental Impact Statement during the 30-day no-action period. The business, UtahMountainBiking.com, opposed the addition of the Rockville Bench area to the park because this action would close the Slickrock Swamp Trail to mountain bikes. The individual was concerned that the city of Springdale did not comment sufficiently on several issues in the plan. No new substantive issues were raised in the two comment letters.

The notice of availability for the final environmental impact statement was published in the May 8, 2001 **Federal Register**. The 30-day ''no action'' period ended on June 7, 2001.

Conclusion

Among the alternatives considered, the preferred alternative best protects the diversity of park resources while also maintaining a range of quality visitor experiences, meets NPS purposes and goals for managing Zion National Park, and meets national environmental policy goals. The preferred alternative would not result in the impairment of park resources and would allow the National Park Service to conserve park resources and provide for their enjoyment by visitors. The officials responsible for implementing the selected alternative are the Regional Director, Intermountain Region, and the Superintendent, Zion National Park.

Dated: June 18, 2001.

Michael D. Synder,

Acting Regional Director, Intermountain Region, National Park Service.

[FR Doc. 01–28711 Filed 11–15–01; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–01–041]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: November 19, 2001 at 2 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–859 (Final)(Remand)(Certain Circular Seamless Stainless Steel Hollow Products from Japan)—briefing and vote. (The Commission is currently scheduled to transmit its views on remand to the Court of International Trade on December 3, 2001.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier announcement of this meeting was not possible.

By order of the Commission.

Issued: November 14, 2001.

Donna R. Koehnke,

Secretary.

[FR Doc. 01–28821 Filed 11–14–01;12:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Sunshine Act Meetings; Commission for the Review of FBI Security Programs

ACTION: Notice of closed meeting.

DATES: December 13, 2001.

PLACE: Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: The purpose of the Commission for the Review of FBI Security Programs is to provide advice and recommendations on policy and procedural issues as they relate to the security programs of the Federal Bureau of Investigation. The Attorney General of the United States Department of Justice (DOJ) has determined that the meetings of the Commission will be closed to the public in accordance with the United States Code, Title 5, section 552b, due to the likelihood that sensitive national security information regarding intelligence and counter-intelligence investigative techniques and procedures will be reviewed and discussed in an open forum. The potential release of this information could seriously jeopardize the integrity of our internal security programs; ongoing intelligence and counter-intelligence investigations, and could also endanger the lives and safety of FBI Special Agents, other intelligence community personnel, and individuals supporting our intelligence personnel.

FOR FURTHER INFORMATION CONTACT: George Ellard, Deputy Chief Investigative Counsel, (202) 616–1327.

Richard M. Rogers,

Deputy Chief Investigative Counsel, Commission for the Review of FBI Security Programs, Department of Justice.

[FR Doc. 01–28889 Filed 11–14–01; 3:12 pm]

BILLING CODE 0A92–01–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 2154–01]

Implementation of Revised Application for Naturalization, Form N–400

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice announces the implementation of a revised Application for Naturalization, Form N–400, which is used by applicants to obtain United States citizenship. The revised form includes recent legislative changes, streamlines the data collection process, clarifies the information required, and eliminates some obsolete questions. This notice advises the public that the revised Form N–400 is available for filing purposes and as of January 1, 2002, will become the only edition acceptable for filing.

EFFECTIVE DATES: The revised Form N–400, bearing an edition date of May 31, 2001, became acceptable for filing purposes on August 1, 2001. No earlier editions of Form N–400 will be accepted for filing after December 31, 2001.

FOR FURTHER INFORMATION CONTACT: Gerard Casale, Business process and Reengineering Division, Immigration and Naturalization Service, 801 I Street, NW., Washington, DC 20536, telephone (202) 514–0788.

SUPPLEMENTARY INFORMATION:

Background

This is the first significant revision of the Application for Naturalization, Form N–400, since 1991. The need for an updated naturalization application was a key finding of a naturalization reengineering project begun in 1997. Immigration and Naturalization Service (Service) staff, applicant focus groups, and community-based organizations contributed to redesigning the form to incorporate recent naturalization requirements and benefits while at the same time making the application more understandable and streamlining the naturalization process. The Service published several **Federal Register** notices to exhibit various drafts of the revised Form N–400 and to solicit public comments. The notices appeared in the **Federal Register** on: October 16, 1998, at 63 FR 55643; June 28, 2000, at 65 FR 39926; January 8, 1999, at 64 FR 1219, and on October 26, 2000, at 65 FR 64239. The Service received written comments from over 20 organizations and individuals, as well as comments from Service personnel and congressional staff. All of the comments were considered in the process of revising the form.

What Additional Statutory Provisions Are Incorporated Into the Revised Form N–400?

The Application for Naturalization, Form N–400, has been revised to incorporate various statutory provisions that either were not integrated into the previous application form or were enacted after the last major edition of the Form N–400 in 1991. These revision include:

- Section 322 of the Act amendments: Removing the need for children under age 18 to file the Form N–400 to obtain citizenship.
- Section 334 of the Act: Provisions for early filing by certain applicants under sections 316(a) and 319(a) of the Act.
- Provisions for requesting disability accommodations as permitted by the Rehabilitation Act of 1973.
- Section 312(b) of the Act: Provisions for disability waivers.
- Questions relating to terrorism and persecution under amended sections 219 and 212(a)(3)(B) of the Act.
- Questions relating to applicants in rescission and removal proceedings.
- Questions relating to illegal voting or registration to vote, and false claims to U.S. citizenship.
- Provisions for waiving the Oath of Allegiance in cases of physical or developmental disability or mental impairment (Pub. L. 106–448 enacted on November 6, 2000).

How Has the New Form N–400 Improved the Data Collection Process?

The new Form N–400 consolidates and facilitates the collection of information that previously was being captured elsewhere in the process. For example, applicants seeking a name change as part of naturalization can now enter that request directly on Part 1.D. of the Form N–400. There also is a new section (Part 5) that captures biometric data required for criminal records search requests sent to the Federal Bureau of Investigation (FBI), thus saving time and avoiding the necessity of having to collect this information later at an Application Support Center. Other changes in the revised Form N–400 include space for a 2-D (two dimensional) bar code and space for the applicant's A number on every page, which will facilitate the Service's processing of the Form N–400 and ensure that every page of the application is identified.

The revised Form N–400 incorporates additional categories of information that were previously being collected by the Service through separate attachments assembled by the applicants themselves. Such categories include information regarding marital history, children, travel outside the United States, and criminal offenses and arrests. The new Form N–400 captures more of the necessary information on the form at the beginning of the application process, thus making the data collection more efficient and timely.

Lastly, the Service has revised Form N–400 to help naturalization applicants better understand the requirements for filing the form, as well as the kinds of information the Service requires applicants to submit to determine their eligibility for naturalization.

How Has the Structure of the Application for Naturalization Changed?

- *Smoother Flow.* To make it easier to complete the Form N–400, related information (such as the applicant's current name, name of the Permanent Resident Card, and ''other'' names) is grouped together. The format follows the sequence of a normal naturalization interview wherever practicable.
- *Adjustments in content.* As previously mentioned, some items implementing recent legislation have been added. In addition, obsolete material has been removed, e.g., regarding the naturalization of children.

Why Does the New Edition Have More Pages Than the Previous Form N–400?

- *Better Instructions.* The new Form N–400 Instructions address more topics and have been simplified to make the application easier to complete. Readers seeking more details also can now refer to the new companion document, A Guide to Naturalization, which is included in every new Form N–400 packet. The Guide is now available in the following languages: English, Spanish, Chinese, Vietnamese, and Tagalog.
- *Space provided for up-front collection of information.* Additional space has been provided for the orderly capture of information previously collected elsewhere. As a result the total number of pages increased. However, the changes will improve quality and timeliness in data collection, and reduce continuances to obtain missing information, thus leading to better decisions being made.
- *New eligibility and benefits items.* Another factor increasing the length of the application was the addition of legislatively mandated elements mentioned above.
- *More precise questions.* The revised application clarifies issues by reorganizing the topic headings and by breaking up lengthy and complex questions into several simpler and more direct ones.

Where Can the New Edition of the Application for Naturalization, Form N–400, Be Obtained?

Applicants can obtain a revised edition of Form N–400 by calling the Service Forms Line at 1–800–870–3676. The new edition also can be viewed, filled, and printed on the Service web Site at *http://www.ins.usdoj.gov.*

What Is the Service Policy Regarding Processing Older Editions of the Form N–400:

Beginning January 1, 2002, only the May 31, 2001 edition of Form N–400 will be valid for filing an application for naturalization, and all prior editions will become obsolete. Any prior editions that Service Centers receive on or after January 1, 2002 will not be processed for filing.

Stocks of the new May 31, 2001, edition of Form N–400 have been printed and are being made available to the public. To prevent applicants from mistakenly submitting earlier editions after they become obsolete, any pre-

2001 editions on hand should be discarded and replaced with the new May 31, 2001, edition.

However, the Service will continue to process prior editions of the Form N–400 until December 31, 2001, to allow more time for the public to obtain the new May 31, 2001, edition of the Form N–400. It must be noted that earlier editions of the Form N–400 will be processed only if they were filed prior to January 1, 2002.

Dated: October 5, 2001.

James W. Ziglar,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 01–28755 Filed 11–15–01; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of labors and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General wage Determinations Issued Under The Davis-Bacon And related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

New General Wage Determination Decision

The number of the decisions added to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' are listed by Volume and States:

Volume III

North Carolina
NC010056 (Nov. 16, 2001)

Modification to General Wage Determination Decisions

The number of the decisions listed to the government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA010007 (Mar. 2, 2001)
Rhode Island
RI010001 (Mar. 2, 2001)
RI010002 (Mar. 2, 2001)
Vermont
VT010042 (Mar. 2, 2001)

Volume II

District of Columbia
DC010001 (Mar. 2, 2001)
DC010003 (Mar. 2, 2001)
Delaware
DE010002 (Mar. 2, 2001)
DE010005 (Mar. 2, 2001)
DE010008 (Mar. 2, 2001)
DE010009 (Mar. 2, 2001)

Volume III

Florida
FL010017 (Mar. 2, 2001)
FL010103 (Mar. 2, 2001)
Georgia
GA010003 (Mar. 2, 2001)
GA010004 (Mar. 2, 2001)
GA010022 (Mar. 2, 2001)
GA010023 (Mar. 2, 2001)
GA010040 (Mar. 2, 2001)
GA010044 (Mar. 2, 2001)
GA010050 (Mar. 2, 2001)
GA010055 (Mar. 2, 2001)
GA010073 (Mar. 2, 2001)
GA010084 (Mar. 2, 2001)
GA010085 (Mar. 2, 2001)
GA010086 (Mar. 2, 2001)
GA010087 (Mar. 2, 2001)
GA010088 (Mar. 2, 2001)
Kentucky
KY010001 (Mar. 2, 2001)
KY010002 (Mar. 2, 2001)
KY010003 (Mar. 2, 2001)
KY010004 (Mar. 2, 2001)
KY010006 (Mar. 2, 2001)
KY010007 (Mar. 2, 2001)
KY010025 (Mar. 2, 2001)
KY010027 (Mar. 2, 2001)
KY010028 (Mar. 2, 2001)
KY010029 (Mar. 2, 2001)
KY010035 (Mar. 2, 2001)
North Carolina
NC010006 (Mar. 2, 2001)
NC010038 (Mar. 2, 2001)
South Carolina
SC010033 (Mar. 2, 2001)

Volume IV

Michigan
MI010004 (Mar. 2, 2001)
MI010007 (Mar. 2, 2001)
MI010027 (Mar. 2, 2001)
MI010062 (Mar. 2, 2001)
MI010064 (Mar. 2, 2001)

MI010071 (Mar. 2, 2001)
MI010072 (Mar. 2, 2001)
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MI010076 (Mar. 2, 2001)
MI010079 (Mar. 2, 2001)
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Ohio
OH010001 (Mar. 2, 2001)
OH010002 (Mar. 2, 2001)
OH010003 (Mar. 2, 2001)
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OH010020 (Mar. 2, 2001)
OH010022 (Mar. 2, 2001)
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OH010026 (Mar. 2, 2001)
OH010027 (Mar. 2, 2001)
OH010029 (Mar. 2, 2001)

Volume V

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IA010005 (Mar. 2, 2001)
Kansas
KS010007 (Mar. 2, 2001)
KS010008 (Mar. 2, 2001)
KS010009 (Mar. 2, 2001)
KS010010 (Mar. 2, 2001)
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KS010069 (Mar. 2, 2001)
KS010070 (Mar. 2, 2001)
Missouri
MO010001 (Mar. 2, 2001)
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MO010057 (Mar. 2, 2001)
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MO010062 (Mar. 2, 2001)
MO010065 (Mar. 2, 2001)
Oklahoma
OK010013 (Mar. 2, 2001)
OK010015 (Mar. 2, 2001)
OK010018 (Mar. 2, 2001)
OK010035 (Mar. 2, 2001)
Texas
TX010003 (Mar. 2, 2001)
TX010007 (Mar. 2, 2001)
TX010010 (Mar. 2, 2001)
TX010015 (Mar. 2, 2001)
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TX010061 (Mar. 2, 2001)
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Montana
MT010001 (Mar. 2, 2001)
MT010003 (Mar. 2, 2001)
MT010004 (Mar. 2, 2001)
MT010005 (Mar. 2, 2001)
MT010007 (Mar. 2, 2001)
Oregon
OR010001 (Mar. 2, 2001)
Utah
UT010001 (Mar. 2, 2001)
UT010004 (Mar. 2, 2001)
UT010005 (Mar. 2, 2001)
UT010006 (Mar. 2, 2001)
UT010007 (Mar. 2, 2001)
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UT010028 (Mar. 2, 2001)
UT010029 (Mar. 2, 2001)
UT010033 (Mar. 2, 2001)
UT010034 (Mar. 2, 2001)
Washington
WA010001 (Mar. 2, 2001)
WA010002 (Mar. 2, 2001)
WA010003 (Mar. 2, 2001)
WA010005 (Mar. 2, 2001)
WA010007 (Mar. 2, 2001)
WA010008 (Mar. 2, 2001)
WA010011 (Mar. 2, 2001)

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California
CA010001 (Mar. 2, 2001)
CA010002 (Mar. 2, 2001)
CA010009 (Mar. 2, 2001)
CA010027 (Mar. 2, 2001)
CA010028 (Mar. 2, 2001)
CA010029 (Mar. 2, 2001)
CA010030 (Mar. 2, 2001)
CA010031 (Mar. 2, 2001)
CA010033 (Mar. 2, 2001)
CA010035 (Mar. 2, 2001)
CA010036 (Mar. 2, 2001)
CA010037 (Mar. 2, 2001)
CA010038 (Mar. 2, 2001)
CA010039 (Mar. 2, 2001)
CA010040 (Mar. 2, 2001)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage determinations Issued Under the Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *www.access.gpo.gov/davisbacon*. They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov)* of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC This 8th Day of November 2001.

Terry Sullivan,

Acting Chief, Branch of Construction Wage Determinations.

[FR Doc. 01–28578 Filed 11–15–01; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for

records disposition authority (records schedules). Once approved by NARA, records schedules provide mandatory instructions on what happens to records when no longer needed for current Government business. They authorize the preservation of records of continuing value in the National Archives of the United States and the destruction, after a specified period, of records lacking administrative, legal, research, or other value. Notice is published for records schedules in which agencies propose to destroy records not previously authorized for disposal or reduce the retention period of records already authorized for disposal. NARA invites public comments on such records schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before December 31, 2001. Once the appraisal of the records is completed, NARA will send a copy of the schedule. NARA staff usually prepare appraisal memorandums that contain additional information concerning the records covered by a proposed schedule. These, too, may be requested and will be provided once the appraisal is completed. Requesters will be given 30 days to submit comments.

ADDRESSES: To request a copy of any records schedule identified in this notice, write to the Life Cycle Management Division (NWML), National Archives and Records Administration (NARA), 8601 Adelphi Road, College Park, MD 20740–6001. Requests also may be transmitted by FAX to 301–713–6852 or by e-mail to *records.mgt@arch2.nara.gov.* Requesters must cite the control number, which appears in parentheses after the name of the agency which submitted the schedule, and must provide a mailing address. Those who desire appraisal reports should so indicate in their request.

FOR FURTHER INFORMATION CONTACT: Michael Miller, Director, Modern Records Programs (NWM), National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001. Telephone: (301) 713–7110. E-mail: *records.mgt@arch2.nara.gov.*

SUPPLEMENTARY INFORMATION: Each year Federal agencies create billions of records on paper, film, magnetic tape, and other media. To control this accumulation, agency records managers prepare schedules proposing retention periods for records and submit these schedules for NARA's approval, using the Standard Form (SF) 115, Request for Records Disposition Authority. These schedules provide for the timely transfer into the National Archives of historically valuable records and authorize the disposal of all other records after the agency no longer needs them to conduct its business. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. Most schedules, however, cover records of only one office or program or a few series of records. Many of these update previously approved schedules, and some include records proposed as permanent.

No Federal records are authorized for destruction without the approval of the Archivist of the United States. This approval is granted only after a thorough consideration of their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and whether or not they have historical or other value.

Besides identifying the Federal agencies and any subdivisions requesting disposition authority, this public notice lists the organizational unit(s) accumulating the records or indicates agency-wide applicability in the case of schedules that cover records that may be accumulated throughout an agency. This notice provides the control number assigned to each schedule, the total number of schedule items, and the number of temporary items (the records proposed for destruction). It also includes a brief description of the temporary records. The records schedule itself contains a full description of the records at the file unit level as well as their disposition. If NARA staff has prepared an appraisal memorandum for the schedule, it too includes information about the records. Further information about the disposition process is available on request.

Schedules Pending

1. Department of the Army, Agency-wide (N1–AU–01–29, 5 items, 5 temporary items). Short term records relating to the administrative control of classified North Atlantic Treaty Organization information. Included are such records as classified document receipts, registers, and document destruction certificates. Also included are electronic copies of documents created using electronic mail and word processing. This schedule authorizes the agency to apply the proposed disposition instructions to any recordkeeping medium.

2. Department of Commerce, Office of the Inspector General (N1–40–01–2, 3 items, 3 temporary items). Records of the Office of Inspections and Program Evaluations and the Office of Systems Evaluation, including reports, working files, and electronic copies of documents created using electronic mail and word processing.

3. Department of Commerce, Office of the Inspector General (N1–40–02–1, 6 items, 5 temporary items). Records of the Office of Investigations, including case files pertaining to routine investigations, files containing information or allegations that do not relate to a specific investigation, name check files of individuals and entities seeking financial assistance from the agency, and electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of case files pertaining to significant investigations.

4. Department of Commerce, National Oceanic and Atmospheric Administration (N1–370–01–1, 18 items, 16 temporary items). Records relating to assessments of the damage done to U.S. coastal and marine natural resources as a result of oil spills or other incidents. Included are such records as pre-settlement case files, evidence tracking records, cost accounting files, rulemaking working files, and electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of pre-settlement administrative record files and rulemaking administrative record files documenting the decisions, actions, and policies of the agency.

5. Department of Defense, Military Services Offices of Surgeons General (N1–330–01–2, 29 items, 29 temporary items). Medical records accumulated by Army, Air Force, and Navy. Included are such files as inpatient treatment records, outpatient treatment records, substance abuse records, x-rays, dental records, and radiation oncology records. Also included are electronic copies of documents created using electronic mail and word processing. This schedule standardizes the descriptions and disposition instructions for these records, which were previously approved for disposal.

6. Department of Defense, Army and Air Force Exchange Service (N1–334–01–1, 4 items, 4 temporary items). Records relating to the service and employment history of non-appropriated fund employees. Included are official personnel folders, folders for non-U.S. citizen employees, and convenience files. Also included are

electronic copies of documents created using electronic mail and word processing.

7. Department of Defense, National Imagery and Mapping Agency (N1–537–01–3, 1 item, 1 temporary item). Users' manuals for various systems used for managing and utilizing information in the National Photographic Interpretation Center during the period 1966–1978.

8. Department of Energy, Strategic Petroleum Reserve, (N1–434–01–6, 14 items, 11 temporary items). Records relating to operational activities of the Strategic Petroleum Reserve. Included are records relating to crude oil sampling, commercial pipelines and terminals, accountability for crude oil, daily pressure monitoring, site development, and the preparation of economic studies. Also included are electronic copies of documents created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of drawdown policy and procedures documents, economic studies and reports, and periodic publications.

9. Department of the Treasury, Office of the Under Secretary for Enforcement (N1–56–01–7, 11 items, 5 temporary items). Speeches and testimony of the Under Secretary and Assistant and Deputy Assistant Secretaries (Enforcement) and subject and chronological files accumulated by the Offices of the Directors of Tariff and Trade Affairs, Finance and Administration, Policy Development, Professional Responsibility, Special Task Forces, Financial Enforcement, Operations, and Law Enforcement. Also included are electronic copies of records created using electronic and mail and word processing. Proposed for permanent retention are recordkeeping copies of the subject files, chronological files, schedules of daily activities, and telephone logs of the Under Secretary and Assistant and Deputy Assistant Secretaries.

10. Department of the Treasury, U.S. Customs Service (N1–36–00–1, 4 items, 4 temporary items). Manifests and cargo declarations pertaining to inward and outward shipments. Electronic copies created using word processing and electronic mail are included. This schedule, which stems from business process reengineering improvements, consolidates record series and reduces retention periods for recordkeeping copies of these records, which were previously approved for disposal.

11. Department of Veterans Affairs, Veterans Health Administration (N1–15–00–1, 6 items, 6 temporary items). Records used to determine eligibility for the Civilian Health and Medical Program. Records consist of medical benefit applications and related documentation that support claims for medical services. Included are paper files, versions produced using scanning and optical imaging, and electronic copies of documents created using electronic mail and word processing.

12. Pension Benefit Guaranty Corporation, Office of Inspector General (N1–465–01–2, 16 items, 13 temporary items). Records relating to investigations and audits. Included are such records as files pertaining to allegations that do not support the opening of a formal investigation file, routine investigation case files, automated case tracking records relating to routine investigations, final reports of routine audits, and audit working files. Also included are electronic copies of records created using electronic mail and word processing. Proposed for permanent retention are recordkeeping copies of significant investigation records and related electronic case tracking data and final reports of significant audits.

13. Tennessee Valley Authority, TVA Police (N1–142–99–1, 11 items, 10 temporary items). Files documenting public safety and law enforcement activities including forms, correspondence, plans, manuals, receipts, reports and other records relating to firearms inspections, identification cards, property and evidence control records, metal detector permits, and activity reports. Also included are electronic copies of records created using electronic mail, word processing, and other office automation applications. Recordkeeping copies of standard operating policies and procedures are proposed for permanent retention.

14. Tennessee Valley Authority, River System Operations and Environment (N1–142–00–5, 3 items, 3 temporary items). Memorandums, reports, and other records relating to safety inspections of river system dams. Also included are electronic copies of documents created using electronic mail and word processing. This schedule increases the retention period for recordkeeping copies of these files, which were previously approved for disposal.

Dated: November 9, 2001.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 01–28716 Filed 11–15–01; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL INSTITUTE FOR LITERACY

Notice of Meeting

AGENCY: National Institute for Literacy (NIFL).

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Institute for Literacy Board (Advisory Board). This notice also describes the function of the Advisory Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend the meeting.

Date and Time: November 30, 2001 from 10 a.m. to 5 p.m.

ADDRESSES: National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Shelly Coles, Executive Assistant, National Institute for Literacy, 1775 I Street, NW., Suite 730, Washington, DC 20006. Telephone number (202) 233–2027, *e-mail scoles@nifl.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Board is established under the Workforce Investment Act of 1998, Title II of Pub. L. 105–220, sec. 242, the National Institute for Literacy. The Advisory Board consists of ten individuals appointed by the President with the advice and consent of the Senate. The Advisory Board is established to advise and make recommendations to the Interagency Group, composed of the Secretaries of Education, Labor, and health and Human Services, which administers the national Institute for Literacy (Institute). The Interagency Group considers the Advisory Board's recommendations in planning the goals of the Institute and in the implementation of any programs to achieve the goals of the Institute. Specifically, the Advisory Board performs the following function (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and Director of the Institute. In addition, the Institute consults with the Advisory Board on the award of fellowships. The National Institute for Literacy Advisory Board meeting on November 30, 2001, will focus on future and current NIFL program activities, and other relevant literacy activities and issues. Records are kept of all Advisory Board proceedings and are available for public inspection at the National Institute for Literacy, 1775 I Street, NW, Suite 730,

Washington, DC 20006, from 8:30 a.m. to 5 p.m.

Dated: November 9, 2001.

Sandra L. Baxter,

Interim Executive Director.

[FR Doc. 01–28687 Filed 11–15–01; 8:45 am]

BILLING CODE 6055–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Cyberinfrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Cyberinfrastructure (#10719).

Dates/Time: Thursday, Nov. 29, 2001, 8 AM to 5 PM EST, and Friday, Nov. 30, 2001, 8 AM to 5 PM EST.

Place: Room 1150, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA and on the Access Grid in the Lucky Labrador Virtual Venue.

Type of Meeting: Open. The meeting will involve the use of the Access Grid to interview witnesses. Persons wishing to attend the meeting at NSF should contact Richard Hilderbrandt to arrange for a visitor's pass. Persons wishing to watch the proceedings through the use of the Access Grid are invited to join the meeting in the Lucky Labrador Virtual Venue.

Contact Person: Mr. Richard Hilderbrandt, Program Director, Division of Advanced Computational Infrastructure and Research, Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Tel: (703) 292–7093, e-mail: *rhilderb@nsf.gov.*

Purpose of Meeting: To obtain testimony from expert witnesses to pertinent to the preparation of a report to the National Science Foundation concerning the broad topic of advanced cyberinfrastructure and the evaluation of the existing Partnerships for Advanced Computational Infrastructure.

Agenda (all times EST):

Thursday, 29 November 2001

8–10 AM In-Person and Access Grid Testimony (4 people)
10–10:30 AM Break
10:30 AM–12:30 PM In-Person and Access Grid Testimony (4 people)
12:30–1:30 PM Lunch
1:30–3 PM In-Person and Access Grid Testimony (3 people)
3–3:30 PM Break
3:30–5 PM In-Person and Access Grid Testimony (3 people)

Friday, 30 November 2001

8–10 AM In-Person and Access Grid Testimony (4 people)
10–10:30 AM Break
10:30 AM–12:30 PM In-Person and Access Grid Testimony (4 people)
12:30–1:30 PM Lunch
1:30–3 PM In-Person and Access Grid Testimony (3 people from West Coast)
3–3:30 PM Break
3:30–5 PM Access Grid Testimony Only from West Coast (3 people)

Dated: November 13, 2001.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 01–28754 Filed 11–15–01; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–254 and 50–265]

Exelon Generation Company, LLC; Quad Cities Nuclear Power Station, Units 1 and 2; Draft Environmental Assessment and Finding of No Significant Impact Related to a Proposed License Amendment To Increase the Maximum Thermal Power Level

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of opportunity for public comment.

SUMMARY: The NRC has prepared a draft environmental assessment (EA) in connection with its evaluation of a request by Exelon Generation Company, LLC (Exelon, the licensee) for a license amendment to increase the maximum thermal power level at Quad Cities Nuclear Power Station, Units 1 and 2 (QCNPS), from 2511 MWt to 2957 MWt. This represents a power increase of approximately 18 percent for QCNPS. As stated in the NRC staff's February 8, 1996, position paper on the Boiling-Water Reactor Extended Power Uprate Program, the staff has the option of preparing an environmental impact statement if it believes a power uprate will have a significant impact. The staff did not identify a significant impact from the licensee's proposed extended power uprate at QCNPS; therefore, the NRC staff is documenting its environmental review in an EA. Also in accordance with the February 8, 1996, staff position paper, the draft EA and finding of no significant impact is being published in the **Federal Register** with a 30-day public comment period.

DATES: The comment period expires December 17, 2001. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only of comments received on or before December 17, 2001.

ADDRESSES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T–6 D69, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland 20852, from 7:45 a.m. to 4:15 p.m. on Federal workdays. Copies of written comments received will be available electronically at the NRC's Public Electronic Reading Room (PERR) link (*http://www.nrc.gov/NRC/ADAMS/index.html*) on the NRC Homepage or at the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Lawrence Rossbach, Office of Nuclear Reactor Regulation, at Mail Stop O–7 D3, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at (301) 415–2863, or by e-mail at *lwr@nrc.gov.*

SUPPLEMENTARY INFORMATION: The NRC is considering issuance of an amendment to Facility Operating Licenses Nos. DPR–29 and DPR–30, issued to Exelon for the operation of QCNPS, Units 1 and 2, located on the Mississippi River in Rock Island County, Illinois. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow Exelon, the operator of QCNPS, to increase its electrical generating capacity at QCNPS by raising the maximum reactor core power level from 2511 MWt to 2957 MWt. This change is approximately 18 percent above the current maximum licensed power level for QCNPS. The change is considered an extended power uprate (EPU) because it would raise the reactor core power level more than 7 percent above the original licensed maximum power level. QCNPS has not submitted a previous power uprate application. A power uprate increases the heat output of the reactor to support increased turbine inlet steam flow requirements and increases the heat dissipated by the condenser to support increased turbine exhaust steam flow requirements.

The proposed action is in accordance with the licensee's application for amendments dated December 27, 2000,

and supplemental information dated February 12, April 6 and 13, May 3, 18, and 29, June 5, 7, and 15, July 6 and 23, August 7, 8, 9, 13 (two letters), 14 (two letters), 29, and 31 (two letters), September 5 (two letters), 14, 19, 25, 26, and 27 (two letters), and November 2, 2001 (two letters). The original amendment request was submitted by Commonwealth Edison Company (ComEd), the former licensee. ComEd subsequently transferred the licenses to Exelon. By letter dated February 7, 2001, Exelon informed the NRC that it assumed responsibility for all pending NRC actions that were requested by ComEd.

The Need for the Proposed Action

Exelon evaluated its resource needs for the period 2000–2014 and forecast a 28-percent increase in electrical demand by 2014 within its Illinois service area. The proposed EPU would provide approximately 0.76 percent additional generating capacity per unit at QCNPS. Exelon stated that in order to stay competitive, it must be able to fulfill not only customer power demands, but it also must sell power to other providers. In Illinois, approximately 40 gas turbine plants of various sizes are proposed to be built. The proposed additional generating capacity at QCNPS would eliminate the need to build approximately two 100 MWe gas turbines.

Environmental Impacts of the Proposed Action

At the time of the issuance of the operating licenses for QCNPS, the NRC staff noted that any activity authorized by the licenses would be encompassed by the overall action evaluated in the Final Environmental Statement (FES) for the operation of QCNPS, which was issued in September 1972. The original operating licenses for QCNPS allowed a maximum reactor power level of 2511MWt. On December 27, 2000, Exelon submitted a supplement to its Environmental Report supporting the proposed EPU and provided a summary of its conclusions concerning the environmental impacts of the EPU at QCNPS. Based on the staff's independent analyses and the evaluation performed by the licensee, the staff concludes that the environmental impacts of the EPU are bounded by the environmental impacts previously evaluated in the FES, because the EPU would involve no extensive changes to plant systems that directly or indirectly interface with the environment. This environmental assessment first discusses the non-radiological and then the radiological environmental impacts of the proposed EPU at QCNPS.

Non-Radiological Impacts at QCNPS

The following is the NRC staff's evaluation of the non-radiological environmental impacts on land use, water use, waste discharge, terrestrial and aquatic biota, transmission facilities, and social and economic conditions at QCNPS.

Land Use Impacts

The licensee has no plans to construct any new facilities or alter the land around existing facilities, including buildings, access roads, parking facilities, laydown areas, or onsite transmission and distribution equipment, including power line rights-of-way, in conjunction with the uprate or operation after the EPU. The EPU would not significantly affect the storage of materials, including chemicals, fuels, and other materials stored above or under ground. Therefore, the FES conclusions on the impacts on land use would be valid under the EPU conditions.

Water Use Impacts

The steam produced by the QCNPS turbines is condensed in the condensers, demineralized, and pumped back to the reactor vessel. Approximately 2094 cubic feet per second (cfs) of cooling water used in the condensers is pumped from the Mississippi River and does not come in contact with the steam from the turbines. The original design called for a once-through cooling water system in which the heated water used in the condensers was combined with other water discharges and returned to the river downstream of the intake. Under this system, the FES stated that full power operation of both generating units at a total of 5022 MWt will cause a 23 °F temperature rise in 2270 cfs (2100 cfs through the condensers and 170 cfs through the service water) of Mississippi River water, the maximum flow through QCNPS. The cooling system has had several configurations due to concerns over thermal effects on the river biota. The original design called for open-cycle discharge of heated effluent along a straight wing dam into the deeper, higher velocity portion of the river. This system was replaced with a diffuser system consisting of 2 diffuser pipes laid across the bottom of the main river channel with regularly spaced jets that directed heated water into the river. A closed-cycle condenser cooling system was installed next, which included a spray canal with blow-down directed into a third diffuser pipe in the river. The spray canal was less efficient than anticipated and partial open-cycle operation of the condenser cooling system was implemented next. Finally, an extensive study concluded that QCNPS could operate at full load in the open-cycle mode while meeting National Pollutant Discharge Elimination System (NPDES) permit limits under most river flow conditions. QCNPS presently operates in this open-cycle mode.

Cooling water is withdrawn from the Mississippi River through a canal that is perpendicular to the river flow. The canal is 235 feet long, 180 feet wide, and 12 feet deep. Intake velocity at the mouth of the canal is about one foot per second. A floating boom extending to a depth of 33 inches covers the mouth of the canal to deflect floating material. Beyond the boom is a series of vertical metal bars spaced 2.5 inches apart (trash racks) that screen large pieces of debris from the intake. Travel screens with a ⅜-inch mesh further protect the circulating water pumps.

The staff evaluated surface water use and groundwater use as environmental impacts of water usage at QCNPS. Current flow conditions, based on equipment capacity constraints and operating history, is 2192 cfs. The licensee stated that the EPU would not change the hydrodynamics of the condenser cooling and that surface water withdrawal rates or the maximum flow of river water through QCNPS would not be affected by the proposed EPU. Therefore, the conclusions in the FES regarding surface water use are expected to remain valid.

Groundwater is drawn from five wells at QCNPS and is used for domestic purposes, for raising fish in the former spray canals, and for a variety of other industrial applications. Groundwater is not used for condenser cooling. The licensee stated that the proposed EPU would not involve an increase in the consumptive use of groundwater. The EPU would not impact the well water system flow path and does not require any additional cooling capacity from the groundwater in order to shed heat loads. Therefore, the staff's conclusions in the FES relative to groundwater use would remain valid for the proposed EPU.

Waste Discharge Impacts

The staff considered chemical discharges to surface water and sanitary sewer systems, cold shock to an aquatic biota, and air emission, as waste discharge impacts.

Surface Water and Sanitary Sewer System Discharges

QCNPS operates under a NPDES permit issued by the State of Illinois which covers discharges to the open-cycle diffusers, wastewater treatment system, sanitary waste treatment plant, and radwaste treatment system blowdown. Special Condition 6 of the NPDES permit gives thermal limitations at the downstream boundary of the mixing zone, including a maximum temperature rise above natural temperature of 5 °F and maximum temperature limits for each month of the year. The permit also requires that the mixing zone not exceed 26 acres of the Mississippi River. To demonstrate compliance at low river flow conditions while operating under the open-cycle mode (the present mode of operation), a temperature monitoring curve was developed that allows calculations of permissible plant load as a function of river water. The temperature monitoring curve was modified in 1990, based on measurements taken during the drought years of 1988 and 1989. Based on this temperature monitoring curve, Special Condition 6 of the NPDES permit states that compliance is demonstrated when river flows are greater than 16,000 cfs and ambient river temperature is 5 °F or more below the maximum monthly limit. For river flows between 11,000 cfs and 16,000 cfs, compliance is demonstrated by either adjusting plant load based on the correlation in the temperature monitoring curve, or by actual monitoring of river temperatures at the downstream boundary of the mixing zone. At river flows less than 11,000 cfs, the permit requires temperature monitoring at the downstream boundary of the mixing zone. The licensee proposes to modify the temperature monitoring curve to account for the increase in temperature of the discharged river water resulting from the EPU condition. Under EPU conditions, the maximum condenser-water temperature rise will be 28 °F; 5 °F higher than the current total maximum (condenser and service water) temperature rise of 23 °F. The revised temperature monitoring curve would raise the minimum river flows required for demonstrating compliance using river temperature monitoring at the downstream boundary of the mixing zone or adjusting plant load in accordance with the temperature monitoring curve correlation. The flow at which the actual river temperature monitoring must be performed or plant load adjustment must be made increases from 16,000 cfs to 21,100 cfs under the proposed revised temperature monitoring curve. The licensee discussed the proposed monitoring curve change on July 28, 2000, with the Illinois Environmental Protection Agency (IEPA). A second meeting was held on December 15, 2000. The licensee made a formal request to revise the NPDES permit by letter dated March 14, 2001. Subsequent discussions between the licensee and the staff occurred on March 29, 2001, and October 17, 2001. The licensee stated that the IEPA would consult with and obtain the Iowa Department of Natural Resources (IDNR) concurrence before issuing a permit revision, in accordance with 40 CFR 123.10, ''Public notice of permit actions and public comment period.'' The licensee stated that the IEPA issued the draft NPDES permit revision on October 15, 2001, for a 30-day public comment period. Full implementation of the EPU will not be accomplished until the IEPA and IDNR have given their concurrence to change the monitoring curve. Contingent on the concurrence of the IEPA and IDNR, it is the staff's conclusion that the FES would remain bounding under the EPU conditions.

QCNPS monitors wastewater streams as required by the NPDES permit, and only uses approved chemicals for conditioning water to prevent scaling, corrosion, and biofouling. Because an increase in the design capacity to withdraw water from the Mississippi River is not proposed for the EPU, the licensee stated that the current practices would not be altered.

Cold Shock

Cold shock to aquatic biota results when the warm water discharge from a plant abruptly stops due to an unplanned shutdown, resulting in a river water temperature drop and the death of aquatic biota. The increased temperature of the QCNPS discharge is not expected to create cold shock to aquatic biota because of the extended period of time required to remove heat from the reactor and the rapid heat dissipation in the mixing zone from the diffuser's outfall. The probability of an unplanned shutdown is independent of power uprate. Therefore, the risk of fish being killed by cold shock would continue to be bounded by the FES.

Air Emissions

Other waste sources at QCNPS emissions from the plant heating boiler and diesel generators. Effluents from these pathways are controlled as required by the Clean Air Act. The EPU does not have a significant impact on the quality or quantity of effluents from these sources, and operation under power uprate conditions would not reduce the margin to the limits established by the regulations. Therefore, the conclusions in the FES would remain valid.

Terrestrial Biota Impacts

A relatively small number of threatened and endangered terrestrial species have been recorded in Rock Island County, Illinois, and across the river in Muscatine and Scott counties, Iowa. The western prairie fringed orchid (*Platanthera praeclara*), eastern prairie fringed orchid (*Platanthaera leucophaea*), Indiana bat (*Myotis sodalis*), and bald eagle (*Haliaeetus leucocephalus*) are Federally-listed threatened or endangered terrestrial species and were identified in 1999 in either Rock Island, Muscatine, or Scott counties. The proposed EPU would not disturb the habitat of these species and would not affect their distribution. The FES stated that the operation of QCNPS is not expected to have any further adverse effect on the terrestrial flora or fauna, except to the extent that traffic on access roads and human activities related to station operation may force some wildlife away from the heavily used areas. Implementation of the EPU would not alter these conditions.

Therefore, the conclusions reached by the staff in the FES relative to impact on terrestrial ecology, including endangered and threatened plant and animal species, remain valid for the proposed EPU.

Aquatic Biota Impacts

The staff evaluated the impingement, entrapment, and the rise in water discharge temperature on aquatic biota. The Mississippi River is a large and productive ecosystem. Effects on river biota, such as the phytoplankton, zooplankton, periphyton, benthic invertebrate, gizzard shad, freshwater drum, emerald shiner, river shiner, carp, bluegill, fish eggs, and larvae, from QCNPS have been investigated by the licensee. Local effects on lower trophic levels were apparent from these studies, but overall population levels in the vicinity of the QCNPS were not adversely affected. Effects on the abundance of fish eggs and larvae by QCNPS operation have been minimal. No verifiable effects on the fish biota from QCNPS operation have been found. Exelon, along with Southern Illinois University, carries out a stocking program. Fish, such as walleye and hybrid striped bass, are raised in QCNPS's inactive cooling canal and then released to the Mississippi River. Increases in the populations of these species have been found in the vicinity

of QCNPS due to the river stocking program. Additionally, freshwater drum, channel catfish, flathead catfish, and white bass have also increased in abundance, while white and black crappie (backwater fish) have decreased in abundance as sedimentation associated with maintenance of the navigation channel has degraded backwater area and sloughs.

The EPU would cause temperature in the condenser cooling system to be higher than those associated with previous studies of thermal effects. The EPU would raise river water temperature in the condenser cooling system to a maximum of 28 °F above ambient, rather than the current maximum of 23 °F. The higher temperature is expected to cause a higher mortality rate for organisms entrained in the system. The entrainment of fish eggs and larvae may affect more species, with the possible exception of fish that spawn early in the year. The fish egg and larva entrainment rate, which historically is 0.5 to 1 percent of the total drifting by QCNPS, would not change because water withdrawals would remain the same. The overall effect of an increase in entrained plankton mortality would not be significant for the local populations involved.

Higher effluent temperatures at the EPU conditions may also have an increased effect on non-motile biota in the discharge mixing zone. Drifting fish eggs and larvae mortality may increase in the mixing zone because fish eggs and larvae are more likely to succumb to upper lethal temperatures as opposed to a particular temperature increase. This is only expected to affect species that spawn late, after the peak period of larval drift, when ambient river temperatures are high and river flow may be lower. Fish eggs and larvae losses at low river flows are expected to be fairly small in total, and based on an approximate low river flow return frequency of once in 10 years, it is expected that these losses would not negatively affect recruitment to the fish community of Pool 14, which is the body of water directly behind Lock 14 on the Mississippi River.

A preliminary study of Federally-listed aquatic threatened and endangered species in the vicinity of QCNPS (within 32 kilometers) performed in 1996 by the Pacific Northwest National Laboratory listed the fanshell (*cyprogenia stegaria*), Higgin's eye pearly mussel (*lampsilis higginsi*), and fat pocketbook (*potamilus capax*). The Federally-endangered clams are not expected to be exposed to the high temperatures associated with the uprate because its preferred habitat does not include the main channel of the Mississippi River at this location. Some alteration in the timing of life cycles stages of other mussel species could occur. Adult and juvenile fish would be expected to avoid the increased temperature in the mixing zone and not be harmed. The FES notes the existence of the paddlefish (*polyodon spathula*); however, the paddlefish has not been collected near QCNPS recently.

Eight fish species listed by the State of Illinois and Iowa have been collected in the general vicinity of the diffusers. Of these, the grass pickerel (*Esox americanus*) and the western sand darter (*Ammocrypta clara*) are the most frequently collected. Grass pickerel is the only Illinois State-listed species in Pool 14 that may have a sustainable population. Individuals collected from other species appear only as transient in Pool 14. The grass pickerel is mainly taken in littoral and backwater areas and it is not expected to be in the main channel where elevated temperatures would occur. The western sand darter is occasionally collected in the main channel (10 specimens over a 25 year period) and could be exposed to high temperatures in the mixing zone area. Other than the pearly mussel and the fish mentioned above, no rare species are expected to occur in the vicinity of QCNPS.

Fish may become impinged on the intake structures protecting the condenser cooling water pumps because of water velocities leading into the structures and the diminished physical condition of the fish. Impingement has not had a deleterious effect on fish populations in the vicinity of QCNPS because sampling indicated that impingement affects mostly dead and moribund fish. There is no change in cooling water flow proposed for the EPU. Therefore, no differences in impingement rates are expected.

Based on the above, the staff expects that the conclusions in the FES about aquatic biota, including impingement and entrainment, and threatened and endangered species, would remain bounding under the proposed EPU conditions.

Transmission Facility Impacts

Environmental impacts, such as the installation of transmission line equipment, or exposure to electromagnetic fields and shock, could result from a major modification to transmission line facilities. The licensee stated that there would be no change in operating transmission voltages, onsite transmission equipment, or power line rights-of-way to support the proposed EPU conditions. No new equipment or modification would be necessary for the offsite power system to maintain grid stability. However, an increase in onsite power would be required to support new equipment associated with the EPU. Power to service these additional energy needs would come from QCNPS existing power supplies. Therefore, no significant environmental impacts from changes in the transmission design and equipment are expected, and the conclusions in the FES would remain valid.

The electromagnetic field (EMF) created by the transmission of electricity would increase linearly as a function of power; however, exposure to EMFs from the offsite transmission system would not be expected to increase significantly and any such increase would not be expected to change the staff's conclusions in the FES that there are no significant biological effects attributable to EMFs from high-voltage transmission lines.

No changes in transmission facilities would be needed for the EPU. QCNPS transmission lines are designed and constructed in accordance with the applicable shock prevention provisions of the National Electric Safety Code. Therefore, the expected slight increase in current, attributable to the proposed EPU, is not expected to change the staff's conclusion in the FES that adequate protection is provided against hazards from electrical shock.

Social and Economic Impacts

The staff has reviewed information provided by the licensee regarding socioeconomic impacts, including possible impacts to the QCNPS workforce and local economy. QCNPS employs more than 800 people and is a major contributor to the local tax base. QCNPS personnel also contribute to the tax base by payment of sales and property tax. The proposed EPU would not significantly affect the size of the QCNPS workforce and would have no material effect upon the labor force required for future outages. Because the plant modifications needed to implement the EPU would be minor, any increase in sales tax and additional revenues to local and national business would be negligible relative to the large tax revenues generated by QCNPS. It is expected that improving the economic performance of QCNPS through lower total bus bar costs per kilowatt-hour would enhance the value of QCNPS as a generating asset and reduce the likelihood of early plant retirement. Early plant retirement could have a possible negative impact upon the local economy and the surrounding

communities by reducing public services, employment, income, business revenues, and property values; these reductions could be mitigated by decommissioning activities in the short term. The staff expects that the conclusions in the FES regarding social and economic impacts are expected to remain valid under the EPU conditions.

The staff also considered the potential for direct physical impacts of the proposed EPU, such as vibration and dust from construction activities. The proposed EPU would be accomplished primarily by changes in station operation and a few modifications to the station facility. These limited modifications can be accomplished without physical changes to transmission corridors, access roads, other offsite facilities, or additional projects related to the transportation of goods or materials. Therefore, no significant additional construction disturbances causing noise, odors, vehicle exhaust, dust, vibration, or shock from blasting are expected, and the conclusions in the FES would remain valid.

Summary

In summary, the proposed EPU at QCNPS would not result in a significant change in non-radiological impacts, on land use, water use, waste discharges, terrestrial and aquatic biota, transmission facilities, or socioeconomic factors, and would not have other non-radiological environmental impacts from those evaluated in the FES. Table 1 summarizes the non-radiological environmental impacts of the EPU at QCNPS.

TABLE 1.—SUMMARY OF NON-RADIOLOGICAL ENVIRONMENTAL IMPACTS OF THE EPU AT QCNPS

Impacts	Impacts of the EPU at QCNPS
Land Use Impacts.	No significant changes to land use or construction of any new facilities that would impact land use are needed.
Water Use Impacts.	No changes are required to the rate of intake of surface water or groundwater to accomplish the EPU.
Waste Discharge Impacts.	Temperature monitoring curve would be adjusted to reflect higher river flow conditions where physical measurement or load management occurs. Change to the hydrodynamics of the cooling system would not be significant. Equipment modifications or changes in operation in air emissions are insignificant and would not reduce the margin to the limits established in the regulations. The risk of cold shock to aquatic biota would not increase.
Terrestrial Biota Impacts.	Federally-listed threatened or endangered species are known to exist within the land area, but no land area disturbance is needed.
Aquatic Biota Impacts.	No changes to intake or outfall structures or flows; no significant impingement or entrainment impacts on aquatic biota would be expected. Rise in river water temperature could affect fish larvae and eggs, but impacts would be insignificant. No Federally-listed threatened or endangered species would be significantly affected.
Transmission Facilities Impacts.	No change in operating transmission voltages, onsite transmission equipment or power line rights-of-way. Slight increase in onsite power would be required to support the additional EPU equipment which would come from existing power supplies. EMF would increase linearly with the EPU; however, no significant change in exposure rate would be expected.
Social and Economic Impacts.	No significant change in size of QCNPS workforce. No significant disturbances from noise, odor, vehicle exhaust, dust, vibration, or shock would be anticipated.

Radiological Impacts at QCNPS

The staff evaluated radiological environmental impacts on waste streams, dose, accident analyses, and fuel cycle and transportation factors. The following is a general description of the waste treatment streams at QCNPS and an evaluation of the environmental impacts.

Radioactive Waste Stream Impacts

QCNPS uses waste treatment systems designed to collect, process, and dispose of radioactive gaseous, liquid, and solid waste in accordance with the requirements of 10 CFR part 20 and Appendix I to part 50. These radioactive waste treatment systems are discussed in the FES. The proposed EPU would not affect the environmental monitoring of these waste streams or the radiological monitoring requirements contained in licensing basis documents. The proposed EPU would not result in changes in operation or design of equipment in the gaseous, liquid, or solid waste systems. The proposed EPU would not introduce new or different radiological release pathways and would not increase the probability of an operator error or equipment malfunction that would result in an uncontrolled radioactive release. The staff evaluated specific effects of the proposed EPU on changes in the gaseous, liquid, and solid waste streams as a radiological environmental impact to the proposed EPU.

Gaseous Radioactive Waste

During normal operation, the gaseous effluent systems control the release of gaseous radioactive effluents to the site environs, including small quantities of activation gases and noble gases, so that routine offsite releases are below the limits of 10 CFR part 20 and Appendix I to part 50 (10 CFR part 20 includes the requirements of 40 CFR part 190). The major sources of gaseous radioactive wastes at QCNPS are the condenser air ejector effluent and the steam packing exhaust system effluent. Based on the conservative assumption of a non-negligible amount of fuel leakage due to defects, the licensee stated that radioactive release volumes would increase proportionally with the 18 percent EPU conditions. The current and expected fuel defect rate is extremely small and the expected radioactive gaseous effluents under the EPU conditions would be within the Appendix I limits. Therefore, the conclusions in the FES will continue to apply under the EPU conditions.

The licensee does not expect increases in gaseous waste from new fuel designs. The licensee's contract with General Electric contains a warranty section that requires General Electric to meet a specified level of fuel performance. This level is at least as

stringent as that imposed on current fuel designs.

Liquid Radioactive Waste

The liquid radwaste system is designed to process and recycle, to the extent practicable, the liquid waste collected so that annual radiation doses to individuals are maintained below the guidelines in 10 CFR part 20 and 10 CFR part 50, Appendix I. Liquid radioactive wastes at QCNPS include liquids from the reactor process systems and liquids that have become contaminated with process system liquids. Increases in flow rate through the condensate demineralizer and increase of fission products and activated corrosion products are expected under the EPU conditions. This would result in additional backwashes of condensate demineralizers and reactor water cleanup filter demineralizers. These additional backwashes would be processed through the liquid radioactive waste treatment system and are expected to be suitable for reuse. Therefore, liquid effluent release volumes are not expected to increase significantly as a result of the EPU. No changes in the liquid radioactive waste treatment system are proposed. Average treatment efficiency would not change; however radioactivity level of liquid effluent releases may increase with the 18 percent EPU. These liquid effluents from QCNPS would be within the regulatory limits of 10 CFR 50, Appendix I.

Based on information submitted by the licensee, the staff concludes that no significant dose increase in the liquid pathway would result from the proposed EPU. Therefore, the conclusions in the FES would remain valid under the EPU conditions.

Solid Radioactive Waste Impacts

Solid radioactive wastes include solids recovered from the reactor process system, solids in contact with the reactor process system liquids or gases, and solids used in the reactor process system operation. The largest volume of solid radioactive waste at QCNPS is low-level radioactive waste (LLRW). Sources of LLRW at QCNPS include resins, filter sludge, dry active waste, metals, and oils. The annual burial volume of LLRW generated in 1998 was 228.61 cubic meters; in 1999, the burial volume decreased to 82.93 cubic meters, and the projected burial volume of LLRW for 2000 is approximately 140 cubic meters. A one-time increase in the burial volume of LLRW would be associated with the EPU. The volume of resin is expected to increase by as much as 18 percent under the EPU conditions, because of the increased amount in iron removed by the condensate system from the increased feedwater flow. Adding the 18 percent increase in the resin volume to the projected year 2000 LLRW burial volume results in a 154-cubic-meter EPU LLRW burial volume per year (an increase in approximately 10 percent), which would be bounded by the FES.

The number of fuel assemblies would increase in any given core load with the proposed EPU, reducing the storage space in the spent fuel pool. At current off-load rates, four dry storage casks would be filled during each refueling outage and a fifth dry storage cask would be partially filled. QCNPS plans to fill the fifth cask using the inventory of assemblies from the spent fuel pool. At the EPU conditions, each refueling outage would also fill four casks and partially fill a fifth. Fewer assemblies from the spent fuel pool would be needed to fill the fifth dry storage cask. The net effect of the EPU would be to increase the number of dry storage casks needed by three to four every 5 years.

Summary

In summary, the solid radioactive waste burial volume is estimated to increase by approximately 10 percent, the volume of liquid radioactive releases would not be expected to increase, and the volume of gaseous radioactive effluents would be expected to increase up to 18 percent as a result of the proposed EPU. The level of radioactivity of the liquid effluent releases would also increase up to 18-percent. The proposed EPU is not expected to have a significant impact on the volume or activity of radioactive solid wastes at QCNPS.

Dose Impacts

The staff evaluated in-plant and offsite radiation as part of its review of environmental impacts of the proposed EPU.

In-plant Radiation

Radiation levels and associated doses are controlled by the as low as reasonably achievable (ALARA) program, as required by 10 CFR part 20. The QCNPS ALARA program manages exposure by minimizing the time personnel spend in radiation areas, maximizing the distance between personnel and radiation areas, and maximizing shielding to minimize radiation levels in routinely occupied plant areas and in the vicinity of plant equipment requiring attention. Exelon has determined that the current shielding designs are adequate for any dose increase that may occur due to the proposed EPU. Normal operation radiation levels would increase by no more than the percentage increase of the EPU. Many aspects of the plant were originally designed for higher-than-expected radiation sources. The increase in radiation level does not affect radiation zoning or shielding in the various areas of the plant because it is offset by conservatism in the original design, source terms assumptions, and analytical techniques. The licensee states that no new dose reduction programs would be implemented and the ALARA program would continue in its current form.

A potential source of increased occupational radiation is the projected increase in moisture carryover from the reactor vessel steam dryer/separator to the main steam lines. To reduce moisture content under the EPU conditions, modifications to the steam dryer/separator would be required. The modifications are expected to result in a negligible increase in occupational exposure.

On the basis of the above information, the staff concludes that the occupational (in-plant) dose for QCNPS following the proposed EPU would be bounded by the dose estimates in the FES.

Offsite Dose

The slight increase in normal operational gaseous activity levels under the EPU would not affect the large margin to the offsite dose limits established by 10 CFR part 20. Offsite dose from radioactive effluents are reported in the Annual Radiological Environmental Operating Reports. For the period from 1995 to 1999, the average annual whole body dose was 5.23E–4 millirem and the average annual dose to the critical organ was 8.17E–4 millirem. The highest percentage of 10 CFR part 50, Appendix I, regulatory limits for maximum dose resulting from liquid releases to an adult for the 5 year period occurred in 1998 and was 0.005 percent of the critical organ dose limit. For the 1995–1999 period, the average dose was 0.003 percent of the 10 CFR part 50, Appendix I, regulatory limits. No significant change in the volume of water treated and released is expected. The offsite dose from liquid effluents is projected to increase proportionally with the EPU due to an increase in the concentration of fission products and activation products in the reactor coolant. The licensee states that offsite dose would remain below the 10 CFR 50, Appendix I, regulatory limits.

Dose to individuals from gaseous releases are also reported in the Annual

Radiological Environmental Report. The average annual total body dose during the period of 1995 to 1999 was 7.08E–4 millirem and the average annual dose to the critical organ was 3.9E–2 millirem.

The highest percentage of 10 CFR part 50, Appendix I, regulatory limits for maximum dose resulting from airborne releases to an adult during the period of 1995 to 1999 occurred in 1997 and was 0.23 percent of the critical organ dose limit. From the period of 1995 to 1999, the average dose was 0.16 percent of the Appendix I regulatory limits. Conservatively assuming a non-negligible amount of fuel leakage due to defects, gaseous effluents will increase proportionally to the 18 percent EPU; however, offsite dose will remain well below 10 CFR part 50, Appendix I, regulatory limits.

The calculated offsite dose resulting from direct radiation due to radiation levels in plant components, such as sky shine, will increase up to 18 percent because the Offsite Dose Calculation Manual conservatively adjusts offsite dose to power generation level. Because sky shine is the dominant contributor to total offsite dose, the calculated total offsite dose, based on calculations from the Offsite Dose Calculation Manual, will increase up to 18 percent. Actual offsite dose from sky shine is not expected to increase significantly because the decreased transit time is expected to result in a minimal change in concentration through reduced decay time and because expected activity concentration in the steam will remain constant due to the dilution effect of a 19 percent increase in steaming rate. The expected dose at the EPU conditions would remain below the limits of 10 CFR part 50, Appendix I, 10 CFR part 20, and 40 CFR part 190 standards.

The EPU would not create new or different sources of an offsite dose from QCNPS operation, and radiation levels under the proposed EPU conditions would be within the regulatory limits. The staff concludes that the estimated offsite doses under the EPU conditions would meet the design objectives specified by 10 CFR Part 50, Appendix I, and be within the limits of 10 CFR part 20.

Accident Analysis Impacts

The staff reviewed the assumptions, inputs, and methods used by Exelon to assess the radiological impacts of the proposed EPU at QCNPS. In doing this review, the staff relied upon information placed on the docket by Exelon, staff experience in doing similar reviews, and the staff-accepted licensing topical reports NEDC–32424P–A (Proprietary), ''Generic Guidelines for General Electric Boiling Water Reactor (BWR) Extended EPU,'' February 1999 (known as ELTR1), and NEDC–32523P–A (Proprietary), ''Generic Evaluation of General Electric Boiling Water Reactor Extended EPU,'' February 2000 (known as ELTR2). The staff finds that Exelon used analysis methods and assumptions consistent with the conservative guidance of ELTR1 and ELTR2. The staff compared the doses estimated by Exelon to the applicable criteria. The staff finds, with reasonable assurance, that the licensee's estimates of the exclusion area boundary (EAB), low-population zone (LPZ), and control room doses will continue to comply with 10 CFR part 100 and 10 CFR part 50, Appendix A, GDC–19, as clarified in NUREG–0800, sections 6.4 and 15. Therefore, QCNPS operation at the proposed EPU rated thermal power is acceptable with regard to the radiological consequences of postulated design basis accidents.

Fuel Cycle and Transportation Impacts

The environmental impact of the uranium fuel cycle has been generically evaluated by the staff for a 1000 MWe reference reactor and is described in Table S–3 of 10 CFR 51.51. The QCNPS reactors are proposed to operate at 912 MWe after the implementation of the EPU and Table S–3 reasonably bounds the environmental impacts of the uranium fuel cycle for each QCNPS reactor. The radiological effects presented in Table S–3 are small and would not be expected to change due to the implementation of the EPU.

The environmental impacts of the transportation of nuclear fuel and wastes are described by Table S–4 of 10 CFR 51.52. The table lists heat and weight per irradiated fuel cask in transit, traffic density, and individual and cumulative dose to workers and the general population under normal circumstances. The regulations require that environmental reports contain either (a) a statement that the reactor meets specified criteria, in which case its environmental effects would be bounded by Table S–4; or (b) further analysis of the environmental effects of transportation of fuel and waste to and from the reactor site.

An NRC assessment (53 FR 30355, dated August 11, 1988, as corrected by 53 FR 32322, dated August 24, 1988) evaluated the applicability of Tables S–3 and S–4 to higher burnup cycles and concluded that there would be no significant change in environmental impacts for fuel cycles with uranium enrichments up to 5 weight percent uranium-235 and burnups less than 60,000 megawatt-day per metric ton of uranium (MWd/MTU) from the parameters evaluated in Tables S–3 and S–4. Because the fuel enrichment for the EPU would not exceed 5 weight percent uranium-235 and the rod average discharge exposure would not exceed 60,000 MWd/MTU, the environmental impacts of the proposed EPU at QCNPS would remain bounded by these conclusions and would not be significant.

Summary

The proposed EPU would not significantly increase the probability or consequences of accidents, would not introduce new radiological release pathways, would not result in a significant increase in occupational or public radiation exposures, and would not result in significant additional fuel cycle environmental impacts. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action. Table 2 summarizes the radiological environmental impacts of the EPU at QCNPS.

TABLE 2.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS OF THE EPU AT QCNPS

Impacts	Impacts of the EPU at QCNPS
Radiological Waste Stream Impacts.	The gaseous radioactive release volume would increase proportionally with the power increase. The liquid radioactive release volume is not expected to increase; however, activity levels would increase proportionally with the power increase. Solid radioactive waste will increase approximately 8 percent. Releases would be within regulatory limits.
Dose Impacts	In-plant radiation levels would increase by 18 percent and dose would be maintained ALARA. Offsite dose from liquid and gaseous effluents may increase up to 18 percent. Calculated dose from sky shine will increase up to 18 percent. In-plant and offsite dose would remain within the regulatory limits.
Accident Analysis Impacts.	No significant increase in probability or consequences of accident.

TABLE 2.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS OF THE EPU AT QCNPS—Continued

Impacts	Impacts of the EPU at QCNPS
Fuel Cycle and Transportation Impacts.	No significant increase. Impacts would remain with the conclusions of Table S–3 and S–4 of 10 CFR Part 51.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* ''the no-action'' alternative). Denial of the application would result in no change in current environmental impacts in the QCNPS vicinity; however, other generating facilities using nuclear or other alternative energy sources, such as coal or gas, would be built in order to supply generating capacity and power needs. Construction and operation of a coal plant would create impacts to air quality, land use and waste management. Construction and operation of a gas plant would also impact air quality and land use. Implementation of the EPU would have less of an impact on the environment than the construction and operation of a new generating facility and does not involve new environmental impacts that are significantly different from those presented in the FES. Therefore, the staff concludes that increasing QCNPS capacity is an acceptable option for increasing power supply. Furthermore, unlike fossil fuel plants, QCNPS does not routinely emit sulfur dioxide, nitrogen oxides, carbon dioxide, or other atmospheric pollutants that contribute to greenhouse gases or acid rain.

Alternative Use of Resources

This action does not involve the use of any different resources than those previously considered in the QCNPS FES, dated 1972.

Agencies and Persons Consulted

In accordance with its stated policy, on November 9, 2001, prior to issuance of this environmental assessment, the staff consulted with the Illinois State official, Frank Niziolek, of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated December 27, 2000, as supplemented by letters dated February 12, April 6 and 13, May 3, 18, and 29, June 5, 7, and 15, July 6 and 23, August 7, 8, 9, 13 (two letters), 14 (two letters), 29, and 31 (two letters), September 5 (two letters), 14, 19, 25, 26, and 27 (two letters), and November 2, 2001 (two letters). Documents may be examined and/or copied for a fee, at the NRC's Public Document Room, at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, http://*www.nrc.gov* (the Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 9th day of November 2001.

For the Nuclear Regulatory Commission.

Jon B. Hopkins,

Acting Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–28742 Filed 11–15–01; 8:45 am]

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237 and 50–249]

Exelon Generation Company, LLC; Dresden Nuclear Power Station, Units 2 and 3 Draft Environmental Assessment and Finding of No Significant Impact Related to a Proposed License Amendment To Increase the Maximum Thermal Power Level

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of opportunity for public comment.

SUMMARY: The NRC has prepared a draft environmental assessment (EA) in connection with its evaluation of a request by Exelon Generation Company, LLC (Exelon, the licensee) for a license amendment to increase the maximum thermal power level at Dresden Nuclear Power Station, Units 2 and 3 (DNPS), from 2527 megawatts thermal (MWt) to 2957 MWt. This represents a power increase of approximately 17 percent for DNPS. As stated in the NRC staff's February 8, 1996, position paper on the Boiling-Water Reactor Extended Power Uprate Program, the staff has the option of preparing an environmental impact statement if it believes a power uprate will have a significant impact. The staff did not identify a significant impact from the licensee's proposed extended power uprate at DNPS; therefore, the NRC staff is documenting its environmental review in an EA. Also in accordance with the February 8, 1996, staff position paper, the draft EA and finding of no significant impact is being published in the **Federal Register** with a 30-day public comment period.

DATES: The comment period expires December 17, 2001. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only of comments received on or before December 17, 2001.

ADDRESSES: Submit written comments to Chief, Rules Review and Directives Branch, U.S. Nuclear Regulatory Commission, Mail Stop T–6 D69, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland 20852, from 7:45 a.m. to 4:15 p.m. on Federal workdays. Copies of written comments received will be available electronically at the NRC's Public Electronic Reading Room (PERR) link (*http://www.nrc.gov/NRC/ADAMS/index.html*) on the NRC homepage or at the NRC Public Document Room located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Lawrence Rossback, Office of Nuclear Reactor Regulation, at Mail Stop O–7 D3, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at (301) 415–2863, or by e-mail at *lwr@nrc.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Facility Operating Licenses Nos. DPR–19 and DPR–25, issued to Exelon for the operation of the

Dresden Nuclear Power Station, Units 2 and 3 (DNPS), located on the Illinois River in Grundy County, Illinois. Therefore, as required by 10 CFR 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow Exelon, the operator of DNPS, to increase its electrical generating capacity at DNPS by raising the maximum reactor core power level from 2527 MWt to 2957 MWt. This change is approximately 17 percent above the current licensed maximum power level for DNPS. The change is considered an extended power uprate (EPU) because it would raise the reactor core power level more than 7 percent above the original licensed maximum power level. DNPS has not submitted a previous power uprate application. A power uprate increases the heat output of the reactor to support increased turbine inlet steam flow requirements and increases the heat dissipated by the condenser to support increased turbine exhaust steam flow requirements.

The proposed action is in accordance with the licensee's application for amendments dated December 27, 2000, and supplemental information dated February 12, April 6 and 13, May 3, 18, and 29, June 5, 7, and 15, July 6 and 23, August 7, 8, 9, 13 (two letters), 14 (two letters), 29, and 31 (two letters), September 5 (two letters), 14, 19, 25, 26, and 27 (two letters), and November 2, 2001 (two letters). The original amendment request was submitted by Commonwealth Edison Company (ComEd), the former licensee. ComEd subsequently transferred the licenses to Exelon Generation Company, LLC (Exelon, the licensee). By letter dated February 7, 2001, Exelon informed the NRC that it assumed responsibility for all pending NRC actions that were requested by ComEd.

The Need for the Proposed Action

Exelon evaluated its resource needs for the period 2000–2014 and forecast a 28-percent increase in electrical demand by 2014 within its Illinois service area. The proposed EPU would provide approximately 0.66 percent additional generating capacity per unit at DNPS. Exelon stated that in order to stay competitive, it must be able to fulfill not only customer power demands, but is also must sell power to other providers. In Illinois, approximately 40 gas turbine plants of various sizes are proposed to be built. The proposed additional generating capacity at DNPS would eliminate the need to build approximately two 100–MWe gas turbines.

Environmental Impacts of the Proposed Action

At the time of the issuance of the operating licenses for DNPS, the NRC staff noted that any activity authorized by the licenses would be encompassed by the overall action evaluated in the Final Environmental Statement (FES) for the operation of DNPS, which was issued in November 1973. The original operating licenses for DNPS allowed a maximum reactor power level of 2527 MWt. On December 27, 2000, Exelol submitted a supplement to its Environmental Report supporting the proposed EPU and provided a summary of its conclusions concerning the environmental impacts of the EPU at DNPS. Based on the staff's independent analyses and the evaluation performed by the licensee, the staff concludes that the environmental impacts of the EPU are bounded by the environmental impacts previously evaluated in the FES, because the EPU would involve no extensive changes to plant systems that directly or indirectly interface with the environment. Additionally, no changes to any State permit limits would be necessary. This environmental assessment first discusses the non-radiological and then the radiological environmental impacts of the proposed EPU at DNPS.

Non-Radiological Impacts at DNPS

The following is the NRC staff's evaluation of the non-radiological environmental impacts of the proposed EPU on land use, water use, waste discharges, terrestrial and aquatic biota, transmission facilities, and social and economic conditions at DNPS.

Land Use Impacts

The proposed EPU at DNPS would result in some modifications to current land use at DNPS, due to the proposed addition of 6–8 new cooling tower cells. The proposed addition of new mechanical draft cooling tower cells to the existing 48 cells would handle the additional heat load resulting from the EPU. The additional cooling tower cells would require approximately 0.5 acres of land for siting. Accessing roads and pipe bridge installations, necessary to support the proposed cooling tower cells, might cause additional land disturbances; however, the new cells would be in an area that has been previously disturbed. The construction impacts would be temporary. Due to the small area (0.5 acres) disturbed, and the fact that the are has been previously disturbed, impacts to terrestrial biota will be minimal. Based on a previous archaeological and history survey, the licensee has determined that the proposed cooling tower cells would not disturb lands with historic or archaeological significance. There would be minor changes to visual and aesthetic resources; however, the proposed cooling tower cells would not be visible from any major highway or block the view of any historic site or picture scape. The cooling tower cells would be built in accordance with the appropriate safety standards and any deviation from the standards would be evaluated in the staff's safety evaluation report.

Apart from the proposed change detailed above, the licensee indicated that it has no plans to construct new facilities or alter the land around existing facilities, including buildings, access roads, parking facilities, laydown areas, or onsite transmission and distribution equipment, including power line rights-of-way, in conjunction with the uprate or operation after uprate. The EPU would not significantly affect the storage of materials, including chemicals, fuels, and other materials stored above or under the ground. Therefore, the staff's conclusions in the FES on land use would remain valid under the proposed EPU conditions.

Water Use Impacts

The steam produced by the DNPS turbines is condensed in the condensers, demineralized, and pumped back to the reactor vessel. Cooling water used in the condensers is pumped from the Kankakee and Des Plaines Rivers and does not come in contact with the steam from the turbines. The original design called for a once-through cooling water system in which all the heated water used in the condensers was returned to the Illinois River downstream of the intake. A number of configuration changes have been made in the cooling system at DNPS since the original design. These include the construction of a cooling pond and associated cooling canals, installation of spray modules in the cooling canals, installation of temporary mechanical draft cooling towers, and the construction of mechanical draft cooling towers.

DNPS operates in the indirect open-cycle mode from June 15 through September 30. In this operating mode, a maximum of 940,000 gallons per minute (gpm) may be withdrawn from the Kankakee and Des Plaines Rivers for condenser cooling water. After the water circulates through the condensers, the

water is discharged into a 2-mile-long cooling canal, called the hot canal. As water travels through the hot canal, it may be withdrawn and circulated through a bank of 36 mechanical draft cooling tower cells and then discharged back into the hot canal at a lower temperature. The cooling towers operate, as needed, to maintain water temperatures within the National Pollutant Discharge Elimination System (NPDES) permit limits and have a maximum water withdrawal capacity of 630,000 gpm. From the hot canal, a lift station pumps the water into a 1275-acre cooling pond. The cooling pond consists of 5 areas through which the water is circulated for approximately 2.5 days. After circulating through the cooling pond, the water is discharged via a spillway into another 2-mile-long canal, called the cold canal. The water may then be circulated through a bank of 12 mechanical draft cooling tower cells at a maximum rate of approximately 213,000 gpm, as needed, to maintain water temperature within the NPDES permit limits. The water is returned to the cold canal at a lower temperature and the water is then discharged to the Illinois River.

DNPS normally operates in the closed-cycle mode from October 1 to June 14. Typically, the mechanical draft cooling tower cells are utilized during this period. Water is drawn into the intake structure, circulated through the condensers for Units 2 and 3, passed through the hot canal, the cooling pond, the cold canal, then routed back to the intake structure via the flow regulating station gates. A small amount of condenser cooling water (70,000 gpm) is withdrawn from the Kankakee and Des Plaines Rivers to make up evaporative and seepage losses in the cooling pond. Additionally, approximately 50,000 gpm of the cooling water is permitted to be discharged to the Illinois River to prevent an increase in the dissolved solids concentrations in the cooling pond.

DNPS has approval from the Grundy County Emergency Management Agency to operate a de-icing project on the Kankakee River using heated water from the DNPS cooling pond. Heated water from the cooling pond is transported through a permanent pipe by siphon to the Kankakee River, where it is used to prevent river ice from damaging docks and other structures.

The Staff evaluated surface water use and groundwater use as environmental impacts of water usage at DNPS. The licensee stated that the surface water intake amounts would not be changed by the proposed EPU. The licensee also stated that it would not seek to change permit requirements for thermal or flow limits or conditions for the proposed EPU. Therefore, the staff's conclusions in the FES on water use would remain valid under the proposed EPU conditions.

Groundwater is withdrawn from two wells at DNPS and is used for domestic and industrial purposes. Groundwater is not used for condenser cooling. The proposed EPU would not affect the groundwater use at DNPS; therefore, the staff's conclusions in the FES on groundwater would remain valid under the proposed EPU conditions.

Discharge Impacts

The staff evaluated environmental impacts such as cooling tower emissions, drift, icing, fog, noise, chemical and wastewater discharge, cold shock to an aquatic biota, and air emissions.

Cooling Tower Emission, Drift, Icing, Fog, and Noise

Environmental impacts such as air quality, fogging, icing, cooling tower drift, and noise could result from the increased heat load on the cooling towers under the EPU conditions. The FES did not include a discussion of cooling towers, but did discuss 98 spray modules, which are no longer operated, in the cooling canal. The staff concluded in the FES that the operation of the DNPS cooling system was not harmful to the surrounding environment. No substantial changes from the conditions reported in the FES are anticipated.

The cooling tower cells are regulated by the Illinois Environmental Protection Agency (IEPA) through a Federally Enforceable State Operating Permit (FESOP). The cooling towers emit particulate matter with a diameter of 10 microns or less (PM_{10}) in the form of drift with river water sediment entrained in the droplets. The existing 48 cooling tower cells have a potential to emit 67.2 tons of PM_{10} per year. Eight additional cooling tower cells could potentially emit an additional 11.2 tons of PM_{10} per year, resulting in a total discharge of 78.4 tons of PM_{10} per year. DNPS is in an attainment area for PM_{10} in which the major source threshold is 100 tons per year. The total emissions from DNPS under the EPU conditions would be below the major threshold for PM_{10}. Emissions from all other sources governed by the FESOP are expected to remain the same.

The licensee stated that removal of the 98 spray modules mitigated some icing effects and that the cooling tower cells currently in operation at DNPS were sited in their present locations to reduce potential fogging impacts on local roads. The cooling towers minimize drift and maximize efficiency by limiting the loss of water droplets from the cells to not more than 0.008 percent of the circulating water flow, corresponding to a drift factor of 0.00008. Fog typically forms in the cold season when the cooling tower cells are not likely to be in operation. The proposed EPU would increase the temperature of the water in the hot canal by approximately 4.2 degrees Fahrenheit (°F). The proposed temperatures increase would not cause an observable increase in the intensity of fog, but because the EPU increases the temperature differential between the cooling water and ambient air, fog may form at slightly higher ambient air temperatures. However, the impacts from fogging, icing, and cooling tower drift from the proposed EPU would be bounded by the conclusions of the FES.

As stated previously, the cooling system discussed in the FES did not have cooling towers cells, but the FES did include an analysis of elevated noise levels from the presently inactive 98 spray modules. Operation of the new cooling tower cells under the proposed EPU conditions and the potential extended of the existing cooling towers would result in intermittent increases in noise levels during periods of high ambient air temperatures. The licensee stated that noise from the cooling tower operations would be in compliance with the applicable noise requirements. The EPU would not be expected to significantly raise the noise levels above the levels assumed in the FES; therefore, the staff's conclusions in the FES on noise impacts would remain valid under the EPU conditions.

Surface Water and Wastewater Discharge

Surface water and wastewater discharge is regulated by the State of Illinois. The NPDES permit for DNPS covers the following discharges:

1. Unit 1 housing service water (inactive)
2. Unit 1 intake screen backwash (inactive)
3. Cooling pond blowdown
4. Unit 2 and 3 intake screen backwash
5. Wastewater treatment system effluent
6. Radiological waste treatment system effluent
7. Demineralizer regenerant waste
8. Northwest material access runoff
9. Sewage treatment plant effluent
10. Cooling pond discharge
11. Southeast area runoff
12. Northeast area runoff

All of the discharges are to the Illinois River except for the sewage treatment

plant effluent, cooling pond discharge, Southeast area runoff, and Northeast area runoff, which discharge to the Kankakee River. As stated previously, DNPS must operate in closed-cycle mode from October 1 to June 15 and may operate in indirect open-cycle mode from June 15 through September 30. During the indirect open-cycle operation, the NPDES permit limits the temperature of the discharges not to exceed 90°F more than 10 percent of the time and is not permitted to exceed 93°F. DNPS may also operate in accordance with the DNPS Variable Blowdown Plan, as governed by the original July 6, 1977, Thermal Compliance Plan calculations, from June 1 to June 15, as deemed necessary by management. Under the DNPS Variable Blowdown Plan, cooling water from the condenser must be circulated through the cooling system before being discharged to the Illinois River. DNPS is allowed to discharge augmented blowdown at rates between 111 cubic feet per second (cfs) and 1115 cfs. Discharge flow rates are varied to prevent power deratings, which can be caused by heated cooling water recirculating to the condensers. Operation of the cooling towers is implicitly covered by the thermal requirements of Special Condition 4 of the NPDES permit.

Special Condition 7 of the NPDES permit states that DNPS has complied with 35 Illinois Administrative Code, subpart B, ''General Use Water Quality Standards,'' section 302.211(f), ''Temperature,'' and section 316(a) of the Clean Water Act in demonstrating that the thermal discharge from the station has not caused, and cannot cause, and cannot be reasonably expected to cause, significant ecological damage to the receiving water. The special condition further states that no additional monitoring or modification is required for re-issuance of the NPDES permit.

DNPS monitors wastewater streams, as required by the NPDES permit, and only uses approved chemicals for conditioning water to prevent scaling, corrosion, and biofouling. The current NPDES permit limits discharge of chlorine to the receiving waters. The licensee may also use a dispersant to limit fouling of the cooling tower fill. Exelon is not seeking to change the NPDES permit requirements for thermal or flow conditions, flow rates, or water sources, of for chemical or thermal discharges and would be subject to existing NPDES requirements. Instead, additional cooling tower cells would be installed to assure compliance with current thermal limits without derating the units during the summer. The use of chemicals and their subsequent discharge to the environment would not be expected to change significantly as a result of the proposed EPU. Furthermore, discharges to receiving waters from plant operation will be in compliance with NPDES permit requirements.

Cold Shock

Cold shock to aquatic biota occurs when the warm water discharge from a plant abruptly stops because of an unplanned shutdown, resulting in a temperature drop of the river water and a possible adverse impact on aquatic biota. The probability of an unplanned shutdown is independent of the EPU. The FES stated that cold kill (cold shock) of fish is not expected from the shutdown of DNPS during the winter because of the large heat sink in the cooling lake. Additionally, the licensee is not proposing to change permit levels to river water. Therefore, the risk of an aquatic biota being killed by cold shock would be bounded by the conclusions in the FES.

Terrestrial Biota Impacts

A study performed during the first years of indirect open-cycle operation found no adverse impacts on waterfowl or wildlife. The FES stated that the DNPS cooling pond provides additional foraging and resting area for waterfowl and provides nesting grounds in an area of the State where natural lakes are less abundant. Implementation of the proposed EPU would not alter these conditions.

The licensee stated that no known threatened or endangered species live within the construction area of the proposed cooling tower cells. The species, Mead's milkweed (*Asciepias meadii*), lakeside daisy (*Hymenopsis herbacea*), leafy prairie clover (*Dalea foliosa*), eastern prairie fringed orchid (*Platanthaera leucophaea*), Hines emerald dragonfly (*Somatochlora hineana*), bald eagle (*Haliaeetus leucocephalus*), and Indiana bat (*Myotis sodalis*) are Federally-listed as threatened or endangered species and have been identified in Grundy and Will counties. The operation of the current 48 mechanical draft cooling towers have had no observed detrimental impact on the terrestrial community. The licensee stated that the additional 6–8 cooling tower cells would not be expected to impact this resource.

Therefore, the staff's conclusions in the FES on terrestrial ecology, including endangered and threatened plant or animal species, remain valid under the proposed EPU conditions.

Aquatic Biota Impacts

The ecology of the area surrounding the DNPS cooling pond and the intake and discharge structures has been studied extensively since the late 1960s. Studies of the lower trophic levels (phytoplankton, zooplankton, periphyton, and benthic invertebrates), and the fish community, indicated that operation of the DNPS has not had a measurable detrimental impact on the ecology of the Illinois River system. Surveys of the fish community in the vicinity of the DNPS have been conducted annually since 1971. These studies have monitored the fish population near the confluence of the Kankakee and Des Plaines Rivers and in the waters directly behind the Dresden Island Lock and Dam, called the Dresden Island Pool. The Dresden Island Pool area includes sampling stations near the intake and discharge areas of DNPS. These studies have concluded that the fish community in the area of DNPS has improved since the study began. The number of species collected by the various collection methods increased from the 1970s through the early to mid-1980s and leveled off in the early 1990s. The increase in species numbers that occurred during the 1980s was primarily the result of improvements in water quality due to the implementation of the Clean Water Act, most notably, the removal of sewage discharge from the city of Chicago.

The licensee conducted impingement sampling at the traveling intake screens at DNPS from 1977 to 1997. The study concluded that the number of fish impinged at DNPS was low and that the fish in the adjacent river system were not being adversely impacted by DNPS operations. In April 1987, the Illinois Department of Conservation agreed to eliminate impingement sampling from the DNPS Aquatic Monitoring Program. No Federally-listed fish or aquatic plant species has been collected in the vicinity of DNPS. However, three Illinois endangered or threatened listed species, the pallid shiner (*Notropis amnis*), the greater redhorse (*Moxostoma valenciennesi*), and the river redhorse (*Moxostoma carinatum*), have been collected near DNPS. The pallid shiner has only been collected downstream of Dresden Island Lock and Dam and both redhorse species prefer a more complex channel substrate than is found near DNPS.

The licensee submitted information on the DNPS intake structure to the IEPA pursuant to section 316(b) of Clean Water Act. IEPA determined that additional monitoring was not required,

but further monitoring might be necessary at the time of any modification or re-issuance of the NPDES permit. Impacts on an aquatic biota from the proposed EPU conditions are not expected to change because implementation of the EPU would not alter the intake structure of significantly change intake flows at DNPS. Therefore, the staff's conclusions in the FES about impingement and entrapment, along with aquatic threatened and endangered species, would remain bounding.

Transmission Facility Impacts

Environmental impacts, such as the installation of transmission line equipment, or exposure to electromagnetic fields and shock, could result from a major modification to transmission line facilities. The licensee stated that there would be no change in operating transmission voltages, onsite transmission equipment, or power line rights-of-way to support the proposed EPU conditions. No new equipment or modification would be necessary for the offsite power system to maintain grid stability. However, an increase in onsite power would be required to support the 6–8 new cooling tower cells and other new equipment associated with the EPU. Power to service these additional energy needs would come from DNPS's existing power supplies. Therefore, no significant environmental impacts from changes in the transmission design and equipment are expected, and the conclusions in the FES would remain valid.

The electromagnetic field (EMF) created by transmission of electricity would increase linearly as a function of power; however, exposure to EMFs from the offsite transmission system would not be expected to increase significantly and any such increase would not be expected to change the staff's conclusion in the FES that there are no significant biological effects attributable to EMFs from high-voltage transmission lines.

No changes in transmission facilities would be needed for the EPU. DNPS transmission lines are designed and constructed in accordance with the applicable shock prevention provisions of the National Electric Safety Code. Therefore, the expected slight increase in current, attributable to the proposed EPU, is not expected to change the staff's conclusion in the FES that adequate protection is provided against hazards from electrical shock.

Social and Economic Impacts

The staff reviewed information provided by the licensee regarding socioeconomic impacts, including possible impacts on the DNPS workforce and the local economy. DNPS employs more than 800 people and is a major contributor to the local tax base. DNPS personnel also contribute to the tax base by paying sales and property taxes. The proposed EPU would not significantly affect the size of the DNPS workforce and would have no material effect upon the labor force required for future outages. Plant modifications needed to implement the EPU would cost approximately $26 million. Local taxing authorities would collect more property taxes and local and national businesses would receive additional revenue from EPU-related activities. The increased direct revenue from the EPU would be a one-time benefit. The increase would not be sustained once the modification are completed. It is expected that improving the economic performance of DNPS through lower total bus bar costs per kilowatt-hour would enhance the value of DNPS as a generating asset and reduce the likelihood of early plant retirement. Early plan retirement could have a possible negative impact upon the local economy and surrounding communities by reducing public services, employment, income, business revenues, and property values; these reductions could be mitigated by decommissioning activities in the short term. The staff expects that the conclusion in the FES regarding social and economic impacts are expected to remain valid under the EPU conditions.

The staff also considered the potential for direct physical impacts of the proposed EPU, such as vibration and dust from construction activities. The construction of the 6–8 cooling tower cells may temporarily produce dust, vibration, noise, and vehicle exhaust. However, the licensee stated that construction traffic will not be routed through residential areas and no blasting will occur. In the year 2000, 36 cooling tower cells were constructed in the same general area in which the 6–8 new cooling tower cells are proposed to be located. The licensee stated that residents did not express concerns about construction noise. The distance between the proposed location of the 6–8 new cooling tower cells and the nearest residence is at least 1000 feet. Other than the construction of the proposed 6–8 cooling tower cells, the EPU would involve only limited changes in station operation and a few modifications to the station facility. These limited modifications would be accomplished without physical changes to transmission corridors, or other offsite facilities, and without significant changes to access roads or additional project-related transportation of goods or materials. Therefore, no significant construction disturbances causing noise, odors, vehicle exhaust, dust, vibration, or shock from blasting are anticipated, and the conclusions in the FES would remain valid.

Summary

In summary, the proposed EPU at DNPS would not result in a significant change in non-radiological impacts on land use, water use, waste discharges, terrestrial and aquatic biota, transmission facilities, or social and economic factors, and would not have other non-radiological environmental impacts from those evaluated in the FES. Table 1 summarizes the non-radiological environmental effects of the EPU at DNPS.

TABLE 1.—SUMMARY OF NON-RADIOLOGICAL ENVIRONMENTAL IMPACTS OF THE EPU AT DNPS

Impacts	Impacts of the EPU at DNPS
Land Use Impacts	Construction of 6–8 additional cooling tower cells on 0.5 acre on previously disturbed land. Minor aesthetic changes. No changes to lands with historic or archaeological significance.
Water Use Impacts	No changes to the intake of surface water or groundwater use.
Waste Discharge Impacts	No significant increase in fog formation; however, fog may form at higher air temperatures. Air emission of PM_{10} would increase, but would remain within the regulatory limits. No significant change to icing or cooling tower drift. Noise levels may increase due to operation of the 6–8 new cooling tower cells, but would be within regulatory limits. No changes to the hydrodynamics of the condenser cooling water system intake or discharge amounts. No changes to permit requirements for thermal or flow limits or conditions. No changes to flow rates, water sources, and thermal discharges. The risk of cold shock to aquatic biota would not increase.

TABLE 1.—SUMMARY OF NON-RADIOLOGICAL ENVIRONMENTAL IMPACTS OF THE EPU AT DNPS—Continued

Impacts	Impacts of the EPU at DNPS
Terrestrial Biota Impacts	Small number of wildlife would be displaced by the construction of the cooling tower cells. No Federally-listed threatened or endangered species are known to exist within the area of construction.
Aquatic Biota Impacts	No change to intake or outfall structures or flows; therefore, no change in aquatic impact biota would be expected. No Federally-listed threatened or endangered species have been collected in the area of surface water intake or discharge.
Transmission Facilities Impacts	No change in operating transmission voltages, onsite transmission equipment, or power line rights-of-way. Slight increase in onsite power to support the 6–8 cooling tower cells would come from existing power supplies. EMF would increase linearly with the EPU; however, no change in exposure rate would be expected.
Social and Economic Impacts	No significant change in size of DNPS workforce. The construction of the 6–8 cooling tower cells may temporarily produce dust, vibration, noise, and vehicle exhaust; however, it is not expected to be significant. No shock from blasting is expected.

Radiological Impacts at DNPS

The staff evaluated radiological environmental impacts on waste streams, dose, accident analyses, and fuel cycle and transportation factors. The following is a general description of the waste treatment at DNPS and an evaluation of the environmental impacts.

Radioactive Waste Stream Impacts

DNPS uses waste treatment systems designed to collect, process, and dispose of radioactive gaseous, liquid, and solid waste in accordance with the requirements of 10 CFR part 20 and Appendix 1 to part 50. These radioactive waste treatment systems are discussed in the FES. The proposed EPU would not affect the environmental monitoring of these waste streams or the radiological monitoring requirements contained in licensing basis documents. The proposed EPU would not result in changes in operation or design of equipment in the gaseous, liquid, or solid waste systems. The proposed EPU would not introduce new or different radiological release pathways and would not increase the probability of an operator error or equipment malfunction that would result in an uncontrolled radioactive release. The staff evaluated specific effects of the proposed EPU on changes in the gaseous, liquid, and solid waste streams as a radiological environmental impact on the proposed EPU.

Gaseous Radioactive Waste

During normal operation, the gaseous effluent systems control the release of gaseous radioactive effluents to the site environs, including small qualities of activated gases and noble gases, so that routine offsite releases are below the limits of 10 CFR part 20 and Appendix 1 to part 50 (10 CFR part 20 includes the requirements of 40 CFR part 190). The major sources of gaseous radioactive wastes at DNPS are the condenser air ejector effluent and the steam packing exhaust system effluent. Based on the conservative assumption of a non-negligible amount of fuel leakage due to defects, the licensee stated that radioactive release volume would increase proportionally with the 17 percent EPU conditions. The current and expected fuel defect rate is extremely small and the expected radionuclide gaseous effluents under the EPU conditions would be within Appendix 1 limits. Therefore, the conclusions in the FES will continue to apply under the EPU conditions.

The licensee does not exceed increases in gaseous waste from new fuel designs. The licensee stated that its contract with General Electronics contains a warranty section that requires General Electric to meet a specific level of fuel performance. This level is at least as stringent as that imposed on current fuel designs.

Liquid Radioactive Waste

The liquid radwaste system is designed to process, and recycle, to the extent practicable, the liquid waste collected so that annual radiation doses to individuals are maintained below the guidelines in 10 CFR part 20 and 10 CFR part 50, Appendix 1. Liquid radioactive wastes at DNPS include liquids from the reactor process systems and liquids that have become contaminated with process system liquids. Increases in flow rate through the condensate demineralizer and increases of fission products and activated corrosion products are expected under the EPU conditions. This would result in additional backwashes of condensate demineralizers and reactor water cleanup filter demineralizers. These additional backwashes would be processed through the liquid radioactivate waste treatment system and are expected to be suitable for reuse. Therefore, liquid effluent release volumes are not expected to increase significantly as a result of the EPU. No changes in the liquid radioactive waste treatment systems are proposed. Average treatment efficiency would not change; however, radioactive levels of liquid effluent releases may increase linearly with the 17 percent EPU. These liquid effluents from ENPS would be within the regulatory limits of 10 CFR 50, Appendix 1.

Based on information submitted by the licensee, the staff concludes that no significant dose increase in the liquid pathway would result from the proposed EPU. Therefore, the conclusions in the FES would remain valid under the EPU conditions.

Solid Radioactive Waste

Solid radioactive wastes include solids recovered from the reactor process system, solids in contact with the reactor process system liquids or gases, and solids used in the reactor process system operation. The largest volume of solid radioactive waste at DNPS in low-level radioactive waste (LLRW). Sources of LLRW at DNPS include resins, filter sludge, dry active waste, metals, and oils. The annual burial volume of LLRW generated in 1998 was 208.40 cubic meters; in 1999, the burial volume decreased to 98.44 cubic meters, and the projected burial volume of LLRW for 2000 is approximately 144 cubic meters. A one-time increase in the burial volume of LLRW would be associated with the EPU. The volume of resin is expected to increase by as much as 17 percent under the EPU conditions because of the increased amount of iron removed by the condensate system from the increased feedwater flow. Adding the 17 percent increase in resin volume to the projected year 2000 LLRW burial volume rate results in a 156-cubic-meter post-EPU LLRW burial volume per year (an increase of approximately 8 percent), which would be bounded by the FES.

The number of fuel assemblies would increase in any given core loads with the proposed EPU, reducing the storage space in the spent fuel pool. At current off-load rates, four dry storage casks would be filled during each refueling outage and a fifth dry storage cask would be partially filled. DNPS plans to fill the fifth cask using the inventory of assemblies from the spent fuel pool. At the EPU conditions, each refueling outage would also fill four casks and partially fill a fifth. Fewer assemblies from the spent fuel pool would be need to complete the fifth dry storage cask. The net effect of the EPU would be to increase the number of dry storage casks needed by three to four every 5 years.

In summary, the solid radioactive waste burial volume is estimated to increase by approximately 8 percent, the volume of radioactive liquid release would not be expected to increase, and the volume of gaseous radioactive effluent releases would be expected to increase up to 17 percent as a result of the proposed EPU. The level of radioactivity of the liquid effluent releases would also be expected to increase up to 17 percent. The proposed EPU is not expected to have a significant impact on the volume or activity of radioactive solid wastes at DNPS.

Dose Impacts

The staff evaluated in-plant and offsite radiation as part of its review of environmental impacts of the proposed EPU.

In-Plant Radiation

Radiation levels and associated doses are controlled by the as low as reasonably achievable (ALARA) program, as required by 10 CFR part 20. The DNPS ALARA program manages exposure by minimizing the time personnel spend in radiation areas, maximizing the distance between personnel and radiation areas, and maximizing shielding to minimize radiation levels in routinely occupied plant areas and in the vicinity of plant equipment requiring attention. Exelon has determined that the current shielding designs are adequate for any dose increase that may occur due to the proposed EPU. Normal operation radiation levels would increase by no more than the percentage increase of the EPU. Many aspects of the plant were originally designed for higher-than-expected radiation sources. The increase in radiation level would not affect radiation zoning or shielding in the various areas of the plant because it is offset by conservatism in the original design, source term assumptions, and analytical techniques. The licensee states that no new dose reduction programs would be implemented and the ALARA program would continue in its current form.

A potential source of increased occupational radiation is the projected increase in moisture carryover from the reactor vessel steam dryer/separator to the main steam lines. To reduce moisture content under the EPU conditions, modifications to the steam dryer/separator would be required. The modifications are expected to result in a negligible increase in occupational exposure.

On the basis of the above information, the staff concludes that the expected in-plant radiation dose at DNPS following the proposed EPU would be bounded by the dose estimates in the FES.

Offsite Dose

The slight increase in normal operational gaseous activity levels under the EPU would not affect the large margin to the offsite dose limits established by 10 CFR part 20. Offsite dose from radioactive effluents are reported in the Annual Radiological Environmental Operating Reports. For the period from 1995 to 1999, the average annual whole body dose was 4.25E–3 millirem and the average annual dose to the critical organ was 6.16E–3 millirem. The highest percentage of 10 CFR part 50, Appendix I, regulatory limits for maximum dose resulting from liquid releases to an adult for the 5 year period from 1995 to 1999, the average dose was 0.02 percent of the 10 CFR Part 50, Appendix I, regulatory limits. No significant change in the volume of water treated and released is expected. The offsite dose from liquid effluents is projected to increase proportionally with the EPU due to an increase in the concentration of fission products and activation products in the reactor coolant. THe licensee states that offsite dose would remain below the 10 CFR 50, Appendix I, regulatory limits.

Dose to individuals from gaseous releases are also reported in the Annual Radiological Environmental Report. The average annual total body dose during the period from 1995 to 1999 was 2.9E–3 millirem and the average annual dose to the critical organ was 2.23E–2 millirem. The highest percentage of 10 CFR part 50, Appendix I, regulatory limits for maximum dose resulting from airborne releases to an adult during the period form 1995 to 1999 occurred in 1995 and was 0.14 percent of the critical organ dose limit. For the period from 1995 to 1999, the average dose was 0.09 percent of the Appendix I regulatory limits. Conservatively assuming a non-negligible amount of fuel leakage due to defects, gaseous effluents will increase proportionally to the 17 percent EPU; however, offsite dose will remain well below 10 CFR part 50, Appendix I, regulatory limits.

The calculated offsite dose resulting from direct radiation due to radiation levels in plant components, such as sky shine, will increase up to 17 percent because the Offsite Dose Calculation Manual conservatively adjusts offsite dose to power generation level. Because sky shine is the dominant contributor to total offsite dose, the calculated total offsite dose, based on calculations from the Offsite Dose Calculation Manual, will increase up to 17 percent. Actual offsite dose from sky shine is not expected to increase significantly because the decreased transit time is expected to result in a minimal change in concentration through reduced decay time and because expected activity concentration in the steam will remain constant due to the dilution effect of a 19 percent increase in steaming rate. The expected dose at the EPU conditions will remain below the limits of 10 CFR part 50, Appendix I, 10 CFR part 20, and 40 CFR part 190 standards.

The EPU would not create new or different sources of offsite dose from DNPS operation, and radiation levels under the proposed EPU conditions would be within the regulatory limits. The staff concludes that the estimated offsite doses under the EPU conditions would meet the design objectives specified by 10 CFR part 50, Appendix I, and be within the limits of 10 CFR part 20.

Accident Analysis Impacts

The staff reviewed the assumptions, inputs, and methods used by Exelon to assess the radiological impacts of the proposed EPU at DNPS. In doing this review, the staff relied upon information placed on the docket by Exelon, staff experience in doing similar reviews, and the staff-accepted ELTR1 and ETR2 topical reports. The staff finds that Exelon used analysis methods and assumptions consistent with the conservative guidance of ELTR1 and ELTR2. The staff compared the doses estimated by Exelon to the applicable criteria. The staff finds, with reasonable assurance, that the licensee's estimates of the EAB, LPZ, and control room doses will continue to comply with 10 CFR part 100 and 10 CFR part 50, Appendix A, GDC–19, as clarified in NUREG–0800 sections 6.4 and 15. Therefore, DNPS operation at the proposed EPU rated thermal power is acceptable with regard to the

radiological consequences of postulated design basis accidents.

Fuel Cycle and Transportation Impacts

The environmental impact of the uranium fuel cycle has been generically evaluated by the staff for a 100 MWe reference reactor and is described by Table S–3 of 10 CFR 51.51. The DNPS reactors are 912 MWe and Table S–3 reasonably bounds the environmental impacts of the uranium fuel cycle for each DNPS reactor. The radiological effects presented in Table S–3 are small and would not be expected to change due to the implementation of the EPU.

The environmental impacts of the transportation of nuclear fuel and wastes are described in Table S–4 of 10 CFR 51.52. The table lists heat and weight per irradiated fuel cask in transit, traffic density, and individual and cumulative dose to workers and the general population under normal circumstances. The regulations require that environmental reports contain either (a) a statement that the reactor meets specified criteria, in which case its environmental effects would be bounded by Table S–4; or (b) further analysis of the environmental effects of transportation of fuel and waste to and from the reactor site.

NRC published an environmental assessment and finding of no significant impact (65 FR 56604) regarding an increase in fuel enrichment at DNPS from 4 to 5 weight percent uranium-235 and an increase in burnup to 60,000 megawatt-days per metric ton of uranium. The staff concluded that the extended burnup would slightly change the mix of radionuclides that might be released in the event of an accident; however, no significant adverse environmental impacts were expected. An NRC assessment (53 FR 30355, dated August 11, 1988, as corrected by 53 FR 32322, dated August 24, 1988) evaluated the applicability of Tables S–3 and S–4 to higher burnup cycles and concluded that there would be no significant change in environmental impacts for fuel cycles with uranium enrichments up to 5 weight percent uranium-235 and burnups less than 60,000 megawatt-days per metric ton of uranium (MWd/MTU) from the parameters evaluated in Tables S–3 and S–4. Because the fuel enrichment for the EPU would not exceed 5 weight percent uranium-235 and the rod average discharge exposure would not exceed 60,000 MWd/MTU, the environmental impacts of the proposed EPU at DNPS would remain bounded by these conclusions and would not be significant.

Summary

The proposed EPU would not significantly increase the probability or consequences of accidents, would not introduce new radiological release pathways, would not result in a significant increase in occupational or public radiation exposures, and would not result in significant additional fuel cycle environmental impacts. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action. Table 2 summarizes the radiological environmental impacts of the EPU at DNPS.

TABLE 2.—SUMMARY OF RADIOLOGICAL ENVIRONMENTAL IMPACTS OF THE EPU AT DNPS

Impacts	Impacts of the EPU at DNPS
Radiological Waste Stream Impacts	The gaseous radioactive release volume would increase proportionally with the power increase. The liquid radioactive release volume is not expected to increase; however, activity levels would increase proportionally with the power increase. Solid radioactive waste will increase approximately 8 percent. Releases would be within regulatory limits.
Dose Impacts	In-plant radiation levels would increase by 17 percent and dose would be maintained ALARA. Offsite does from liquid and gaseous effluents may increase up to 17 percent. Calculated dose from sky shine will increase up to 17 percent. In-plant and offsite does would remain within the regulatory limits.
Accident Analysis Impacts	No significant increase in probability or consequences of accident.
Fuel Cycle and Transportation Impacts.	No significant increase. Impacts would remain within the conclusions of Table S–3 and S–4 of 10 CFR Part 51.

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., ''the no-action'' alternative). Denial of the application would result in no change in current environmental impacts; however, in the DNPS vicinity other generating facilities using nuclear or other alternative energy sources, such as coal or gas, would be built in order to supply generating capacity and power needs. Construction and operation of a coal plant would create impacts to air quality, land use and waste management. Construction and operation of a gas plant would also impact air quality and land use. Implementation of the EPU would have less of an impact on the environment than the construction and operation of a new generating facility and does not involve new environmental impacts that are significantly different from those presented in the FES. Therefore, the staff concludes that increasing DNPS capacity is an acceptable option for increasing power supply. Furthermore, unlike fossil fuel plants, DNPS does not routinely emits sulfur dioxide, nitrogen oxides, carbon dioxide, or other atmospheric pollutants that contribute to greenhouse gases or acid rain.

Alternative Use of Resources

This action does not involve the use of any different resources than those not previously considered in the DNPS FES, dated 1973.

Agencies and Persons Consulted

In accordance with its stated policy, on November 9, 2001, prior to issuance of this environmental assessment, the staff consulted with the Illinois State official, Frank Niziolek, of the Illinois Department of Nuclear Safety, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's application dated December 27, 2000, as supplemented by letters dated February 12, April 6 and 13, May 3, 18, and 29, June 5, 7, and 15, July 6 and 23, August 7, 8, 9, 13 (two letters), 14 (two letters), 29, and 31 (two letters), September 5 (two letters), 14, 19, 25, 26, and 27 (two letters), and November 2, 2001 (two letters). Documents may be examined

and/or copied for a fee, at the NRC's Public Document Room, at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, http://*www.nrc.gov* (the Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 9th day of November 2001.

For the Nuclear Regulatory Commission.

Jon B. Hopkins,

Acting Chief, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 01–28743 Filed 11–15–01; 8:45 am]

BILLING CODE 7950–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27466]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

November 9, 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 refered 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 December 3, 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 December 4, 2001, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Allegheny Energy, Inc., et al. (70–7888)

Allegheny Energy, Inc. (''Allegheny''), a registered public-utility holding company, The Potomac Edison Company (''Potomac Edison''), its wholly owned direct public-utility company subsidiary, Allegheny Energy Supply Company, LLC (''Allegheny Supply''), a direct public-utility company subsidiary of Allegheny, Allegheny Generating Company (''AGC''), an indirect public-utility company subsidiary of Allegheny,[1] all at 10435 Downsville Pike, Hagerstown, Maryland 21740, Monongahela Power Company, a wholly owned direct public-utility company subsidiary of Allegheny, 1310 Fairmont Avenue, Fairmont, West Virginia 26554, West Penn Power Company (''West Penn''), a wholly owned direct public-utility company subsidiary of Allegheny, Allegheny Energy Service Corporation (''Service Company''), a wholly owned direct service company subsidiary of Allegheny, both at 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601 (collectively, ''Applicants''), have filed a post-effective amendment to a previously filed declaration under sections 6, 7, 12(d), 12(f) and 13(b) of the Act and rules 45 and 54 under the Act.

By order dated December 23, 1997,[2] the Commission authorized the continued operation by Service Company of the Allegheny System Money Pool (''Money Pool'') through December 31, 2001 (''Money Pool Authority''). Specifically, the Commission authorized Allegheny to invest in but not borrow from the Money Pool, AGC to borrow from but not invest in the Money Pool, and Monongahela, Potomac Edison, and West Penn to both borrow from and invest in the Money Pool. In connection with the Money Pool, the Commission also authorized Allegheny, Monongahela, Potomac Edison, West Penn, and AGC to issue short-term debt securities to banks and dealers of commercial paper through December 31, 2001 in aggregate amounts not to exceed $750 million, $106 million, $130 million, $500 million, and $100 million, respectively (''Short-Term Debt Authority'').[3] Applicants now request authority to extend the Money Pool Authority and Short-Term Debt Authority through December 31, 2004. No short-term notes or commercial paper would mature after June 30, 2005.

SCANA Corporation, et al. (70–9533)

SCANA Corporation (''SCANA''), a registered holding company, SCANA's public utility subsidiary companies, Public Serivce Company of North Carolina, Inc. (''PSNC''), South Carolina Electric & Gas Company, South Carolina Generating Company, Inc., and SCANA's nonutility subsidiary companies (collectively, ''Applicants''), all located at 1426 Main Street, Columbia, South Carolina 29201 have filed a post-effective amendment to their application-declaration under sections 6(a) and 7, 9(a), 10 and 12(b) of the Act and rules 43, 45, 53 and 54 under the Act.

By orders dated February 14, 2000 and January 31, 2001 (HCAR Nos. 27137 and 27341, respectively) (''Financing Orders''), among other things, hte Commission authorized the Applicants, through February 11, 2003 (''Authorization Period''), to issue and sell common stock, short-term debt and long-term debt in an outstanding aggregate amount of up to $3.55 billion (''Financing Limitation''). In particular, PSNC was authorized to issue and sell up to $150 million of long-term debt (''Debt Authority'').

Applicants now propose for the remainder of the Authorization Period to increase the Financing Limitation up to $3.85 billion as a consequence of PSNC's request to increase Debt Authority from $150 million up to an aggregate outstanding amount of $450 million. Applicants state that Debt Authority will continue to be subject to the same regulatory terms and conditions described in the Financing Orders. Specifically, (1) the effective cost of long-term debt issued under Debt Authority will not exceed 300 basis points over comparable term U.S. Treasury securities; (2) maturities of long-term debt issued under Debt Authority will not exceed 50 years; (3) PSNC will not issue any new long-term debt, unless its outstanding long-term debt is rated ''investment grade'' by at least one nationally recognized statistical rating agency; and (4) underwriting fees, commissions, or similar remuneration paid in connection with the issue, sale or distribution of a security will not exceed 5% of the

[1] AGC is a public-utility company subsidiary of Allegheny Supply an Monongahela Power Company, described below.

[2] *Allegheny Power System,* HCAR No. 26804 (December 23, 1997) (''Prior Money Pool Order'').

[3] *See* Prior Money Pool Order, *as modified by Allegheny Energy,* HCAR No. 27030 (May 19, 1999) (increasing Allegheny's short-term debt authority from $400 million to $750 million) and *West Penn Power Co.,* HCAR No. 27084 (October 8, 1999) (increasing West Penn's short-term debt authority from $182 million to $500 million).

principal amount of the security issued. Further, the Applicants represent that at all times during the Authorization Period, SCANA's common equity will be at least 30% of its consolidated capitalization, as required by the Commission's order approving the organization of SCANA (HCAR No. 27133; February 9, 2000).

AGL Resources, Inc. and Virginia Natural Gas, Inc. (70–9911)

AGL Resources, Inc. (''AGL Resources''), 817 West Peachtree Street, NW., Atlanta, Georgia, 30308, a registered holding company, and Virginia Natural Gas, Inc. (''VNG''), 5100 East Virginia Beach Blvd., Norfolk, Virginia 23502, a gas public utility subsidiary of AGL Resources (collectively, ''Declarants''), have filed a declaration under sections 12(c) and 12(d) of the Act and rules 43(a), 44(a), and 54 under the Act.

The proposal set forth in the declaration relates to the recapitalization of VNG. By prior Commission order dated October 5, 2000. (Holding Co. Act Release No. 27243), AGL Resources was authorized, through March 31, 2004, to acquire all of the outstanding common stock of VNG (the ''Acquisition'') and to engage in various financing and other transactions related to the establishment of AGL Resources as a registered holding company system after the Acquisition. All of the outstanding debt of VNG was repaid prior to the Acquisition and VNG has subsequently conducted minimal debt financing. As a result, the current capital structure of VNG is predominantly equity. As of September 30, 2001, VNG's common stock equity as a percentage of its total capitalization was 80%.

In this declaration, Declarants request authority for VNG to repurchase its common stock from AGL Resources and for AGL Resources to sell that common stock to VNG (''Recapitalization'').[4] Declarants propose to execute the Recapitalization within 180 days of the issuance of the order in this matter. VNG will obtain the funds necessary to repurchase its shares from cash balances and the proceeds of debt and/or preferred stock issuances. All securities issued by VNG are subject to the approval of the Virginia State Corporation Commission (''VSCC'') and would be issued under appropriate VSCC orders.[5] Declarants state that VNG's target capital structure would include common stock and long- and short-term debt securities, but in no event will VNG have less than 30% common equity in proportion to its total capitalization including short-term debt and current maturities of long-term debt. Shares repurchased will initially be held as treasury stock and, if authorized by VNG's board of directors, some or all of the repurchased shares may be cancelled, from time to time. Declarants state that the share repurchase will increase the debt recorded on VNG's balance sheet and reduce its capital and capital surplus accounts.

Allegheny Energy, Inc. (70–9801)

Allegheny Energy, Inc. (''Allegheny''), a registered public utility holding company, and Allegheny Energy Supply Company, LLC (''AE Supply''), Allegheny's wholly owned utility subsidiary company, both located at 10435 Downsville Pike, Hagerstown, Pennsylvania 21740 (collectively, ''Applicants'') have filed a post-effective amendment to their application-declaration under sections 6, 7, 9, 10, 12(b) and 12(f) of the Act and rules 45 and 54 under the Act.

The Commission issued an order on March 30, 2001 (HCAR No. 27370) (''March Order'') authorizing the financing and acquisition of certain exempt wholesale generators. By this post-effective amendment Applicants propose to engage in certain additional related financing transactions.

In the March Order, the Commission, among other things, authorized the Applicants to: (1) Acquire the issued and outstanding membership interests in certain limited liability companies—all exempt wholesale generators as defined in section 32 of the Act (''EWGs'')—of Enron North America Corp (the ''Enron Acquisition''), (2) issue and sell an aggregate of $550 million in short-term bridge financing and long-term debt, and (3) establish a financing vehicle, Allegheny Energy Supply Capital LLC (''Supply Capital''), to, among other things, issue equity or other financial instruments to and acquire notes or other financial instruments from AE Supply in connection with related activities. Under the March Order, AE Supply incurred temporary indebtedness of approximately $550 million in aggregate principal amount (''Bridge Loan'') to consummate the Enron Acquisition.

Applicants now propose to refinance the Bridge Loan and repay other debt by engaging in the following series of transactions:

(1) The creation of a wholly owned subsidiary of AE Supply to serve as a special-purpose financing vehicle (''Leaseback SPV''), to which AE Supply will transfer of AE Supply's right, title, and interest in and to the Hatfield's Ferry Power Station generation facility located in Masontown, Pennsylvania (''Facility''), together with certain related contracts, assets, and liabilities (''Internal Asset Transfer Transaction'');

(2) The (i) entry by Leaseback SPV and AE Supply[6] into a leaseback transaction in which AE Supply's 76.6% undivided interest in the Facility will be leased to an unaffiliated third party and immediately leased back to Leaseback SPV (''Leaseback''), (ii) guarantee by AE Supply of Leaseback SPV's lease payment and performance obligations (''Guaranty''), and (iii) pledge by the Leaseback SPV or AE Supply, as the case may be, of its undivided interest in the Facility to secure its lease payment and performance obligations (''Pledge'' and together with the Leaseback and the Guaranty, the ''Leaseback Transaction'');[7]

(3) The creation of a wholly owned subsidiary of SPV (''Subsidiary LLC'') that will, among other things, receive the proceeds of the Leaseback as a capital contribution, and engage in making an intercompany loan in the amount of the capital contribution of AE Supply to be used for authorized activities (''Intercompany Loan Transaction''); and

(4) The making of subsequent intercompany, interest bearing loans (''Subsequent Intercompany Loans'') to AE Supply in the amount of interest earned from the Intercompany Loan transaction and under any Subsequent

[4] VNG proposes to repurchase up to 3,691 shares at a price of $101,460 per share to effect the Recapitalization.

[5] VNG intends to rely on rule 52(a) under the Act in connection with any securities issuances that will in whole or part fund its common stock repurchase.

[6] AE Supply may perform the Internal Asset Transfer Transaction immediately after the Leaseback Transaction (as defined below) in order to avoid certain significant negative state tax consequences that may result if the Internal Asset Transfer Transaction occurred prior to the Leaseback Transaction. In that event, AE Supply would make the initial transfer of the Facility in connection with the Leaseback Transaction and execute documentation accordingly. And as a result, AE Supply would transfer to Leaseback SPV as part of the Internal Asset Transfer Transaction the following additional contracts, assets and liabilities: (i) All relevant operative documents in connection with the Leaseback Transaction and (ii) all proceeds received by AE Supply in connection with the Leaseback Transaction. Applicants represent that, other than an described herein, the Leaseback Transaction will remain consistent with the description contained in Post-Effective Amendment No. 1, filed on October 19, 2001.

[7] Applicants represent that Leaseback Transaction will be accounted for by Applicants as an operating lease and not as debt. As a result, AE Supply's ownership share of the Facility will remain an asset of AE Supply.

Intercompany Loans (''Subsequent Intercompany Loan Transactions'').

The transactions are expected to raise approximately $1 billion, which will be used to refinance the Bridge Loan, reduce other indebtedness of AE Supply, provide working capital for the facilities obtained in the Enron Acquisition, and for general corporate purposes.

All of the operative documents relating to the Leaseback will be negotiated on an arms length basis. Leaseback SPV at all times during the Leaseback would retain possession of and all meaningful operating rights with respect to the Facility. During the period of the Leaseback, Leaseback SPV or an affiliate will operate the Facility under the existing operating agreement.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–28717 Filed 11–15–01; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45036; File No. SR–Amex–2001–89]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to Currency and Index Warrant Listing Standards

November 6, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on October 23, 2001, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The proposed rule change has been filed by the Amex as a ''non-controversial'' rule change under rule 19b–4(f)(6) under the Act.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend section 106 of the Amex Company Guide to include alternate listing standards for currency and index warrants.[4]

The text of the proposed rule change is available at the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and statutory basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to revise section 106 of the Amex Company Guide to include alternate minimum distribution and market value standards for currency and index warrants. Under the proposed alternative standards, the minimum number of public holders required will not be defined, but will be determined on a case by case basis. Other criteria will require a minimum of 2,000,000 warrants together with an aggregate market value of $12,000,000 and initial price of $6 per warrant.

Section 106 of the Amex Company Guide provides listing standards for currency and index warrants which includes, among other things, minimum distribution and market value standards. Currently, section 106 requires a minimum public distribution of 1,000,000 warrants together with a minimum of 400 public warrant holders, and an aggregate market value of $4,000,000.

From time to time, the Exchange receives requests from issuers to list currency and index warrants that may substantially exced the minimum number of required units and aggregate issuance price, but fail to satisfy the minimum number of public holders. As a result, the Exchange is precluded from listing such issues even though it believes listing such warrants may be appropriate given the number of units, aggregate issuance price, and relatively minor departure from the required minimum number of public holders. For example, currently the Exchange would be precluded from listing a warrant issuance that has 3,000,000 units outstanding with an aggregate issuance price of $18,000,000, but has only 350 public holders.

As a result, the Exchange proposes to add alternative standards to allow the Exchange to list warrant issues that it believes are appropriate for listing and increase its flexibility in reviewing such issues. Accordingly, under the proposed alternative listing standards, the minimum number of public holders required will not be defined, but will be determined on a case by case basis. Other criteria will require a minimum of 2,000,000 warrants together with an aggregate market value of $12,000,000 and minimum price of $6 per warrant. Because currency and index warrants are in many respects similar to currency and index options, which require no minimum number of holders upon issuance, the Exchange believes reviewing the number of public warrant holders on a case by case basis is appropriate.

The Exchange believes the proposed alternative warrant listing standards will increase the Exchange's ability to review proposed warrant issues on a case by case basis in determining whether it is appropriate to list the particular warrant being proposed. Lastly, the Exchange believes that the approval of the alternative warrant listing standard will help foster competition between the Amex and options exchanges that have received approval of the alternative warrant listing standard.[5]

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with section 6 of the Act,[6] in general, and with section 6(b)(5) of the Act,[7] specifically, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and

[4] Specifically, the proposed rule change would apply to currency warrants, currency index warrants, and stock index warrants. Telephone conversation between Jeffery P. Burns, Assistant General Counsel, Amex, and Ira Brandriss, Special Counsel, and Frank N. Genco, Attorney Advisor, Division of Market Regulation (''Division''), Commission, on November 2, 2001.

[5] *See* Securities Exchange Act Release No. 43611 (November 22, 2000), 65 FR 75326 (December 1, 2000).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

coordination with persons engaged in facilitating transactions in securities, and to remove impediments to an perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: Does not significantly affect the protection of investors or the public interest; does not impose any significant burden on competition; and does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest and because Amex provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission,[8] the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act [9] and Rule 19b–4(f)(6) [10] thereunder.

At any time within 60 days of October 23, 2001, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex.

All submissions should refer to File No. SR–Amex–2001–89 and should be submitted by December 7, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–28719 Filed 11–15–01; 8:45 am]

BILLING CODE 8010–01–M

[8] *See* Letter from Jeffrey P. Burns, Assistant General Counsel, Amex, to Nancy Sanow, Assistant Director, Division, Commission, dated October 8, 2001.

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45048; File No. SR–NASD–2001–81]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the National Association of Securities Dealers, Inc. Regarding Temporary Access by UTP Exchanges to Certain Nasdaq Stock Market Systems

November 8, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on November 7, 2001, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by Nasdaq. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to approve the proposed rule change on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to make available to the UTP Exchanges on a limited basis the Nasdaq Workstation II (''NWII''), the NWII Applications Programming Interface (''NWII/API''), and the Computer-to-Computer Interface (''CTCI'') for the submission of quotations and trade reports of Nasdaq-listed securities. Temporary access shall be granted to these systems until: (1) 120 days after the technical specifications for the upgraded UTP Line have been made available to the UTP Exchanges; (2) 60 days after the upgraded UTP Line has been made available to the UTP Exchanges for testing; and (3) 30 days after the upgraded UTP Line has been made available to the UTP Exchanges for entry of actual quotations and trade reports. Below is the text of the proposed rule change. Proposed new language is in italics.

4799. Temporary UTP Exchange Access

a. Definitions.

(i) The term ''Automated Confirmation Transaction'' or ''ACT'' shall mean the Nasdaq proprietary service by which trades in Nasdaq-listed securities are reported to Nasdaq for comparison, risk management, and clearing purposes and for dissemination to the tape.

(ii) The term ''Computer-to-Computer Interface'' or ''CTCI'' shall mean a method by which Nasdaq subscribers can enter orders to designated Nasdaq execution systems, as well as ACT trade reports, from their computer systems to Nasdaq's proprietary computer systems without using a NWII or NWII/API.

(iii) The term ''Nasdaq Workstation II'' or ''NWII'' shall mean the primary presentation device consisting of hardware and software offered by Nasdaq for trading Nasdaq stocks.

(iv) The term ''Nasdaq Workstation II/Application Programming Interface'' or ''NWII/API'' shall mean the method by which Nasdaq subscribers create customized software, consistent with Nasdaq technical specifications, that allows their computer systems to interact with Nasdaq's proprietary systems in place of NWII presentation devices.

(v) The term ''UTP Exchange'' shall mean any registered national securities exchange that has unlisted trading privileges in Nasdaq National Market securities pursuant to the Joint Self-Regulatory Organization Plan Governing

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

the Collection, Consolidation and Dissemination Of Quotation and Transaction Information for Exchange-Listed Nasdaq/National Market System Securities and for Nasdaq/National Market System Securities Traded On Exchanges On An Unlisted Trading Privilege Basis (''Nasdaq UTP Plan'').

(vi) The term ''UTP Line'' shall mean the facilities described in the Nasdaq UTP Plan for the submission of quotations and trade reports for Nasdaq-listed securities by UTP Exchanges. Nasdaq is upgrading the UTP Line to a TCP/IP protocol pursuant to the vote of the Operating Committee of the Nasdaq UTP Plan.

(b) Each UTP Exchange shall have temporary access to the following Nasdaq proprietary services, provided it meets the conditions set forth in paragraph (c) below:

(i) NWII and NWII/API for the submission of quotations in Nasdaq securities, and also for reporting into ACT trades in Nasdaq-listed securities that are effected through the facilities of a UTP Exchange; and

(ii) CTCI for reporting into ACT trades in Nasdaq-listed securities that are effected through the facilities of a UTP Exchange

(c) A UTP Exchange that chooses to access Nasdaq proprietary services pursuant to this rule, shall first execute an agreement with Nasdaq governing the terms and conditions of such usage.

(d) Duration of Temporary Access Pursuant to Paragraph (b):

(i) Nasdaq shall make the technical specifications for the upgraded UTP Line available 120 days prior to terminating temporary access;

(ii) Nasdaq shall make the upgraded UTP Line available for testing by UTP Exchanges 60 days prior to terminating temporary access; and

(iii) Nasdaq shall make the upgraded UTP Line available for entry of actual quotations and trade reports by UTP Exchanges 30 days prior to terminating temporary access.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item III below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Nasdaq occupies dual roles within the national market system: it operates an independent securities market and also serves as an exclusive securities information processor (''ESIP'') pursuant to the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation, and Dissemination of Quotation and Transaction Information for Exchange-Listed Nasdaq/National Market System Securities and for Nasdaq/National Market System Securities Traded on Exchanges on an Unlisted Trading Privileges Basis (''OTC/UTP Plan''). As an ESIP, Nasdaq is obligated to provide to all exchange members of the OTC/UTP Plan (''UTP Exchanges'') access to the facilities enumerated in the OTC/UTP Plan. However, subject only to SEC approval, Nasdaq believes that it is entitled to condition the manner in which it may voluntarily make its proprietary systems available to UTP Exchanges that choose to use them.[3]

Because several UTP Exchanges plan to begin contemporaneously trading Nasdaq stocks, and at the request of the staff of the Commission, Nasdaq has decided to grant UTP Exchanges temporary access to Nasdaq proprietary services that will provide them with access to the ESIP. As described in more detail below, the proposed pilot would make available the NWII, the NWII/API, and the CTCI for the submission of quotations and trade reports of Nasdaq-listed securities. Temporary access shall be granted to these systems until: (1) 120 days after the technical specification for the upgraded UTP Line have been made available to the UTP Exchanges; (2) 60 days after the upgraded UTP Line has been made available to the UTP Exchanges for testing; and (3) 30 days after the upgraded UTP Line has been made available to the UTP Exchanges for entry of actual quotations and trade reports. Each UTP Exchange that chooses to access Nasdaq proprietary services pursuant to this rule shall first execute an agreement with Nasdaq governing the terms and conditions of such usage.

Background

Nasdaq's Dual Roles. As a market, Nasdaq builds and operates systems that enable its members to execute and report trades in Nasdaq-listed and over-the-counter securities, consistent with section 15A of the Act. Among the systems that provide the core functionality of the Nasdaq market are its quotation display device, the NWII/API,[4] its execution system—SuperSOES and SelectNet—and its trade reporting system, ACT, which is accessed through the CTCI. The NWII/API, SuperSOES, SelectNet, and ACT/CTCI are Nasdaq proprietary systems.

Processor/ESIP. As an ESIP under section 11A of the Act, Nasdaq operates pursuant to a national market system plan, the OTC/UTP Plan, for processing quotes and trades in Nasdaq National Market stocks by Nasdaq and UTP Exchanges (''OTC/UTP Plan Participants''). Specifically, as the ESIP for the OTC/UTP Plan, Nasdaq operates facilities to collect, consolidate, and disseminate quotations and last sale reports of all markets quoting and trading Nasdaq-listed securities.

The OTC/UTP Plan states that UTP Exchanges shall submit quote and trade reports in eligible securities to the ESIP through a dedicated line (''UTP Line''). The UTP Line is the only OTC/UTP Plan-sponsored means for submitting trade reports and quotes in Nasdaq securities to the ESIP. All other means for submitting quote and trade information is through Nasdaq proprietary systems.

Unprecedented Expansion of UTP Trading. From 1986 until 1999, only the Chicago Stock Exchange (''CHX'') traded Nasdaq-listed securities pursuant to the OTC/UTP Plan, and, even then, only on a very limited scale. During that period CHX interacted with Nasdaq pursuant to the OTC/UTP Plan by entering quotes and trade reports via the UTP Line. In the last twenty-four months, the Nasdaq landscape has been transformed. In late 1999 and early 2000, trading volumes in Nasdaq securities exploded, significantly increasing the allure of UTP trading. As a result, five exchanges—the Cincinnati Stock Exchange, the Philadelphia Stock Exchange, the Pacific Exchange, the American Stock Exchange, and the

[3] Nasdaq has permitted UTP Exchanges to participate in the Nasdaq National Market Execution System (''SuperSOES'') on a voluntary basis and has filed rules defining the manner in which those exchanges may use this system. Nasdaq has filed a rule proposal for public comment to make SuperSOES the exclusively Nasdaq proprietary execution system available for UTP Exchanges to quote and trade Nasdaq securities on Nasdaq. *See* File No. SR–NASD–2001–69. *See also* Securities Exchange Act Release No. 45047 (November 8, 2001) which permits SuperSOES to trade through a UTP Exchange's quote that is at the inside if that exchange does not participate in SuperSOES.

[4] Nasdaq offers two proprietary routes of entry into its proprietary systems: the API and the CTCI. Both interfaces exist as part of Nasdaq's proprietary Enterprise Wide Network II, a network provided through an extensive contract with MCI WorldCom.

Boston Stock Exchange—have sought to begin UTP trading.

TCP/IP Upgrade to UTP Interface. This unprecedented influx or new entrants in to the OTC/UTP Plan has exceeded the capacity on the UTP Line to provide access to the ESIP. The UTP Line is a bi-synchronous electronic transmission vehicle. The UTP interface was established in the late 1980's as a stand-alone circuit to accommodate the anticipated message traffic from the Midwest Stock Exchange into the ESIP. All quote updates and trade reports are transmitted to a Tandem system, which then transfers the messages to the appropriate ESIP facility for transmission of the data over the consolidated market data feeds. The UTP Line was migrated to a national network infrastructure in 1992 based on requirements from CHX. Until 2001, the UTP Operating Committee had not made any formal requests to upgrade the UTP interface.

In June 2001, the UTP Operating Committee voted to upgrade the current UTP Line (which is a 19.2–56KB bi-synch protocol) to a TCP/IP protocol using a robust MCI/WorldCom network that scales from 56 KB to ''T1'' in bandwidth. The TCP/IP upgrade is scheduled for production at the end of January 2002 and will greatly expand the capacity available to provide access to the ESIP through OTC/UTP Plan facilities.

Rule Proposal

Given the current capacity limitations on the UTP Line, Nasdaq has decided to give UTP Exchanges short-term, temporary access to ACT and the NWII/API, until the TCP/IP upgrade to the UTP Line is complete. Until the TCP/IP interface is available for the submission of quote and trade information to the ESIP, Nasdaq will temporarily allow UTP Exchanges to use the following interfaces:

(i) NWII/API for the submission of quote updates and trade reports—applies to UTP Exchanges that wish to submit quotes and trade reports, and/or participate in SuperSOES/SelectNet.

(ii) CTCI for the submission of trade reports—applies to UTP Exchanges that wish only to submit trade reports.[5] These systems will be available only until the TCP/IP upgrade is complete, and Nasdaq will terminate access to these systems (NWII, NWII/API, and CTCI) according to the schedule described in proposed NASD Rule 4799(d). Thereafter, UTP Exchanges will be required to report their floor trades via the TCP/IP.

Existing NASD rules also permit UTP Exchanges to use SuperSOES and SelectNet to access the Nasdaq market. UTP Exchanges that choose to use these Nasdaq execution systems must access those systems via the NWII or NWII/API interface. In that case, the UTP Exchange may temporarily use the NWII or NWII/API to report trades executed on the floor or through the facilities of that UTP Exchange. NWII/API will be available to report such trades only until the TCP/IP upgrade is complete, at which time the UTP Exchange will be required to report such trades via the UTP Line.

As with trades executed through SuperSOES and SelectNet, trades reported to the ESIP through the NWII, NWII/API or CTCI interface will be appended with the Nasdaq market center ID. That is, the UTP Exchange's floor or facility trades submitted via NWII, NWII/API or CTCI will not carry the market center of execution, as set forth in the OTC/UTP Plan and as required under SEC rule 11Ac1–2, the ''Vendor Display Rule.''[6] Trades submitted through the TCP/IP interface will carry the entering market center's ID for transmission over the appropriate ESIP.

A UTP Exchange that plans to use NWII, NWII/API or CTCI as a temporary alternative to the UTP Line will be required to execute a contract with Nasdaq governing the terms and conditions of usage. Nasdaq will make these contracts available to the UTP Exchanges at their request following approval of the pilot rule.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with section 15A(b)(6) of the Act, which requires, among other things, that the NASD rules be designed to facilitate transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. In particular, Nasdaq believes that permitting UTP Exchanges temporary access to Nasdaq proprietary systems removes a temporary obstacle to the trading of Nasdaq-listed securities. Temporary access will be available until upgraded facilities are available pursuant to the OTC/UTP Plan.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Nasdaq has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2001–81 and should be submitted by December 7, 2001.

IV. Commission's Findings and Order Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association, and, in particular, the requirements of sections 11A and 15A of the Act.[7] Specifically, the Commission finds that the proposal is consistent with sections 11A(a)(1)(C) and 15A(b)(6) of the Act.[8] In section 11A(a)(1)(C) Congress found that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets

[5] CTCI is only coded for trade reporting and for order-entry in SuperSOES/SelectNet. CTCI functionality does not permit users to submit quotes or receive SuperSOES/SelectNet executions/orders.

[6] *See* Exemption Letter to Jeffrey T. Brown, Chairman, OTC/UTP Operating Committee, from Belinda Blaine, Associate Director, SEC (November 8, 2001).

[7] 15 U.S.C. 78k–1 and 15 U.S.C. 78*o*–3.

[8] 15 U.S.C. 78k–1(a)(1)(C) and 15 U.S.C. 78*o*–3(b)(6).

for the Commission to assure fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets, and to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Section 15A(b)(6) requires that the rules of the NASD be designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in processing information with respect to an facilitating transactions in securities, as well as to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.[9] The Commission believes that the proposal to make available to the UTP Exchanges on a limited basis the NWII, the NWII/API, and the CTCI for the submission of quotations and trade reports of Nasdaq-listed securities will enable Nasdaq to fulfill its existing obligations as the ESIP, provide the UTP Exchanges with the means to participate effectively in trading Nasdaq-listed securities, and maintain a fair, orderly, and efficient marketplace for the benefit of all investors in Nasdaq-listed securities.

Nasdaq believes that good cause exists to approve this rule proposal on an accelerated basis. Nasdaq will make these services available to eligible UTP Exchanges as soon as this proposal is approved. Any delay in approval could delay the launch of trading by up to five UTP Exchanges, resulting in a potential loss of any increased competition that may be derived from the addition of these UTP Exchanges.

Pursuant to section 19(b)(2) of the Act,[10] the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register** so that UTP Exchanges will be able to trade Nasdaq securities as soon as they are capable of doing so.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (SR–NASD–2001–81) is hereby approved on an accelerated basis through February 28, 2002.

[9] In reviewing this proposal, the Commission has considered its potential impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 15 U.S.C. 78s(b)(2).

[11] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–28718 Filed 11–15–01; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–45038; File No., SR–PCX–2001–43]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by the Pacific Exchange, Inc. Relating to the Exchange's Delisting Criteria

November 6, 2001.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on October 29, 2001, the Pacific Exchange, Inc. (''Exchange'' or ''PCX'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items, I, II, and III below, which Items have been prepared by the PCX. On November 6, 2001, the PCX submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Mai S. Shiver, Senior Attorney, PCX, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated November 5, 2001 (''Amendment No. 1''). In Amendment No. 1, the PCX clarified in Commentary .01 and Commentary .02 to PCX rule 3.7 that it will look to the primary market in which the underlying security trades in determining whether the underlying security satisfies the price requirements for adding additional series of options contracts. The PCX also made a technical correction to subparagraph 4 of Commentary .01 to PCX rule 3.7. The PCX also changed the word ''Thursday'' to the phrase ''the last trading day'' in subparagraph 3 of Commentary .02 to PCX rule 3.7. The PCX also withdrew the proposed change of the word ''shall'' to ''will'' in paragraph (a) and commentary .01 to PCX rule 3.7. Lastly, the PCX added subparagraph 5 of Commentary .01 to PCX rule 3.7 to add that an underlying security will not be deemed to meet the requirements for continued approval for Exchange options transactions when the issue, in the case of underlying security that is principally traded on a national securities exchange, is delisted from trading on that exchange and fails to meet certain criteria, or the issue, in the case of an underlying security that is principally traded through the facilities of a national securities association, is no longer designated as a National Market System security.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX proposes to amend PCX Rule 3.7, which governs the withdrawal of approval for securities underlying options traded on the Exchange (''Delisting Criteria Rule'' or ''PCX rule 3.7'').

Below is the text of the proposed rule change. Proposed new language is *italicized;* deletions are in brackets.

* * * * *

¶ 3597 Withdrawal of Approval of Underlying Securities

Rule 3.7(a) The approval of an uderlying security for exchange transactions shall be withdrawn by the Exchange if the underlying security fails to meet the then current requirements necessary to maintain such approval or for any reason the Exchange deems necessary. In the event the Exchange withdraws approval, no additional series of option contracts of the class covering that underlying security shall be opened; provided, however, that where exceptional circumstances have cause the noncompliance of an underlying security with subsection *(B) or* (C) [or (D) of section 1 of Commentary .01 or section 2 or 3 of Commentary .01 hereunder, the Exchange may, in the interest of maintaining a fair and orderly market or for the protection of investors, open additional series of option contracts of the class covering the subject underlying security.

(b) No change.

Commentary:

.01 In connection with rule 3.7(a), the Exchange has adopted certain requirements which must be met in order for an underlying security to maintain approval for exchange transactions. Therefore the Exchange shall take the action prescribed by rule 3.7(a) for the withdrawal of an underlying security when any one of the following occurs:

1. The Exchange ordinarily relying upon information publicly available at the Securities and Exchange Commission determines that:

(A) The issuer has failed to make timely reports as required by any applicable sections of the Securities Exchange Act of 1934, and such failure has not been corrected within 30 days after the date the report was due to be filed;

(B) There is a failure to have a minimum off 6,300,000 shares of the underlying security held by persons other than those who are subject to the requirement of section 16(a) of the Securities Exchange Act of 1934, as amended; or

(C) There is a failure to have a minimum of 1,600 holders of the underlying security.

2. The volume of trading in the underlying security is less than 1,800,000 shares in the preceding twelve months.

3. The market price per share of an underlying security closes below *$3.00 on the previous trading day* [$5.00], as measured by the highest closing price recorded in *the primary* [any] market on which the underlying security trades. [, on majority of the business days of any six-month period.]

4. If an underlying security is approved for opotions listing and trading under the provisions of Rule 3.6, Commentary .05, the trading volume and price history of the Original Security (as therein defined) prior to but not after the commencement of trading in the Restructure Security (as therein defined), including ''when issued'', may be taken into account in determining whether the trading volume and market price requirements of subsections 2 and 3 of this Commentary .01 [as well as the trading volume and market price requirements of Rule 3.7, Commentary .04, subsections 3 and 4] are satisfied, provided, however, that in the case of a Restructure Security approved for options listing and trading under subsection (d) of Commentary .05 to Rule 3.6, such trading volume requirements must be satisfied based on the trading volume history of the Restructure Security.

5. The issue, in the case of an underlying security that is principally traded on a national securities exchange, is delisted from trading on that exchange and neither meets NMS criteria nor is traded through the facilities of a national securities association, or the issue, in the case of an underlying security that is principally traded through the facilities of a national securities association, is no longer designed as a NMS security.

.02 In connection with Rule 3.7(a) and Commentary .01.3 thereto, the Exchange shall direct that no additional series of options contracts of the class covering an underlying security be opened at any time when the market price per share of the subject underlying security is less than *$3.00.* [$5.00 as measured by the highest closing price recorded in any market on which the underlying security trades.] *Subject to Paragraph 3 of Commentary .01 above, the market price per share of the underlying security will be determined as follows:*

1. for intra-day series additions, the last reported trade in the primary market in which the security is traded at the time the Exchange determines to add these additional series intra-day;

2. for next-day series additions, the closing price reported in the primary market in which the security is traded on the last trading day preceding the day on which such series additions are authorized; and

3. for expiration series additions, the closing price reported in the primary market in which the security is traded on the last trading day preceding expiration Friday.

.03 No change.

[.04 Notwithstanding paragraph 3 to Commentary .01 and Commentary .02, the Exchange may continue to open for trading additional series of option contracts of a class covering an underlying security, provided:

1. The aggregate market value of the underlying security equals or exceeds $50 million;

2. Customer open interest (reflected on a two-sided basis) equals or exceeds 4,000 contracts for all expiration months;

3. Trading volume in the underlying security (in all markets in which the underlying security is trading) has been at least 2,400,000 shares in the preceding twelve months; and

4. The market price per share of the underlying security closed at $3 or above on a majority of the business days during the preceding six calendar months, as measured by the highest closing price reported in any market in which the underlying security traded, and further provided the market price per share of the underlying security is at least $3 at the time such additional series are authorized for trading. During the next consecutive six calendar month period, to satisfy this commentary .04, the price of the underlying security as referenced in this Commentary .04(4) shall be $4.]

[.05–.12].*04–.11* No change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for the proposed rule change, as amended, and discussed any comments its received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in sections A,B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

PCX rule 3.7 specifies maintenance requirements for securities underlying options classes traded on the Exchange and restricts the Exchange from adding new series of an options class in the event that the underlying security fails to meet certain criteria. The Delisting Criteria Rule currently provides that the Exchange may not list additional series if, *inter alia*, the underlying security has not closed above $5 for the majority of business days during the preceding six calendar months as measured by the highest closing price reported in the primary market in which the underlying security is traded (''$5 guideline''). However, exceptions to the $5 guideline allow the Exchange to add series even if the underlying security does not satisfy the $5 guideline. Pursuant to the exceptions, the Exchange may add additional series where the underlying security has closed above $3 for the majority of business days during the preceding six calendar months and the underlying price is at least $3 at the time the new series are authorized (''$3 exception''). Once the Exchange relies upon the $3 exception in adding new series, during the next consecutive six-month period, it must increase the $3 exception to $4 in order to authorize new series pursuant to the exception.

The Exchange asserts the application of the Delisting Criteria Rule creates unnecessary confusion and administrative burdens on the Exchange. The Exchange believes that the Delisting Criteria Rule also results in disputes between the exchanges, as inconsistent application of the requirements competitively disadvantage an exchange, depending upon its interpretation. Further, the Exchange does not believe it is necessary or desirable to restrict the ability of investors to trade options on securities trading between $3 or $5. Accordingly, the Exchange proposes to amend PCX rule 3.7 to simplify the requirements and to clarify the circumstances under which the Exchange may add new options series. The proposal is based on, and is consistent with, a similar rule change by the Chicago Board Options Exchange (''CBOE Rule 5.4'') that the Commission recently approved.[4]

[4] *See* Securities Exchange Act Release No. 44964 (October 19, 2001), 66 FR 54559 (October 29, 2001) (order approving File No. SR–CBOE–2001–29).

The proposed requirement specifies the following: (1) New series may not be added for the next day unless, in addition to satisfying the other requirements of the rule, the underlying security closed at or above $3 on the previous trading day in the primary market in which the underlying security is traded; (2) new series may not be added intra-day unless, in addition to satisfying the other requirements of the rule, the last reported trade in the underlying security at the time the Exchange determines to add the new series is at or above $3 on the primary market in which the underlying security is traded; [5] and (3) new series may not be added following an options expiration unless, in addition to satisfying the other requirements of the rule, the closing price of the underlying security on the last trading day preceding expiration Friday is at or above $3 on the primary market in which the underlying security is traded.[6] Except as otherwise provided in this proposal, the Exchange does not propose to change other requirements currently contained in Rule 3.7 (such as the number of share that must be held by non-insiders, number of holders and trading volume).

The Exchange believes that this proposal removes unnecessarily complex requirements while it reasonably assures that securities underlying options have indicia of liquidity needed to maintain fair and orderly markets. In determining to list new options series under the new less restrictive standard, the Exchange believes that its own systems and those of the Options Price Reporting Authority are capable of handling increased capacity requirements.

2. Statutory Basis

The Exchange believes the proposed rule change, as amended, is consistent with section 6 of the Act [7] in general, with section 6(b)(5) of the Act [8] specially, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change, as amended: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest; provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission, the proposed rule change, as amended, has become effective pursuant to section 19(b)(3)(A) of the Act [9] and rule 19b–4(f)(6) [10] thereunder.

A proposed rule change filed under rule 19b–4(f)(6) normally requires that the self-regulatory organization give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change; however, rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time period. The PCX seeks to have the Commission waive the five-day notice. The Commission finds good cause to waive the five-day notice because the Commission acknowledges that this proposal is substantially similar and based on another exchange's rule recently noticed and approved by the Commission.[11]

A proposed rule change filed under rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The PCX seeks to have the proposed rule change, as amended, become operative immediately. The Commission, consistent with the protection of investors and the public interest, has determined to make the proposed rule change, as amended, operative as of November 6, 2001.[12] The Commission notes that the proposed rule change, as amended, is substantially similar in all material respects to the rule of another exchange that the Commission has already noticed for public comment and approved [13] and, therefore, the proposed rule change raises no new issues of regulatory concern. At any time within 60 days of the filing of the proposed rule change, as amended, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[14]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All

[5] The Exchange will use the closing price per share in the primary market in which the underlying security trades and the price per share of the last reported trade in the primary market in which the underlying security trades at the time the Exchange determines to ad the series intra-day. *See* Amendment No. 1, *supra* note 3.

[6] The Exchange confirms that it will look to the primary market in which the underlying security trades for all three types of new series additions. Telephone conversation between Mai Shiver, Senior Attorney, PCX, and Frank N. Genco, Division of Market Regulation, Commission, on November 6, 2001.

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6).

[11] *See supra* note 5.

[12] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] *See supra* note 5.

[14] *See* Section 19(b)(3)(C) of the Act, 15 U.S.C. 78(b)(3)(C).

submissions should refer to File No. SR–PCX–2001–43 and should be submitted by December 7, 2001.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 01–28720 Filed 11–15–01; 8:45 am]

BILLING CODE 8010–01–M

[15] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

North American Free Trade Agreement; Invitation for Applications for Inclusion on the Chapter 19 Roster

AGENCY: Office of the United States Trade Representative.

ACTION: Invitation for Applications.

SUMMARY: Chapter 19 of the North American Free Trade Agreement (NAFTA) provides for the establishment of a roster of individuals to serve on binational panels convened to review final determinations in antidumping or countervailing duty (AD/CVD) proceedings and amendments to AD/CVD statutes of a NAFTA Party. The United States annually renews its selections for the Chapter 19 roster. Applications are invited from eligible individuals wishing to be included on the roster for the period April 1, 2002 through March 31, 2003.

DATES: Applications should be received no later than December 7, 2001.

ADDRESSES: We strongly encourage applicants to submit their applications by email to *naftapanel@ustr.gov* or by fax to Sandy McKinzy, Attn: Chapter 19 Roster Applications, at (202) 395–3640. Alternatively, applicants may submit their applications by U.S. mail, first class, postage prepaid, to Sandy McKinzy, Attn: Chapter 19 Roster Applications, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. Applications delivered by messenger or commercial overnight delivery service will not be accepted.

FOR FURTHER INFORMATION CONTACT: Amber L. Cottle, Assistant General Counsel, (202) 395–3581.

SUPPLEMENTARY INFORMATION:

Binational Panel Reviews Under NAFTA Chapter 19

Article 1904 of the NAFTA provides that a party involved in an AD/CVD proceeding may obtain review by a binational panel of a final AD/CVD determination of one NAFTA Party with respect to the products of another NAFTA Party. Binational panels decide whether such AD/CVD determinations are in accordance with the domestic laws of the importing NAFTA Party, and must use the standard of review that would have been applied by a domestic court of the importing NAFTA Party. A panel may uphold the AD/CVD determination, or may remand it to the national administering authority for action not inconsistent with the panel's decision. Panel decisions may be reviewed in specific circumstances by a three-member extraordinary challenge committee, selected from a separate roster composed of fifteen current or former judges.

Article 1903 of the NAFTA provides that a NAFTA Party may refer an amendment to the AD/CVD statutes of another NAFTA Party to a binational panel for a declaratory opinion as to whether the amendment is inconsistent with the General Agreement on Tariffs and Trade (GATT), the GATT Antidumping or Subsidies Codes, successor agreements, or the object and purpose of the NAFTA with regard to the establishment of fair and predictable conditions for the liberalization of trade. If the panel finds that the amendment is inconsistent, the two NAFTA Parties shall consult and seek to achieve a mutually satisfactory solution.

Chapter 19 Roster and Composition of Binational Panels

Annex 1901.2 of the NAFTA provides for the maintenance of a roster of at least 75 individuals for service on Chapter 19 binational panels, with each NAFTA Party selecting at least 25 individuals. A separate five-person panel is formed for each review of a final AD/CVD determination or statutory amendment. To form a panel, the two NAFTA Parties involved each appoint two panelists, normally by drawing upon individuals from the roster. If the Parties cannot agree upon the fifth panelist, one of the Parties, decided by lot, selects the fifth panelist from the roster. The majority of individuals on each panel consist of lawyers in good standing, and the chair of the panel must be a lawyer.

Upon each request for establishment of a panel, roster members from the two involved NAFTA Parties will be requested to complete a disclosure form, which will be used to identify possible conflicts of interest or appearances thereof. The disclosure form requests information regarding financial interests and affiliations, including information regarding the identity of clients of the roster member and, if applicable, clients of the roster member's firm.

Criteria for Eligibility for Inclusion on Chapter 19 Roster

Section 402 of the NAFTA Implementation Act (Pub. L. 103–182, as amended (19 U.S.C. 3432)) (''Section 402'') provides that selections by the United States of individuals for inclusion on the Chapter 19 roster are to be based on the eligibility criteria set out in Annex 1901.2 of the NAFTA, and without regard to political affiliation. Annex 1901.2 provides that Chapter 19 roster members must be citizens of a NAFTA Party, must be of good character and of high standing and repute, and are to be chosen strictly on the basis of their objectivity, reliability, sound judgment, and general familiarity with international trade law. Aside from judges, roster members may not be affiliated with any of the three NAFTA Parties. Section 402 also provides that, to the fullest extent practicable, judges and former judges who meet the eligibility requirements should be selected.

Procedures for Selection of Chapter 19 Roster Members

Section 402 establishes procedures for the selection by the Office of the United States Trade Representative (USTR) of the individuals chosen by the United States for inclusion on the Chapter 19 roster. The roster is renewed annually, and applies during the one-year period beginning April 1 of each calendar year.

Under Section 402, an interagency committee chaired by USTR prepares a preliminary list of candidates eligible for inclusion on the Chapter 19 Roster. After consultation with the Senate Committee on Finance and the House Committee on Ways and Means, USTR selects the final list of individuals chose by the United States for inclusion on the Chapter 19 roster.

Remuneration

Roster members selected for service on a Chapter 19 binational panel will be remunerated at the rate of 800 Canadian dollars per day. Previously, panel members were remunerated at a rate of 400 Canadian dollars per day.

Application

Eligible individuals who wish to be included on the Chapter 19 roster for the period April 1, 2002 through March 31, 2003 are invited to submit applications. Applicants submitting their applications by U.S. mail should submit one original application and one copy. Applicants submitting their applications by email or fax only need to submit one original application. Applications must be typewritten, and should be headed Application for

Inclusion on NAFTA Chapter 19 Roster.'' Applications should include the following information, and each section of the application should be numbered as indicated:

1. Name of applicant.
2. Business address, telephone number, fax number, and email address.
3. Citizenship(s).
4. Current employment, including title, description of responsibility, and name and address of employer.
5. Relevant education and professional training.
6. Spanish language fluency, written and spoken.
7. Post-education employment history, including the dates and addressed of each prior position and a summary of responsibilities.
8. Relevant professional affiliations and certifications, including, if any, current bar memberships in good standing.
9. A list and copies of publications, testimony, and speeches, if any, concerning AD/CVD law. Judges or former judges should list relevant judicial decisions. Only one copy of publications, testimony, speeches, and decisions need be submitted.
10. Summary of any current and past employment by, or consulting or other work for, the United States, Canadian, or Mexican Governments.
11. The names and nationalities of all foreign principals for whom the applicant is currently or has previously been registered pursuant to the Foreign Agents Registration Act, 22 U.S.C. 611 *et seq.*, and the dates of all registration periods.
12. List of proceedings brought under U.S., Canadian, or Mexican AD/CVD law regarding imports of U.S., Canadian, or Mexican products in which the applicant advised or represented (for example, as consultant or attorney) any U.S., Canadian, or Mexican party to such proceeding and, for each such proceeding listed, the name and country of incorporation of such party.
13. A short statement of qualifications and availability for service on Chapter 19 panels, including information relevant to the applicant's familiarity with international trade law and willingness and ability to make time commitments necessary for service on panels.
14. On a separate page, the names, addresses, telephone, and fax number of three individuals willing to provide information concerning the applicant's qualifications for service, including the applicant's character, reputation, reliability, judgment, and familiarity with international trade law.

Current Roster Members and Prior Applicants

Current members of the Chapter 19 roster who remain interested in inclusion on the Chapter 19 roster are requested to submit updated applications. Individuals who have previously applied but have not been selected may reapply. If an applicant, including a current or former roster member, has previously submitted materials referred to in item 9, such materials need not be resubmitted.

Public Disclosure

Applications normally will be subject to public disclosure. An applicant who wishes to exempt information from public disclosure should follow the procedures set forth in 15 CFR 2003.6.

False Statements

Pursuant to section 402(c)(5) of the NAFTA Implementation Act, false statements by applicants regarding their personal or professional qualifications, or financial or other relevant interests that bear on the applicants' suitability for placement on the Chapter 19 roster or for appointment to binational panels, are subject to criminal sanctions under 18 U.S.C. 1001.

Paperwork Reduction Act

This notice contains a collection of information provision subject to the Paperwork Reduction Act (PRA) that has been approved by the Office of Management and Budget (OMB). Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB number. This notice's collection of information burden is only for those persons who wish voluntarily to apply for nomination to the NAFTA Chapter 19 roster. It is expected that the collection of information burden will be under 3 hours. This collection of information contains no annual reporting or record keeping burden. This collection of information was approved by OMB under OMB Control Number 0350–0009. Please send comments regarding the collection of information burden or any other aspect of the information collection to USTR at the address above.

Privacy Act

The following statements are made in accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a). The authority for requesting information to be furnished is section 402 of the NAFTA Implementation Act. Provision of the information requested above is voluntary; however, failure to provide the information will preclude your consideration as a candidate for the NAFTA Chapter 19 roster. This information is maintained in a system of records entitled ''Dispute Settlement Panelists Roster.'' Notice regarding this system of records will be published subsequently in the **Federal Register** and will reference this information collection. The information provided is needed, and will be used by USTR, other federal government trade policy officials concerned with NAFTA dispute settlement, and officials of the other NAFTA Parties to select well-qualified individuals for inclusion on the Chapter 19 roster and for service on Chapter 19 binational panels.

Kenneth P. Freiberg,

Deputy General Counsel.

[FR Doc. 01–28872 Filed 11–15–01; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular 43–6B, Altitude Reporting Equipment and Transponder System Maintenance and Inspection Practices

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of proposed AC and request for comments.

SUMMARY: This notice announces the availability of and requests comments on proposed advisory circular (AC) 43–6B, that provides information concerning acceptable methods of testing altimeters, static systems, altitude encoders, and Air Traffic Control (ATC) transponder systems. Like all advisory material, this AC is not in itself mandatory and does not constitute a regulation. It provides a means, but not the only means, of testing to be used at the time of original installation, after performing repairs, or during scheduled recertification. Altitude reporting equipment and transponder systems are significant elements for safe operation of aircraft in the National Airspace System. This notice is necessary to give all interested persons the opportunity to present their views on the proposed AC.

DATES: Comments must be received on or before January 15, 2002.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Continuous

Airworthiness Maintenance Division (Attention: AFS–330), 800 Independence Avenue, SW., Washington, DC 20591, or electronically to *david.correia@faa.gov.*

FOR FURTHER INFORMATION CONTACT: David Correia, AFS–330, at the address above, by e-mail at *david.correia@faa.gov,* or telephone at (202) 267–3812.

SUPPLEMENTARY INFORMATION:

Comments Invited

The proposed AC is available on the FAA Web site at *http://www.faa.gov/avr/afs/acs/ac-idx.htm,* under AC No. 43–6B. Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Please identify AC 43–6B, Altitude Reporting Equipment and Transponder System Maintenance and Inspection Practices, and submit comments, either hard copy or electronic, to the appropriate address listed above. Comments may be inspected at the above address between 9:00 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Issued in Washington, DC, on October 19, 2001.

Louis C. Cusimano,

Acting Deputy Director, Flight Standards Service.

[FR Doc. 01–28679 Filed 11–15–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Availability of Draft Environmental Assessment and Notice of a Public Hearing for the City of Chicago's Proposed World Gateway Program and Other Capital Improvement Projects at Chicago O'Hare International Airport

AGENCY: Federal Aviation Administration, DOT.

ACTION: The Federal Aviation Administration (FAA) is issuing this corrected notice to advise the public that a Draft Environmental Assessment (EA) has been prepared by the City of Chicago Department of Aviation for the proposed World Gateway Program at Chicago O'Hare International Airport, and that copies of the Draft EA are available for public review and comment. This Notice provides updated phone numbers for the identified contact person, and the notice has been issued to provide for wide distribution of this information to the public, and to local, state, and federal agencies. Comments are being solicited by the City of Chicago on the environmental consequences of the proposed actions. In addition, FAA is advising that the City of Chicago will hold a public hearing on December 13, 2001, regarding the EA for the purpose of considering the economic, social, and environmental effects of the development and its consistency with applicable plans.

SUMMARY: The World Gateway Program would include terminal development and improvements, taxiway development, terminal access road improvements, utility system modification, cargo facility relocation, and other capital improvement projects. An environmental assessment has been prepared by the City of Chicago Department of Aviation to evaluate the proposed projects. The EA also evaluates other independent airport development projects that would occur in the same time frame as the World Gateway Program. The subsequent environmental documentation will be used by the FAA to determine the appropriate level of environmental review necessary pursuant to the National Environmental Policy Act.

Public Hearing: A public hearing and informational workshop will be held on Thursday, December 13, 2001 from 3:00 p.m.–8:00 p.m. at the Fountain blue Banquets, 2300 S. Mannheim Road, Des Plaines, Illinois 60018. The purpose of this hearing is to consider the environmental effects of the proposed World Gateway Program and afford the public the opportunity to present oral and/or written comments. A transcript of the hearing will be made. Written comments will be accepted through the close of business on Tuesday, January 15, 2002. The first half-hour of each hour of the public hearing will be allocated to pre-reserved testimony. The second half of each hour will be allocated to walk-in testimony. All individuals will have five minutes to testify. Individuals may call Ms. Carol Wilinski at 773–894–6900 to reserve a time slot to testify at the public hearing.

FOR FURTHER INFORMATION OR TO SUBMIT WRITTEN COMMENTS CONTACT: Ms. Carol Wilinski, Chicago O'Hare International Airport, P.O. Box 66412, Chicago, IL 60666; 773–894–6900 (voice); 773–686–3743 (facsimile); or by email: *wgp_environment@ohare.com.* Please submit comments prior to close of business Tuesday, January 15, 2002.

SUPPLEMENTARY INFORMATION: The proposed World Gateway Program includes the development of two new passenger terminals, Terminals 4 and 6, the redevelopment of Terminal 2, and Terminal 3 Concourse K extension. As a result of these projects, several facilities must be relocated. These relocations are referred to as Enabling Projects. The EA also evaluates other projects unrelated to the World Gateway Program but which are proposed for development during the same period of time and are referred to as Independent Utility Projects. Together, the World Gateway Program, the Enabling Projects, and the Independent Utility Projects are referred to as the Proposed Projects in the EA. The Proposed Projects include the following:

The World Gateway Program

Terminal 2 Redevelopment

Reconfiguration of terminal interior; Widening passenger corridor linking Terminals 1 and 2; Demolition and reconstruction of Concourses E and F; Installation of Federal Inspection Service (FIS) facilities; and Reconfiguration of aircraft parking apron.

Terminal 3, Concourse K Extension

Extension of Concourse K and Relocation of Taxiway A/B; Construction of new apron.

Terminal 4 Development

Construction of Terminal 4; Installation of FIS facilities; Enlargement and reconfiguration of apron.

Terminal 5 Reconfiguration

Modified to integrate with the proposed Terminal 6.

Terminal 6 Development

Construction of Terminal 6; Reconfiguration of apron; Extension of taxiway; Development of access road for Terminals 5 and 6; Construction of Terminal 6 parking garage Realignment of Airport Transmit System (ATS) line and construction of ATS station in Terminal 6.

Enabling Projects

- Delta Cargo Facility Relocation
- Lynxs Cargo Facility Relocation
- Sky Chefs Flight Kitchen Relocation
- Heating and Refrigeration (H&R) Plant Support Facility Relocations
- Commonwealth Edison Switchyard D179 Relocation

Independent Utility Projects

- Public Parking Improvements
- Development of Consolidated Rental Car Facility/ATS Station
- Development of Rental Car Storage and Maintenance Lot
- ATS Storage and Maintenance Facility Relocation/Track Extension

- Development of Long-Term Parking ATS Station and Intermodal Connection
- Additional Fuel Tank-Farm Development in Northwest Airfield
- Development of City Warehouse and Trades Building
- Eastside Collateral Development
- O'Hare Roadway Improvements

Copies of the World Gateway Program Draft EA are available at the following locations:

Arlington Heights Memorial Library, 500 N. Dunton Ave., Arlington Heights, IL 60004
Bensenville Public Library, 200 S. Church Rd., Bensenville, IL 60106
College of DuPage Library, 425 Fawell, Glen Ellyn, IL 60137
Des Plaines Public Library, 1501 Ellinwood St., Des Plaines, IL 60016
Eisenhower Public Library, 4652 N. Olcott Ave., Harwood Heights, IL 60706
Elk Grove Village Public Library, 1011 Wellington, Ave., Elk Grove Village, IL 60007
Elmhurst Public Library, 211 Prospect Ave., Elmhurst, IL 60126
Franklin Park Public Library, 10311 Grand Ave., Franklin Park, IL 60131
Harold Washington Library, 400 South State St., 5th Floor, Chicago, IL 60605
Itasca Community Library, 500 W. Irving Park Rd., Itasca, IL 60143
Melrose Park Public Library, 801 Broadway St., Melrose Park, IL 60160
Mount Prospect Public Library, 10 S. Emerson St., Mount Prospect, IL 60056
Northlake Public Library, 231 N. Wolf Rd., Northlake, IL 60164
Oakton Community College Library, Des Plaines, IL 60016
Park Ridge Public Library, 20 S. Prospect Ave., Park Ridge, IL 60068
River Grove Public Library, 8638 Grand Ave., River Grove, IL 60171
Roselle Public Library, 40 S. Park St., Roselle, IL 60172
Schiller Park Library, 4200 Old River Rd., Schiller Park, IL 60176
Wood Dale Public Library, 520 N. Wood Dale Rd., Wood Dale, IL 60191

Issued in Des Plaines, Illinois, on November 7, 2001.

Philip M. Smithmeyer,

Manager, Chicago Airports District Office, Great Lakes Region.

[FR Doc. 01–28678 Filed 11–15–01; 8:45 am]

BILLING CODE 4910–13–My

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Prepare an Environmental Impact Statement and To Conduct Environmental Scoping for Improvements to the Gary/Chicago Airport in Gary, IN

AGENCY: Federal Aviation Administration, DOT.

ACTION: Corrected notice to prepare an Environmental Impact Statement and to hold a public scoping meeting.

SUMMARY: The Federal Aviation Administration (FAA) is issuing this corrected notice to advise the public that an Environmental Impact Statement or other appropriate environmental documentation will be prepared to assess certain improvements to the Gary/Chicago Airport. This corrected notice changes the comment receipt date from December 19, 2001 to December 27, 2001 and also changes the scoping meeting date from December 5, 2001 to December 13, 2001. The environmental review will assess improvements associated with the existing air carrier Runway 12–30, including railroad relocation and improved runway safety areas; an extension of the existing air carrier Runway 12–30; expansion of the existing terminal site; and analysis of sites for new passenger terminal and air cargo areas. A public scoping process will be held in order that all significant issues related to the proposed actions are identified.

FOR FURTHER INFORMATION CONTACT: Michael W. MacMullen, Airports Environmental Program Manager, Federal Aviation Administration, Chicago Airports District Office, 2300 East Devon Avenue, Des Plaines, Illinois 60018. Mr. MacMullen can be contacted at (847) 294–7522 (voice), (847) 294–7046 (facsimile).

SUPPLEMENTARY INFORMATION: At the request of the Gary/Chicago Airport Authority, the FAA is preparing an Environmental Impact Statement or other appropriate environmental documentation. The review will address specific improvements of Gary/Chicago Airport as identified during the 2001 Airport Master Plan process and shown on the 2001 Airport Layout Plan. The following improvements have been grouped in four categories and are identified as ripe for review and decision: Improvements associated with Existing Runway 12–30, the primary air carrier runway at the airport, relocate E.J. & E. Railroad, acquire land northwest of airport to allow for modifications to runway safety area, relocate airside perimeter roadway, relocate Runway 12–30 navaids, improve Runway Safety Area for Runway 12, relocate Runway 12 threshold to remove prior displacement, and acquire land southeast of airport, located within or immediately adjacent to runway protection zone; Extension of Runway 12–30, including acquire land or rights northwest of existing runway, relocate/bury power lines, relocate airside perimeter roadway, extend Runway 12–30 (1,900 feet by 150 feet), relocate Runway 12–30 navaids, displace Runway 30 threshold using declared distance standards, extend parallel taxiway A to new end of Runway 12, construct deicing hold pads on Taxiway A at Runway 12 and Runway 30, and develop two high-speed exit taxiways; Expansion of existing passenger terminal to accommodate projected demands; and analysis of sites adjacent to extended runway for aviation related development, including new passenger terminal and air cargo areas.

The purpose and need for these improvements will be reviewed in the environmental documentation. All reasonable alternatives will be considered including the no-action alternative.

Copies of a scoping document with additional detail can be obtained by contacting the FAA informational contact person identified above. Federal, State, and local agencies and other interested parties are invited to make comments and suggestions to ensure that the full range of issues related to these proposed actions are addressed and all significant issues identified. The FAA informational contact person identified above should receive these comments and suggestions by December 27, 2001.

Public Scoping Meeting: To facilitate receipt of comments, two public scoping meetings will be held on December 13, 2001 at the Gary/Chicago Airport, 6001 Industrial Highway, Gary, Indiana. The first meeting will be held between 10:00 AM and 2:00 PM for Federal, State, and local agencies in the administrative offices. The second meeting will be held from 3:00 pm to 7:00 pm for other interested parties in the passenger terminal facility.

Issued in Des Plaines, Illinois, on November 7, 2001.

Philip M. Smithmeyer,

Manager, Chicago Airports District Office, Great Lakes Region.

[FR Doc. 01–28677 Filed 11–15–01; 8:45 am]

BILLING CODE 4010–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 193/ EUROCAE Working Group 44: Terrain and Airport Databases

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 193/EUROCAE Working Group 44 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 193/EUROCAE Working Group 44: Terrain and Airport Databases.

DATES: The meeting will be held December 3–7, 2001 from 9 am–5 pm.

ADDRESSES: The meeting will be held at FAA National Aeronautical Charting Organization (NACO), NOAA Bldg., SSMC–2, Room 2358, 1305 East-West Highway, Silver Spring, MD.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; web. site *http://WWW.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92–463, 5 U.S.C., appendix 2), notice is hereby given for a Special Committee 193/EUROCAE Working Group 44 meeting. The agenda will include:

- December 3:
- Opening Plenary Session (Welcome and Introductory Remarks, Review/Approval of Meeting Agenda, Review Summary of Previous Meeting)
- Presentations/Discussions of formation of new Subgroup 4 (Database Exchange Format); Introduction of new Subgroup 4 Chairman
- Subgroup 2 (Terrain and Obstacle Databases):
- Review past minutes and actions; Presentations; Review of draft document; Begin Final Review and Comment (FRAC) process for Standards for Terrain and Obstacle Databases document.
- Subgroup 4 (Database Exchange Format):
- Begin new subgroup 4; Establish goals and objectives for new subgroup; Start work on new document.
- December 4, 5, 6:
- Subgroups 2 and 4 continue discussions
- Plenary Forms:
- Complete FRAC process and achieve plenary consensus for the Standards for Terrain and Obstacle Database document.
- December 7:
- Closing Plenary Session (Summary of Subgroups 2 and 4 meetings; Assign Tasks, Other Business, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on November 9, 2001.

Janice L. Peterson,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 01–28732 Filed 11–15–01; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA 2001–9972; Formerly FRA Docket No. 87–2, Notice No. 12]

RIN 2130–AB20

Automatic Train Control (ATC) and Advanced Civil Speed Enforcement System (ACSES); Northeast Corridor (NEC) Railroads

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Amendment to Order of Particular Applicability Requiring ACSES Between New Haven, Connecticut and Boston, Massachusetts—Extension of Time Within Which CSX Transportation (CSXT) is Required to Complete Software Testing.

SUMMARY: FRA amends its Order of Particular Applicability requiring all trains operating on the Northeast Corridor (NEC) between New Haven, Connecticut and Boston, Massachusetts (NEC—North End) to be equipped to respond to the new Advanced Civil Speed Enforcement System (ACSES) system. This amendment extends the date by which CSXT must complete testing of new Amtrak operational software on three CSXT ACSES-equipped locomotives from September 16, 2001, to March 16, 2002. This action is necessary because of delays in the development of the software, which will be used to support more efficient operations.

DATES: The amendments to the Order are effective November 16, 2001.

FOR FURTHER INFORMATION CONTACT: W. E. Goodman, Staff Director, Signal and Train Control Division, Office of Safety, Mail Stop 25, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 ((202) 493–6325); Paul Weber, Railroad Safety Specialist, Signal and Train Control Division, Office of Safety, Mail Stop 25, FRA, 1120 Vermont Avenue, NW., Washington, DC 20590 ((202) 493–6258); or Patricia V. Sun, Office of Chief Counsel, Mail Stop 10, 1120 Vermont Avenue, NW., Washington, DC 20590 ((202) 493–6038).

For instructions on how to use this system, visit the Docket Management System Web Site and click on the ''Help'' menu. This docket is also available for inspection or copying at room PL–401 on the plaza level of the Nassif Building at the U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590–0001, during regular business hours.

SUPPLEMENTARY INFORMATION: The Order of Particular Applicability, as published on July 22, 1998, set performance standards for cab signal/automatic train control and ACSES systems, increased certain maximum authorized train speeds, and contained safety requirements supporting improved rail service on the NEC. 63 FR 39343. Among other requirements, the Order required all trains operating on track controlled by the National Railroad Passenger Corporation (Amtrak) on the NEC—North End to be controlled by locomotives equipped to respond to ACSES by October 1, 1999. In four later notices, FRA amended the Order to reset the implementation schedule and make technical changes. 64 FR 54410, October 6, 1999; 65 FR 62795, October 19, 2000; 66 FR 1718, January 9, 2001; and 66 FR 34512, June 28, 2001.

Background

FRA is making the amendment to this Order effective upon publication instead of 30 days after the publication date in order to realize the significant safety and transportation benefits afforded by the ACSES system at the earliest possible time. All affected parties have been notified.

FRA is not reopening the comment period since the sole amendment to this Order is to extend temporary operating protocols for CSXT that had expired on September 16, 2001. The amendment allows these protocols to remain effective until March 16, 2002. This amendment will be effective for fewer than six months and is necessary to avoid disruption of rail service. Under these circumstances, delaying the effective date of the amendment to allow for notice and comment would be impracticable, unnecessary, and contrary to the public interest. FRA will continue to monitor the progress of CSXT towards equipping and maintaining sufficient units to run all trains with operative ACSES.

Extension of CSXT Software Testing Requirement

On June 28, 2001, in Notice No. 11, FRA granted CSXT a relief period from the implementation schedule specified in the Order. During this relief period, which expired on September 16, 2001, CSXT was expected to test new Amtrak operational software on three CSXT ACSES-equipped locomotives. The testing's purpose was to help CSXT adapt Amtrak's control software system to the needs of freight service. CSXT was then required to monitor the performance of these locomotives for mechanical and operational problems and, once the software had been approved, to install the approved software on the remaining CSXT locomotives.

The production, delivery and testing of the software have been delayed, and the relief period for CSXT must be extended. FRA is therefore extending the date by which CSXT must complete software testing to March 16, 2002 since Amtrak is still in the process of developing its new operational software.

Other than the extension for software testing explained above, the temporary operating protocols specified in Notice No.11 remain in effect without change. Including this amendment, FRA has granted five requests for relief from the Order's original timetable. FRA therefore expects all affected parties to commit fully to the extended deadlines set out in the amended implementation schedule. Any additional requests for relief must be thoroughly documented and justified.

Issued in Washington, DC on November 9, 2001.

Allan Rutter,

Federal Railroad Administrator.

[FR Doc. 01–28731 Filed 11–15–01; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2000–8591; Notice 2]

Bridgestone/Firestone, Inc., Grant of Application for Decision That Noncompliance Is Inconsequential to Motor Vehicle Safety

Bridgestone/Firestone, Inc. (Firestone), has determined that approximately 33,000 P235/75R15 Widetrack Wintertrax tires produced in its Sao Paulo, Brazil plant and 1,400 P235/75R15 Lemans A/T tires produced in its Decatur, Illinois plant do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 109, ''New Pneumatic Tires.''

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Firestone petitioned for a determination that the noncompliance, in each case, is inconsequential to motor vehicle safety and filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.''

Notice of receipt of the application was published in the **Federal Register**, with a 30-day comment period, on Monday, January 22, 2001 (66 FR 6757). NHTSA received one comment on this application from Public Citizen, a consumer advocacy organization.

The 33,000 P235/75R15 Widetrack Wintertrax tires produced from April 2000 through October 2000, in the Sao Paulo, Brazil plant do not comply with paragraph S4.2.1(c), which specifies tire load ratings for the various tire sizes. According to Firestone, the maximum load rating is mislabeled on the affected tires. The actual marking was: Max Load 650 Kg (1433 lbs.) @ 300 Kpa (44 psi). The correct marking should have been: Max Load 920 Kg (2028 lbs.) @ 300 Kpa (44 psi). Paragraph S4.2.1 (c) essentially requires that the maximum load rating of a tire meet or exceed the maximum load rating for that particular tire size, which is published in designated documents. In the case of the P235/75R15 Widetrack Wintertrax tires, the maximum load molded into the tire is less than the published maximum load for tires of this size.

The Decatur plant produced 1,400 P235/75R15 Lemans A/T tires during DOT weeks 36, 37 and 38 of the year 2000 that do not comply with FMVSS No. 109, paragraph S4.3.4 (a), which specifies the maximum inflation pressure labeling requirements. The maximum inflation pressure (English units only) of the affected tires was mismarked on the sidewall opposite the DOT serial number. The DOT serial number is generally mounted on the inboard side of the tire away from the customer. The actual marking was 340 Kpa (41 psi) and the correct marking should have been 340 Kpa (50 psi).

The comment submitted to the docket by Public Citizen is a report entitled ''Spinning Their Wheels: How Ford and Firestone Fail to Justify the Limited Tire Recall.'' The report did not address the issues raised by Firestone in its application for decision of inconsequential noncompliance and was not a factor in the agency's decisions.

With regard to the 33,000 P235/75R15 Widetrack Wintertrax tires, the agency believes that the true measure of inconsequentiality to motor vehicle safety is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. According to Firestone, the tires meet all other FMVSS No. 109 performance and labeling requirements. The maximum load rating molded into the tires is actually less than the correct load rating for the tires. Therefore, it is not likely that these tires would be placed in an unsafe, overload situation as a result of the noncompliant labeling. If consumers rely on the labeling, they will put far less of a load on the tire than it is capable of carrying. This presents no safety concern.

The agency considers the true measure of inconsequentiality with respect to the 1,400 P235/75R15 Lemans A/T tires to be the effect of the noncompliance on the operational safety of vehicles on which the tires are mounted. According to Firestone, these tires meet all other FMVSS No. 109 performance and labeling requirements. In this case, the tire maximum inflation pressure was mislabled in English units on one side of the tire, the side that is generally mounted outboard toward the customer. However, the maximum inflation pressure is correctly labeled in metric units on both sides of the tire. The correct maximum inflation pressure for these tires is greater than the mislabeled maximum inflation pressure. Therefore, it is not likely that the tires would be placed in an unsafe, over-inflated situation as a result of this noncompliance. With regard to under-inflation, a document in which tire and rim information is published entitled ''Tire Guide, Complete Tire and Wheel Information for Cars and Trucks,'' was reviewed. The correct tire inflation pressure data is the data provided by the manufacturer of the vehicle on which the tires are mounted. This information is provided in the owner's manual, on the vehicle certification label, and on the tire information label, if applicable. Based on the data in the document, an inflation pressure of 41 psi or less is recommended by vehicle manufacturers for P235/75R15 tires. Therefore, if consumers inflate these tires to the inflation pressure marked on the tires, 41 psi, the tires would not be under-inflated. Again, no adverse safety consequences result from this mislabeling.

In consideration of the foregoing, NHTSA has decided that the applicant has met the 1 burden of persuasion that the noncompliance with FMVSS No. 109, S4.2.1 and the noncompliance with FMVSS No. 109, S4.3.4, are inconsequential to motor vehicle safety. Accordingly, Firestone's application is granted and the applicant is exempted

from providing the notification of the noncompliance that would be required by 49 U.S.C. 30118, and from remedying the noncompliance, as would be required by 49 U.S.C. 30120. (49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: November 9, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 01–28675 Filed 11–15–01; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34002]

Alamo North Texas Railroad Corporation—Construction and Operation Exemption—Wise County, TX

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board conditionally exempts from the prior approval requirements of 49 U.S.C. 10901 the construction and operation by Alamo North Texas Railroad Corporation of a 2.25-mile line of railroad in Wise County, TX.

DATES: The exemption will not become effective until the environmental review process is completed. Once that process is completed, the Board will issue a further decision addressing the environmental matters and establishing an exemption effective date at that time, if appropriate. Petitions to reopen must be filed by December 6, 2001.

ADDRESSES: Send pleadings, referring to STB Finance Docket No. 34002, to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Richard Allen, Zuckert Scoutt & Rasenberger, L.L.P., 888 Seventeenth Street, NW., Washington, DC 20006–3309.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon, (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Da 2 Da Legal, Room 405, 1925 K Street, NW., Washington, DC 20006. Telephone: (202) 293–7776. [TDD for the hearing impaired: 1–800–877–8339.]

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: November 8, 2001.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams,

Secretary.

[FR Doc. 01–28657 Filed 11–15–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34069]

Central Montana Rail, Inc.—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant temporary overhead trackage rights to Central Montana Rail, Inc. (CMR) over BNSF's lines between milepost 134.4 and milepost 134.57, in the vicinity of Mocassin, MT, a distance of 0.17 miles.

The parties reported that they intended to consummate the transaction as soon as practicable under this exemption. The earliest the transaction could have been consummated was November 5, 2001, the effective date of the exemption (7 days after the notice of exemption was filed).[1] The temporary trackage rights are to allow CMR to serve the United Harvest grain elevator located at milepost 134.4 until such time that CMR can construct its own track.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34069 must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Tammy Wyatt-Shaw, Esq., Phillips & Bohyer, P.C., P.O. Box 8569, Missoula, MT 59807.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: November 7, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 01–28656 Filed 11–15–01; 8:45 am]

BILLING CODE 4915–00–P

[1] On October 29, 2001, CMR concurrently filed a petition for exemption in STB Finance Docket No. 34069 (Sub-No. 1), *Central Montana Rail, Inc.—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company,* wherein CMR requests that the Board permit the proposed temporary overhead trackage rights arrangement described in the present proceeding to expire on January 1, 2003. That petition will be addressed by the Board in a separate decision.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Finance Docket No. 34040]

Riverview Trenton Railroad Company—Acquisition and Operation—In Wayne County, MI

AGENCY: Surface Transportation Board.

ACTION: Notice of extended comment period.

SUMMARY: The Riverview Trenton Railroad Company (RTRR) has petitioned the Surface Transportation Board (Board) for authority to acquire and operate a rail line approximately 1.5 miles in length in Wayne County, Michigan, to serve a proposed intermodal facility. The Board's Section of Environmental Analysis (SEA) served an environmental assessment (EA) for public review and comment on this project on October 15, 2001. Comments were originally due by November 14, 2001. Due to recent events involving a principal postal facility in Washington, DC, timely receipt of materials mailed to the Board has been disrupted. The Board has therefore decided to extend the comment period until November 26, 2001. SEA requests that individuals filing comments, as well as individuals who have previously filed comments regarding this EA, take the following additional steps to ensure receipt of their correspondence during the comment period:

1. Telephone or e-mail the environmental contact prior to the close of the comment period and inform them that you have mailed a comment.

2. If the comment has not been received, the environmental contact will discuss alternative modes of delivery.

3. Retain a copy of your comment for your records should alternative modes of delivery be necessary.

SEA is committed to carrying out its duties to the public and regrets any inconvenience these new procedures may cause.

DATES: Comment period extended to November 26, 2001.

ADDRESSES: Comments (an original and 10 copies) regarding this EA should be submitted in writing to: Section of Environmental Analysis, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423, to the attention of Kenneth Blodgett.

FOR FURTHER INFORMATION CONTACT: Kenneth Blodgett, (202) 565–1554 (TDD for the hearing impaired (1–800–877–83439). To obtain a copy of the EA, contact Da–2–Da Legal at 1925 K Street, NW., Room 405, Washington, DC 20006, phone (202) 293–7776 or visit the Board's website at ''*www.stb.dot.gov*''.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams,

Secretary.

[FR Doc. 01–28725 Filed 11–15–01; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Customs Service

Remote Location Filing: Extension of Deadline for Customs Brokers To Submit National Permit Numbers to Customs

AGENCY: Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This notice announces a deadline extension for customs brokers participating in the remote location filing (RLF) prototype to submit national permit numbers to Customs. The original date by which customs brokers were required to submit this data to Customs Headquarters was November 6, 2001. Due to recent events that have disrupted mail service to Customs Headquarters, this date is being extended to December 6, 2001.

DATES: Customs brokers who are current participants in RLF must submit their national permit numbers to Customs on or before December 6, 2001.

ADDRESSES: Submissions of national permit numbers should be sent to Customs either via email to *Lisa.k.santana@customs.treas.gov* or via fax to (202) 927–1096 or, in the alternative, addressed to the Remote Location Filing Team, Office of Field Operations, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Room 5.2–B, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Lisa Santana, (202) 927–4243 or via email at *Lisa.k.santana@customs.treas.gov.*

SUPPLEMENTARY INFORMATION:

Background

RLF Authorized by the National Customs Automation Program (NCAP)

Title VI of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057 (December 8, 1993), contains provisions pertaining to Customs Modernization (107 Stat. 2170). Subpart B of title VI of the Act concerns the National Customs Automation Program (NCAP), an electronic system for the processing of commercial imports. Within subpart B, section 631 of the Act adds section 414 (19 U.S.C. 1414), which provides for Remote Location Filing (RLF), to the Tariff Act of 1930, as amended. RLF permits an eligible NCAP participant to elect to electronically file a formal or informal consumption entry with Customs from a remote location within the Customs territory of the United States other than the port of arrival, or from within the port of arrival with a requested designated examination site outside the port of arrival.

RLF Prototype Two

In accordance with § 101.9(b) of the Customs Regulations (19 CFR 101.9(b)), Customs has developed and tested two RLF prototypes.

RLF Prototype Two commenced on January 1, 1997. *See* document published in the **Federal Register** (61 FR 60749) on November 29, 1996. The RLF Prototype Two terms and conditions remain in effect except for those explicitly changed by a document published in the **Federal Register** on July 6, 2001 (66 FR 35693).

New Eligibility Criterion for Brokers Participating in RLF Prototype Two

One of the changes to RLF Prototype Two effected by the July 6, 2001, **Federal Register** document imposed a new eligibility criterion for participation in RLF. The eligibility criterion requires that licensed customs brokers who are current RLF participants must submit proof to Customs that they hold a national permit (*i.e.,* submission of the broker's national permit number). Failure to timely submit such proof to Customs will result in the automatic suspension of the broker's eligibility to participate in RLF. If suspended, a broker is precluded from electronically filing new entries from a remote location. If Customs receives delinquent submission of a national permit number from a broker whose suspension is in effect, Customs, after verification of the permit number, will notify the broker of the reinstatement date of the broker's right to participate in RLF; the broker will not need to reapply to participate in RLF.

The July 6, 2001, **Federal Register** document required that proof of the national permit be submitted to Customs by November 6, 2001, and failure to timely submit such proof to Customs by that date was to result in the automatic suspension of the broker's eligibility to participate in RLF, effective November 7, 2001.

It is noted that individuals who are otherwise eligible to participate in RLF, who are not customs brokers, are not required to hold a national broker permit.

Extension of Deadline To Submit Proof of National Permit to Customs

Subsequent to the publication of the July 6, 2001, **Federal Register** document, certain events have significantly disrupted mail service to Customs Headquarters. As a result, submissions of national permit numbers to Customs may be delinquent due to circumstances beyond the control of RLF participants. Accordingly, this document announces Customs decision to extend the deadline by which national permit numbers must be submitted to Customs to December 6, 2001. Failure to timely submit national permit numbers to Customs will result in the automatic suspension of the broker's eligibility to participate in RLF, effective December 7, 2001. All other terms and conditions pertaining to delinquent submissions and, where applicable, reinstatement, remain in effect as described above.

Resubmissions via Email and fax Encouraged

Mail service to Customs Headquarters has been suspended since October 21, 2001, and, as of the date of publication of this document, it is not certain when service will resume. For this reason, Customs urges those RLF participants who previously submitted national permit numbers to Customs Headquarters via the mail, subsequent to October 1, 2001, to resubmit this data. Resubmissions should be made either via email to *Lisa.k.santana@customs.treas.gov* or via fax to (202) 927–1096. Similarly, those RLF participants who have not yet submitted such data are encouraged to make future submissions via email or fax to the above addresses. In the event submission via email or fax is not possible, mail submissions should be made to the Remote Location Filing

Team, Office of Field Operations, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., Room 5.2–B, Washington, DC 20229.

Dated: November 6, 2001.

Elizabeth G. Durant,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–28673 Filed 11–15–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 01–84]

Retraction of Revocation or Cancellation Notice

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: The following Customs broker license numbers were erroneously included in a list of revoked or cancelled Customs broker licenses.

Name	License	Port Name
Bruce K. Fong	06150	San Francisco.
D.L. Bynum & Company, Inc.	12077	Houston.
Perijo J. Bennett.	14146	Baltimore.
R. Wilbur Smith & Co., Inc.	04001	Houston.

Customs broker licenses numbered 06150, 12077, 14146, and 04001 remain valid.

Dated: November 9, 2001.

Bonni G. Tischler,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 01–28672 Filed 11–15–01; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

Renewal of Advisory Committee

AGENCY: Federal Law Enforcement Training Center, Treasury.

ACTION: Notice.

SUMMARY: The Charter for the Advisory Committee to the National Center for State and Local Law Enforcement Training at the Federal Law Enforcement Training Center will renew for a 2-year period beginning October 29, 2001.

FOR FURTHER INFORMATION CONTACT: Reba Fischer, Designated Federal Officer, National Center for State and Local Law Enforcement Training, Federal Law Enforcement Training Center, Glynco, GA 31524, 912–267–2343.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463, as amended), and with the approval of the Secretary of the Treasury and the concurrence of the Office of Management and Budget, the Federal Law Enforcement Training Center announces the renewal of the Advisory Committee to the National Center for State and Local Law Enforcement Training. The primary purpose of the Advisory Committee is to provide a forum for discussion and interchange between a broad cross-section of representatives for the law enforcement community and related training institutions on training issues and needs. Although FLETC representatives participate in the training committee activities of the major police 2 membership associations, no forum exists which provides the broad representation required to meet the needs of the National Center. The uniqueness of the program requires an appropriately selected and specifically dedicated group. The Committee does not duplicate functions being performed within Treasury or elsewhere in the Federal Government.

Dated: November 1, 2001.

Bruce P. Brown,

Director, National Center for State and Local Law Enforcement Training.

[FR Doc. 01–28710 Filed 11–15–01; 8:45 am]

BILLING CODE 4810–32–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–08: OTS Nos. H–3795, H–3796 and 00358]

AJS Bancorp, MHC, Midlothian, Illinois, AJS Bancorp, Inc., Midlothian, Illinois; Approval of Mutual Holding Company Reorganization

Notice is hereby given that on November 9, 2001, the Director, Examination Policy, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the applications of A. J. Smith Federal Savings Bank, Midlothian, Illinois (the ''Savings Bank''), to reorganize into mutual holding company form (the ''Notice'') with a mid-tier holding company (AJS Bancorp, Inc.). Copies of the applications and Notice are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 1 South Wacker Drive, Suite 2000, Chicago, Illinois 60606.

Dated: November 13, 2001.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 01–28745 Filed 11–15–01; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATES INSTITUTE OF PEACE

Announcement of the Spring Unsolicited Grant Competition Grant Program

AGENCY: United States Institute of Peace.

ACTION: Notice.

SUMMARY: The Agency announces its Upcoming Unsolicited Grant Program, which offers support for research, education and training, and the dissemination of information on international peace and conflict resolution. The Unsolicited competition is open to any project that falls within the Institute's broad mandate of international conflict resolution.

DEADLINE: March 1, 2002, Application Material Available on Request.

DATES: Receipt of Application: March 1, 2002, Notification date: Late September 2002.

ADRESSES: For Application Package: United States Institute of Peace, Grant Program, 1200 17th Street, NW Suite 200, Washington, DC 20036–3011, (202) 429–3842 (phone), (202) 429–6063 (fax), (202) 457–1719 (TTY), E-mail: *grant—programs@usip.org.*

Application material available on-line starting November 2001: *www.usip.org/grant.html*

FOR FURTHER INFORMATION CONTACT: The Grant Program, Phone (202) 429–3842, E-mail: *grant-program@usip.org.*

Dated: November 5, 2001.

Bernice J. Carney,

Director, Office of Administration.

[FR Doc. 01–28753 Filed 11–15–01; 8:45 am]

BILLING CODE 6820–AR–M

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease Transaction of Underutilized Property at the Department of Veterans Affairs Medical Center, North Chicago, IL

AGENCY: Department of Veterans Affairs.

ACTION: Notice of designation.

SUMMARY: The Secretary of the Department of Veterans Affairs is designating the Veterans Affairs Medical Center at North Chicago, IL, for an Enhanced-Use lease development. The Department intends to enter into a long-term lease (up to 75 years) of underutilized real property under VA's control and jurisdiction with The Finch University of Health Sciences/The Chicago Medical School (CMS), an educational institution affiliate of the VA Medical Center. Under the proposal, CMS would use the out-leased real property for future expansion of their existing facilities as well as development of new facilities. In return for this Enhanced-Use lease, CMS will provide ''fair consideration'' including the purchase energy products from an energy center being developed on the North Chicago VA Medical Center campus.

FOR FURTHER INFORMATION CONTACT: Ed Bradley, Office of Asset Enterprise Management (004B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–9702.

SUPPLEMENTARY INFORMATION: 38 U.S.C. 8161 *et seq.,* specifically provides that the Secretary may enter into an Enhanced-Use lease, if he determines that at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of VA; the lease will not be inconsistent with and will not adversely affect the mission of VA; and the lease will enhance the property or result in improved services to veterans. This project meets these requirements.

Dated: October 5, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 01–28724 Filed 11–15–01; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Friday,
November 16, 2001

Part II

Department of Defense

Office of the Secretary

Proposed Science and Technology (S&T) Reinvention Laboratory Personnel Management Demonstration Project at the U.S. Army Tank-Automotive and Armaments Command (TACOM); Notice

DEPARTMENT OF DEFENSE

Office of the Secretary

Proposed Science and Technology (S&T) Reinvention Laboratory Personnel Management Demonstration Project at the U.S. Army Tank-Automotive and Armaments Command (TACOM); Notice

AGENCY: Office of the Deputy Assistant Secretary of Department of Defense (Civilian Personnel Policy), DoD.

ACTION: Notice of proposed demonstration project.

SUMMARY: The National Defense Authorization Act for Fiscal Year 1995, as amended by section 1114 of the National Defense Authorization Act for Fiscal Year 2001, authorizes the Secretary of Defense to conduct personnel demonstration projects at Department of Defense (DoD) laboratories designated as Science and Technology (S&T) Reinvention Laboratories. The above-cited legislation authorizes DoD to conduct demonstration projects that experiment with new and different personnel management concepts to determine whether such changes in personnel policy or procedures would result in improved Federal personnel management.

DATES: To be considered, comments must be submitted on or before January 18, 2002. Public hearings will be scheduled as follows:

1. Tuesday, December 4, 2001, 1 p.m., at USA TACOM, Command Conference Center, Building 1, Picatinny Arsenal, New Jersey 07806.
2. Tuesday, December 11, 2001, 1 p.m., at USA TACOM, Black Hawk Conference Center, Building 110, Rock Island, Illinois 61299.
3. Wednesday, December 12, 2001, 1 p.m., at USA TACOM, Auditorium, Building 200, Warren, Michigan 48397.

Employees located at other sites with video teleconferencing facilities can observe the public hearings and submit their written comments to the address provided below.

At the time of the hearings, interested persons or organizations may present their written or oral comments on the proposed demonstration. The hearings will be informal. However, anyone wishing to testify should contact the person listed under **FOR FURTHER INFORMATION CONTACT** and state the hearing location, so that DoD can plan the hearings and provide sufficient time for all interested persons and organizations to be heard. Priority will be given to those on the schedule, with others speaking in any remaining available time. Each speaker's presentation will be limited to five minutes. Written comments may be submitted to supplement oral testimony during the public comment period.

ADDRESSES: Written comments may be mailed to Patricia M. Stewart, Civilian Personnel Management Service, CPMS–AF, Suite B–200, 1400 Key Boulevard, Arlington, Virginia 22209–5144.

FOR FURTHER INFORMATION CONTACT: On proposed demonstration project: Gregory L. Berry, USA TACOM, ATTN AMSTA–CM–HD MS #161, 6501 E 11 Mile Road, Warren, Michigan 48397–5000, (810) 574–5053; on proposed demonstration project and public hearings: DoD, Patricia M. Stewart, CPMS–AF, Suite B–200, 1400 Key Boulevard, Arlington, Virginia 22209–5144, (703) 696–1302.

SUPPLEMENTARY INFORMATION: Since 1966, many studies of Department of Defense (DoD) laboratories have been conducted on laboratory quality and personnel. Almost all of these studies have recommended improvements in civilian personnel policy, organization, and management. The proposed project involves: (1) Three appointment authorities (permanent, modified term, and temporary limited); (2) extended probationary period for newly hired Professional and Business Management employees: (3) broadbanding; (4) simplified, accelerated hiring; (5) modified reduction-in-force (RIF) procedures; (6) simplified job classification; (7) a pay-for-performance based appraisal system; (8) academic degree and certificate training; (9) sabbaticals; and (10) a voluntary emeritus corps.

Dated: November 8, 2001.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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I. Executive Summary

This project was designed by the U.S. Army Tank-automotive and Armaments Command (TACOM), with participation and review by the Department of the Army (DA) and the Department of Defense (DoD).

The TACOM mission is to generate war-fighting capability for the U.S. Army; to sustain the war-fighting readiness of the Army; to manage the Army's investment in science and technology, research and development, and sustainment; and to serve as the life-cycle manager and integrator for ground combat and support equipment. TACOM's goals are to manage from the customer perspective; increase customer satisfaction; reduce the cost of doing business; and work the partnerships with, and commitments to, our customers, suppliers, associates, and stakeholders. To achieve this mission, TACOM must hire and retain dynamic, enthusiastic, innovative, committed, and highly-educated scientists, engineers, and support personnel who possess and can develop the multiple

knowledges, skills, and abilities necessary to meet the challenges of the 21st century.

The purpose of the project is to attain the best possible workforce for TACOM, equip the workforce for change, and improve its ability to execute the TACOM mission. There are five major areas of change: (a) Broadbanding and simplified classification; (b) a pay for performance-based appraisal system; (c) simplified, accelerated hiring; (d) expanded employee development; and (e) modified reduction-in-force (RIF) procedures.

This project is intended to improve the efficiency and effectiveness of the human resources management system in order to attract and retain a workforce that is leader based, business centered and customer focused. The interventions to be demonstrated will link pay to performance; simplify processes and paperwork associated with position classification and other personnel actions; and emphasize productive partnerships among TACOM's leadership, employees, and unions. Additionally, the project's expanded opportunities for employee training and development (along with the redesign of the workforce as a multi-functional, learning organization) will revitalize the business intellect of the TACOM workforce.

TACOM will exercise cost discipline in the development and execution of this project, consistent with the Department of the Army (DA) plan to downsize laboratories. TACOM leadership will manage and control personnel costs to remain within established in-house budgets. An in-house budget is a compilation of costs of the many diverse components required to fund the day-to-day operations of organizations covered by this demonstration. These components generally include pay of people (labor, benefits, overtime, awards), training, travel, supplies, non-capital equipment, and other costs depending on the specific function of the activity.

DoD and the Department of the Army (DA) will provide for an evaluation of the results of the project through the first 5 years after implementation. DA has programmed a decision point 5 years into the project for permanent implementation, modification and additional testing, or termination of the entire demonstration project.

This plan provides a general description of the project's major interventions. Specific operating procedures will provide details on how the personnel demonstration will be implemented.

II. Introduction

A. Purpose

The purpose of the project is to demonstrate that the effectiveness of Department of Defense (DoD) laboratories can be enhanced by expanding opportunities available to employees and by allowing greater managerial control over personnel functions through a more responsive and flexible personnel system. The quality of DoD laboratories, their people, and products has been under intense scrutiny in recent years. A common theme has emerged that Federal laboratories need more efficient, cost effective, and timely processes and methods to acquire and retain a highly creative, productive, educated, and trained workforce. This project, in its entirety, attempts to improve employees' opportunities and provide managers, at the lowest practical level, the authority, control, and flexibility needed to achieve the highest quality organization and hold them accountable for the proper exercise of this authority within the framework of an improved personnel management system.

Many aspects of a demonstration project are experimental. Modifications may be made from time to time as experience is gained, results are analyzed, and conclusions are reached on how the system is working. The provisions of this project plan will not be modified, duplicated in organizations not listed in the project plan, or extended to individuals or groups of employees not included in the project plan without the approval of the Deputy Assistant Secretary of Defense (Civilian Personnel Policy). ODASD(CPP) will inform DA of requirements for notification to stakeholders, which may include Congress, employees, labor organizations, and the public. The extent of notification requirements will depend on the nature and extent of the requested project modification. As a minimum, however, major changes and modifications will be published in the **Federal Register**. Subject to ODASD(CPP) approval, minor modifications may be made without further notice.

B. Problems With the Present System

The current Civil Service General Schedule (GS) system has 15 grades with 10 steps each and involves lengthy, narrative, individual position descriptions which must be classified by complex, Governmentwide position classification standards. Because these standards have to meet the needs of the entire Federal Government, they are not always responsive to the specific needs of TACOM. Additionally, the classification standards do not provide for a clear progression beyond the full performance level, especially for scientific and engineering occupations where progression through technical, as well as managerial, career paths is important.

The current performance management system does not ensure a positive correlation between compensation and contributions, value to the organization, or support for the goals and objectives of the corporation. One of the goals of this demonstration is to attract and retain a workforce that is leader based, business centered, and customer focused. To this end, TACOM requires a performance appraisal system that emphasizes employees' contributions to the mission. Finally, current rules on degree training, retraining, and otherwise developing employees make it difficult to correct skill imbalances and to prepare current employees for new lines of work to meet changing mission needs.

C. Changes Required/Expected Benefits

The proposed demonstration project will replace GS grades with broadbanding and establish a pay for performance-based appraisal system. In response to skills imbalances, rapidly changing missions, and the challenge of developing multi-functional employees, the project also incorporates modified reduction-in-force processes and an enhanced, expanded program of developmental opportunities.

The primary benefit expected from this demonstration project is greater organizational effectiveness through increased employee satisfaction. The long-standing Department of the Navy China Lake and NIST demonstration projects have produced impressive statistics on increased job satisfaction and quality of employees. This project will demonstrate that a human resources system tailored to the mission and needs of TACOM's workforce will result in increases in the following: (1) Quality of the workforce and its products; (2) timeliness of key personnel processes; (3) retention of high performers; (4) recruitment of personnel with critical skills; (5) management authority and accountability for key personnel processes; (6) satisfaction of TACOM customers; and (7) workforce satisfaction with the personnel management system.

D. Participating Locations

TACOM has approximately 7,500 employees covered by the project at three major sites (Warren, Michigan;

Picatinny Arsenal, New Jersey; and Rock Island, Illinois) and numerous other locations worldwide. Approximately 3,900 additional employees are assigned to the Red River Army Depot (RRAD), Texarkana, Texas, to include the Camp Stanley Storage Activity, San Antonio, Texas; and the Anniston Army Depot (ANAD), Anniston, Alabama, to include the Mobile Rail Facility at Hill AFB, Utah. The demonstration project may be implemented incrementally for depot employees, in accordance with the timetable approved by DA in the project's operating procedures and in conjunction with a negotiated agreement with the unions that represent the employees at those sites.

E. Participating Employees and Union Representation

In determining the scope of the demonstration project, primary consideration was given to the number and diversity of occupations within the corporation and the need for adequate development and testing of the appraisal and payout system. Additionally, current DoD human resources management design goals and priorities for the entire civilian workforce were considered. While the intent of this project is to provide TACOM leadership with increased authority and accountability, the decision was made to restrict demonstration project coverage initially to General Schedule (GS/GM) positions.

To this end, the project will cover all competitive and excepted service appropriated fund civilian GS/GM employees. Members of the Senior Executive Service (SES) are excluded; employees classified in the Scientific and Professional (ST) pay plan are excluded from coverage, except for the provisions under III.F., Employee Development.

Federal Wage System (FWS) employees will initially be excluded. However, a decision point has been programmed between 12 and 30 months after initial implementation to determine whether to expand coverage to FWS employees. In the event of expansion to FWS employees, full approval of the decision to do so and of the expansion plan will be obtained from DA and ODASD(CPP).

Defense Civilian Intelligence Personnel System (DCIPS) employees covered by Title 10 are not covered by this demonstration but will follow the same employee development provisions of this plan, except where those provisions are found to be in conflict with DCIPS. DCIPS employees will not be eligible for the educational development payouts, because they are not participating in pay-for-performance initiatives.

Army Civilian Training, Education, and Development System (ACTEDS) interns will not be converted to the demonstration project until they either reach the target grade of the intern program or otherwise become TACOM employees. Locally funded interns and students hired under the Student Education Employment Program are included in this demonstration; however, the degree to which they are covered by the provision of this project plan will be specifically addressed in the project's operating procedures. There will be a special provision for pay setting for TACOM interns, co-ops, and any other employees with whom TACOM establishes a written agreement at the time of selection that spells out developmental goals and specific pay progressions. Pay adjustments equivalent to those received by their peers covered by Title V will be calculated and paid to such employees, in accordance with the written agreement. TACOM Appraisal and Performance Payout System (TAPPS) pay pool funds will not be used to fund these pay adjustments. Details in each individual case will be incorporated into the written training agreement at the time of selection.

The series to be included in the project are identified in Appendix A.

The American Federation of Government Employees (AFGE) and the International Federation of Professional and Technical Engineers (IFPTE) represent many TACOM employees, while several other unions each represent fewer than 100 employees. In all, approximately 87 percent of TACOM's employees are represented by labor unions.

TACOM continues to fulfill its obligation to consult or negotiate with unions that represent both professional and nonprofessional employees, in accordance with 5 U.S.C. 4703(f) and 7117. Union representatives have been jointly involved and collaborated on the development of this project. The unions are an integral part of this personnel demonstration and will be full partners in arriving at major decisions involving project implementation. It is anticipated that this project will be implemented uniformly at all sites; however, the project will be implemented for a given bargaining unit only after there is a written agreement through the collective bargaining process with the affected union. The bargaining units of TACOM that do not initially participate in the demonstration project will participate only when full agreement is reached. The parties may use mediation or any other mutually acceptable means to resolve disputes over the implementation of the project with respect to unit employees. Neither party may request the assistance of the Federal Service Impasses Panel to resolve initial implementation disputes.

Either labor or management may unilaterally withdraw from negotiations over the application of this demonstration project to bargaining unit members at any time up until final agreement approval, without such action being considered an unfair labor practice under Section 7116 of Title 5, United States Code for refusing to negotiate in good faith.

Once a written agreement is reached and approved allowing for the local implementation of the project, all subsequent negotiations during the life of the project shall be subject to binding impasse procedures under section 7119 of Title 5, United States Code, or to alternative impasse procedures agreed to by the parties.

F. Project Design

In June 1995, authority under the DoD Science and Technology (S&T) Reinvention Laboratory Program was extended individually to both TACOM laboratories (the Tank-automotive RDEC and the Armaments RDEC) to design personnel demonstration projects for laboratory employees. In December 1996, TACOM elected to participate in the DoD civilian Acquisition workforce personnel demonstration project for employees not assigned to either laboratory, albeit with concerns regarding the potential implications of multiple personnel systems. In August 1997, in conjunction with dedicated efforts to integrate TACOM mission, business, and data environments, the Commander, TACOM determined the best course of action for TACOM would be to design a single personnel system using the demonstration project authority that could best facilitate the desired mission, goals, objectives, and direction of TACOM leadership and its associates. A Project Task Force was established, with membership from all major TACOM sites, to include representation from TACOM's leadership, associates, the unions, and human resources, to study the demonstration initiatives for the purpose of designing a single plan.

In February 1998, the Commander, TACOM and the Project Task Force, in conjunction with the union leadership, began an extensive communication effort to inform and educate the workforce on these important changes to the personnel management system.

Informational videos, brochures, an Internet website, numerous briefings, and other communications media were used. From April through June, the workforce received briefings on first-generation design options for both the science and technology reinvention laboratory (STRL) and Acquisition demonstrations. In July, TACOM employees completed a survey to determine their interest in the options presented.

Based on the feedback from employees, as well as management's desire to make personnel changes that would support reorganization and reculturation efforts, TACOM leadership sought to expand the existing STRL demonstration project authority beyond ARDEC and TARDEC, in order to develop a plan for all of TACOM. In October 1998, TACOM received the necessary authority to do so.

Design of the personnel demonstration was preceded by an exhaustive study of broadbanding and appraisal systems now used in the Federal sector. The later-generation design options evolved from extensive consultation with the designers of other DoD demonstration project plans, in particular the Army Research Laboratory and the DoD civilian Acquisition workforce personnel demonstration projects.

Automated systems will be designed to support computation of performance-related pay increases and awards, and other personnel processes and systems associated with this project.

G. Personnel Management Board and Personnel Policy Boards

As part of the effort to maintain cost discipline, manage project operations, and oversee expenditures, the following board structure will be developed to oversee and manage the demonstration project operations.

1. TACOM Personnel Management Board

TACOM will create a Personnel Management Board to oversee and monitor the fair and equitable implementation of the demonstration project, to include establishment of internal controls and accountability. The board will track personnel cost changes and recommend adjustments, if required, to achieve the objective of cost discipline. In addition, the board will assess the need for changes to demonstration project procedures and policies affecting the entire covered population.

The board's membership will consist of senior leadership of TACOM appointed by the Commander, to include the Director of Human Resources, Chief Counsel, and others as appointed by the Commander for proper management and oversight of the entire demonstration project.

2. TACOM Personnel Policy Boards

In addition to the Personnel Management Board, which has overall responsibility for the project, individual Personnel Policy Boards will be established by major site location to oversee the day-to-day operations of the demonstration project for that specific location. Initially, there will be TACOM Personnel Policy Boards for each of the major site locations. The Commander, or designee, will determine composition of these boards, and as a minimum they will include a representative of each local union that represents participating bargaining unit employees at that site location, the Civilian Personnel Advisory Center (CPAC), the Office of Equal Opportunity, and a representative from the Demonstration Project Task Force. The board will be responsible for, but not limited to, such duties as the following:

(a) Review operation of pay pools and provide guidance to pay pool managers;

(b) Oversee disputes in pay pool issues;

(c) Oversee the civilian pay budget; and

(d) Ensure in-house budget discipline.

These policy boards will also handle local disputes, resolve individual employee situations, and address those other actions not requiring the attention of the Personnel Management Board. They will regularly provide input to the Personnel Management Board regarding the management and effectiveness of the demonstration project at their respective sites.

III. Personnel System Changes

A. Broadbanding

The TACOM demonstration project will use a broadbanding approach to compensation and classification. Such an approach overcomes some of the problems experienced with the current system. A broadbanding system will simplify the classification system by reducing the number of distinctions between levels of work, which will facilitate delegating classification authority and responsibility to line managers. There are several advantages to broadbanding. It is simpler, less time consuming, and less costly to maintain. In addition, such a system is more easily understood by managers and employees, enables classification authority to be easily delegated to managers, coincides with recognized occupational families, and complements the other personnel management aspects of the demonstration project.

The broadbanding system will replace the current General Schedule (GS) structure. Currently, the 15 grades of the General Schedule are used to classify positions and, therefore, to set pay. The broadband levels are designed to enhance pay progression and allow for more competitive recruitment of quality candidates at differing rates within the appropriate broadband level(s). Competitive promotions will be less frequent, and movement through the broadbands will be a more seamless process than today's procedures. Like other broadbanding systems in use, advancement within each pay band is based upon performance. The project's broadbanding scheme covers all General Schedule, white-collar work—administrative, technical, clerical, and professional. Federal Wage System (FWS), Scientific and Professional (ST), Senior Executive Service (SES), and Defense Civilian Intelligence Personnel System (DCIPS) employees are not covered.

1. Occupational Families

Occupations at TACOM have been grouped into three occupational families according to similarities in type of work and customary requirements for formal training or credentials. The specific grouping of GS grades into a particular pay band level was based on a careful examination of the grade levels at which it has proven difficult for managers, employees, and classifiers to distinguish between current performance levels within occupations, and traditional training and career development practices. The common patterns of advancement within the occupations as practiced at TACOM and in the private sector were also considered. The current occupations and grades have been examined, and their characteristics and distribution were used to develop the following three occupational families:

(a) Professional and Business Management (Pay Plan DB): This occupational family includes professional positions, such as engineers, physicists, chemists, psychologists, metallurgists, mathematicians, and computer scientists. It also includes specialized functions in such fields as finance, procurement, human resources, public information, computing, supply, library science, and management analysis. Ordinarily, specific course work or educational degrees (or for non-professional occupations, specialized skills in specific administrative fields) are required.

(b) Technical Support (Pay Plan DE): This occupational family consists of positions that directly support the various professional and business management activities. Employees in these positions are not required to have college course work. However, practical, quasi-professional training and skills in the various aspects of electronic, electrical, mechanical, chemical, or computer engineering are generally required.

(c) General Support (Pay Plan DK): This occupational family is composed of positions for which minimal formal education is needed, but for which special skills, such as office automation, typing, or shorthand, may be required. Clerical work usually involves the processing and maintenance of records. Assistant work requires knowledge of methods and procedures within a specific administrative area. Other support functions include the work of secretaries, police, and firefighters.

Each occupational family broadband will be composed of four or five discrete pay band levels that correspond to recognized advancement within the occupations and the same pay range now covered by two or more GS grades. The broadband levels are designed to maintain the underlying pay structure of the GS grades by combining complete grade pay ranges into the broadband levels.

The occupational broadband families and pay band levels for the occupational families, and how they relate to the current GS framework, are shown in Figure 1.

FIGURE 1.—BROADBANDING DESIGN

Occupational Families	Corresponding GS Grades					
	1 2 3 4	5 6 7 8 9 10 11		12 13	14 15	Above 15
Professional and Business Mgt (DB)	I GS–1–4	II GS–5–11		III GS–12–13	IV GS–14–15	V* *Engineers & Scientists Only
Technical Support (DE)	I GS–1–4	II GS–5–8	III GS–9–11	IV GS–12–13	V GS–14–15	
General Support (DK)	I GS–1–4	II GS–5–7	III GS–8–10	IV GS–11–13		

Not all positions in the occupational broadband families have work assignments that will support movement to the top band. Positions that typically support the higher salaries perform non-supervisory work associated with formulating programs and policies with wide scope and impact. Other positions perform supervision of operating-level programs in one or more administrative/technical fields.

Generally, employees will be converted into the occupational family (broadband) and pay band level that correspond to their GS series and permanent grade of record. Each employee is assured an initial place in the system without loss of pay. As the rates of the General Schedule are increased due to general pay increases, the minimum and maximum rates of the broadband levels will also move up. All employees will receive the general pay increases as the increases are approved, except for some employees in the Professional and Business Management broadband occupational family in Pay Band Level V. Since the maximum rate for Pay Band Level V is linked to ES–4, employees at or near the top of the band may not receive the full general increase if it is not authorized for SES employees. Special salary rates will no longer be applicable to demonstration project employees. All employees will receive future locality pay increases for their geographical area or a staffing supplement (see III E 2 c, Staffing Supplement). Employees can receive pay increases based on their assessments under the TACOM Appraisal and Performance System (TAPPS). Since pay progression through the levels is performance based, there will be no scheduled within-grade increases (WGIs) or quality step increases (QSIs) for employees once the broadbanding system is in place.

Newly hired personnel entering the system will be employed at a pay band level consistent with the expected level of performance of the position and individual basic qualifications for the particular level, as determined by rating against qualifications standards. Starting salary will be determined based upon available labor market considerations relative to special qualification requirements, availability of qualified applicants, programmatic urgency, and the education and experience of the new candidates. In addition to the flexibilities available under the broadbanding system, the authorities for retention, recruitment, and relocation payments granted under the Federal Employees Pay Comparability Act of 1990 (FEPCA) and any other future, similar legislation, can also be used.

2. Simplified Assignment Process

Today's environment of downsizing and workforce transition mandates that TACOM have increased flexibility to assign individuals. Broadbanding can be used to address this need. As a result of a more general position description, the organization will have increased flexibility to assign an employee consistent with the needs of the organization and the individual's qualifications and level, without a position change. Subsequent assignments to projects, tasks, or functions anywhere within the organization requiring the same level, area of expertise, and qualifications would not constitute an assignment outside the scope or coverage of the current position description.

Such assignments within the coverage of the generic descriptions are accomplished without the need to process a personnel action. For instance, a technical expert can be assigned to any project, task, or function requiring similar technical expertise. This flexibility allows broader latitude in assignments and further streamlines the administrative process and system.

3. Pay Band Level V

The TACOM plan expands the broadbanding concept used at China Lake and the National Institute of Standards and Technology (NIST) by creating Pay Band V for engineers and scientists. This pay band is designed for Senior Scientific Technical Managers.

Current legal definitions of Senior Executive Service (SES) and Scientific and Professional (ST) positions do not fully meet the needs of TACOM. The SES designation is appropriate for executive level managerial positions whose classification exceeds the GS–15

grade level. The primary knowledge and abilities of SES positions relate to supervisory and managerial responsibilities. Positions classified as ST are reserved for bench research scientists and engineers; these positions require a very high level of technical expertise, and they have little or no supervisory responsibility.

TACOM currently has a few positions that have characteristics of both SES and ST classifications. Most of these positions are responsible for supervising other GS–15 positions, including branch chiefs, non-supervisory research engineers and scientists, and in some cases, ST positions. These positions are classified at the GS–15 level, although their technical expertise warrants classification beyond GS–15. Because of their management responsibilities, these individuals are excluded from the ST system. Because of management considerations, they cannot be placed in the SES.

TACOM management considers the primary requirements for these positions to be knowledge of, and expertise in, the specific scientific and technology areas related to the mission of their respective areas. Historically, incumbents of these positions have been recognized within the community as scientific and engineering leaders who possess primarily scientific/engineering credentials and are considered experts in their field. However, they must also possess strong managerial and supervisory abilities. Therefore, although some of these employees have scientific credentials that might compare favorably with ST criteria, classification of these positions as STs is not an option, because the managerial and supervisory responsibilities inherent in the positions cannot be ignored.

The purpose of Pay Band Level V is to solve a critical classification problem. It will also contribute to an SES ''corporate culture'' by excluding from the SES, positions for which technical expertise is paramount. Pay Band V attempts to overcome the difficulties identified in the previous paragraph by creating a new category of positions, the Senior Scientific Technical Manager, which has both scientific/technical expertise and full managerial and supervisory authority.

Current GS–15s will convert into the demonstration project at Pay Band IV. After conversion, their positions will be reviewed against established criteria to determine if they should be reclassified to Pay Band V. Other positions possibly meeting criteria for classification to Pay Band V will be reviewed on a case-by-case basis.

The salary range is a minimum of 120% of the minimum rate of basic pay for GS–15, with a maximum rate of basic pay established at the rate of basic pay (excluding locality pay) for SES Level 4 (ES–4). Vacant positions in Pay Band V will be competitively filled to ensure that selectees are preeminent researchers and technical leaders in the specialty fields who also possess substantial managerial and supervisory abilities.

TACOM will capitalize on the efficiencies that can accrue from central recruiting by continuing to use the expertise of the Army Materiel Command SES Office as the recruitment agent. Panels will be created to assist in filling Pay Band V positions. Panel members will be selected from a pool of current TACOM SES members, ST employees, and, later, those in Pay Band V, and an equal number of individuals of equivalent stature from outside the laboratory to ensure impartiality, diversity, breadth of technical expertise, and a rigorous and demanding review. The panel will apply criteria developed largely from the current OPM Research Grade-Evaluation Guide for positions exceeding the GS–15 level.

DoD will test the establishment of Pay Band V for a 5-year period. Positions established in Pay Band V will be subject to limitations imposed by OPM and DoD. Pay Band V positions will be established only in an S&T reinvention laboratory that employs scientists, engineers, or both. Incumbents of Pay Band V positions will work primarily in their professional capacity on basic or applied research and secondarily perform managerial or supervisory duties.

The number of Pay Band V positions within the Department of Defense will not exceed 40. These 40 positions will be allocated by the Assistant Secretary of Defense (Force Management Policy), and administered by the respective Services. The number of Pay Band V positions will be reviewed periodically to determine appropriate position requirements. Pay Band V position allocations will be managed separately from SES, ST, and SL positions. An evaluation of the Pay Band V concept will be performed during the fifth year of the demonstration project.

The final component of Pay Band V is the management of all Pay Band V assets. Specifically, this authority will be exercised at the DA level and includes the following: authority to classify, create, or abolish positions within the limitations imposed by OPM and DoD; recruit and reassign employees in this pay band; set pay; and appraise performance under this project's pay for performance system. The laboratory wants to demonstrate increased effectiveness by gaining greater managerial control and authority, consistent with merit, affirmative action, and equal employment opportunity principles.

B. Classification

1. Occupational Series

The present General Schedule classification system has 434 occupational series, which are divided into 23 occupational families. The TACOM demonstration project currently has over 100 series that fall into 20 occupational families. The occupational series, which frequently provide well-recognized disciplines with which employees wish to be identified, will be maintained. This will facilitate movement of personnel in and out of the demonstration project. Other series established by OPM may be added as needed to reflect new occupations in the workforce in response to changing missions.

2. Classification Standards

The present system of OPM classification standards will be used to create local benchmark position descriptions for each pay band level, reflecting duties and responsibilities comparable to those described in present classification standards for the span of grades represented by each pay band level. Current series and occupational titles of positions will continue to be used in order to recognize the types of work being performed and the educational backgrounds and requirements of incumbents. Specialty codes and OPM functional codes may be used to facilitate titling, make qualification determinations, and assign competitive levels. References in the position classification standards to grade criteria will not be used as part of this demonstration project. Rather, the appraisal and payout system's standardized rating criteria factors and performance level definitions, as designed in the three broadband occupational families, will be used for the purpose of making broadband/pay band level determinations. These factors/definitions are based on the OPM primary classification standard and eliminate the need for the use of grading criteria in the OPM classification standards. Standardized rating criteria factors and performance level definitions can be found in III.C., TACOM Appraisal and Performance Payout System (TAPPS) and Appendix

C, Broadband Performance Benchmarks by Occupational Family.

3. Classification Authority

The TACOM Commander will have delegated classification authority and may re-delegate this authority to subordinate management levels. First-line supervisors will provide classification recommendations. Human resources specialists will provide on-going consultation and guidance to managers and supervisors throughout the classification process.

4. Position Descriptions

Under the demonstration project's classification system, a new position description (like that shown at Appendix B) will replace the current DA Form 374, Department of the Army Job Description. The classification standard used for each pay band level will serve as an important component in the new position description, which will also include position-specific information and provide data element information pertinent to the job. The objectives in developing the new descriptions are to: (a) Simplify the descriptions and the preparation process through the use of standardized rating criteria factors and performance level definitions; (b) provide more flexibility in assigning work; and (c) provide a more accurate and useful tool for other functions of personnel management, such as recruitment, measurement of accomplishments, employee development, and reduction in force.

5. Fair Labor Standards Act

Fair Labor Standards Act (FLSA) exemption or non-exemption determinations will be made consistent with criteria found in 5 Code of Federal Regulations (CFR) Part 551. Each position will be evaluated on a case-by-case basis by comparing the duties and responsibilities assigned, the classification standards for each pay band level, and the 5 CFR Part 551 FLSA criteria. The final review of FLSA status will be made by the servicing Civilian Personnel Operations Center (CPOC).

6. Classification Appeals

Classification appeals under this demonstration project will be processed using the following procedures: An employee may appeal the determination of occupational family, occupational series, position title, and pay band of his/her position at any time. An employee must formally raise the area of concern to supervisor in the immediate chain of command either verbally or in writing. If the employee is not satisfied with the supervisory response, he/she may then appeal to the DoD appellate level. Appeal decisions rendered by DoD will be final and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the government. Classification appeals are not accepted on positions that exceed the equivalent of a GS–15 level. Time periods for cases processed under 5 CFR part 511 apply.

An employee may not appeal the accuracy of the position description, the demonstration project classification criteria or pay-setting criteria; the assignment of occupational series to the occupational family; the propriety of a salary schedule; or matters grievable under an administrative or negotiated grievance procedure, or addressed through an alternative dispute resolution procedure.

The evaluation of classification appeals under this demonstration project is based upon the demonstration project classification criteria. Case files will be forwarded for adjudication through the CPAC/CPOC providing personnel service and will include copies of appropriate demonstration project criteria.

C. TACOM Appraisal and Performance Payout System (TAPPS)

1. Overview

The intent of the TACOM Appraisal and Performance Payout System (TAPPS) is to provide an equitable and flexible method for appraising and compensating employees. This system allows for more employee involvement in the performance appraisal process, increased communication between supervisors and employees, clear accountability of accomplishments and achievements, facilitation of employee progression tied to standardized rating criteria factors, and an understandable basis for performance payout (salary increase and/or bonus) determinations.

2. The TACOM Appraisal and Performance Payout System (TAPPS)

This system provides for a comprehensive, balanced assessment/measurement system that considers employee accomplishments, self-development, and corporate/personal vision. The process under this demonstration project measures an employee's accomplishments against standardized rating criteria factors, rather than individual objectives. In turn, such measurement facilitates performance payout decisions in the form of ''share earnings'' on the basis of an employee's overall annual accomplishments when compared to their current salary. The performance evaluations made under the demonstration project will ensure that top performers receive a performance payout commensurate with their achievement.

(a) Standardized Rating Criteria Factors and Performance Level Definitions (Broadband Performance Benchmarks)

An employee's accomplishments are measured against standardized rating criteria factors (each of which is a component of the position classification standards) and performance level definitions. Taken together, these factors capture the critical content of jobs in each broadband occupational family. Each factor is considered critical to successful job performance. The factors and performance level definitions may not be modified or supplemented, as they are the same as those used to classify a position at the appropriate pay band level.

The six standardized rating criteria factors are: (1) Problem Solving, (2) Teamwork/Cooperation, (3) Customer Relations, (4) Leadership, (5) Communication, and (6) Resource Management. These rating criteria factors will be used in evaluating the yearly accomplishments of employees within the demonstration project in the three broadband occupational families: (1) Professional and Business Management; (2) Technical Support; and (3) General Support. Each factor is defined and has ''sub-factors'' to consider, as well as increasing levels of accomplishments (performance) that directly correspond to the appropriate pay band levels. Each performance level presents ''performance illustrations'' for the respective pay band level within the relevant broadband occupational family. Performance level definitions for each factor in the three broadband occupational families are outlined in Appendix C, Broadband Performance Benchmarks by Occupational Family by Occupational Family.

(b) The Appraisal Process

The TAPPS appraisal cycle is 1 year in duration, beginning April 1 and ending March 31 of the following year. At the beginning of the annual appraisal cycle, an employee's performance benchmarks will be discussed with him/her.

While each of the standardized rating criteria factors is considered a critical part of the job, it may be that a particular factor is considered more important to the employee's performance than another. Given this, and at the discretion of the rating

official, rating criteria factors may be weighted consistent with desired performance. Different weights may be applied to factors to produce a weighted average. Weights on factors must add up to 100. Weights will be applied uniformly for similarly situated employees performing the same tasks and approved by the pay pool manager. Employees will be given information as to weighted criteria in conjunction with the performance discussion at the beginning of the appraisal cycle. Upon approval of this plan, demonstration project operating procedures will provide details on weighting rating criteria factors to employees and rating officials.

The minimum period of performance that must be completed before a performance rating may be prepared is 120 days. Employees cannot be rated until they perform under an approved performance plan for at least 120 days.

The purpose of the performance discussion at the beginning of the rating cycle is to ensure the employee understands his/her performance objectives and how their objectives relate to the rating factors and standardized rating criteria. A performance objective is defined as a statement of specific job responsibilities expected of the employee during the rating period. These are to be based on the organization's mission and goals and should be consistent with the employee's position description. While the standardized rating criteria may not be modified or changed, individual performance objectives may be modified and/or changed as appropriate during the rating cycle. As a rule, performance objectives should only be changed when circumstances outside the employee's control prevent or hamper the accomplishment of the original objectives. It is also appropriate to change objectives when mission or workload changes occur.

Rating officials and employee collaboration on the development of specific work assignments and tasks, and objectives, and discussion of the employee's accomplishments within the appraisal system's framework, should be conducted not only at the beginning of the cycle, but regularly throughout the rating period. Disagreements will be handled through the normal chain of command. Management retains the right to establish objectives and identify their importance. Employees retain their current grievance rights. Use of alternative dispute resolution is encouraged.

The rating official will conduct a mid-point performance review to provide feedback to the employee on how well he/she is performing. Additionally, whenever a rating official determines that an employee's accomplishments are at a level that could result in an unacceptable performance rating, the rating official will discuss the situation with the employee in an effort to identify the reasons for poor performance. Corrective actions, to include establishing a performance improvement plan (PIP), may be taken at any time during the rating cycle.

At the end of the appraisal cycle, the employee submits a summary of accomplishments for each of the six factors. Employees will submit their own accomplishments and may also solicit input from team members, customers, peers, supervisors in other organizations, subordinates, and other sources, which will permit the rating official to fully measure the employee's accomplishments during the rating cycle. From the employee's input and the rating official's own knowledge, the rating official identifies, for each employee, the most appropriate performance level (Level I, II, III, IV, or V) and score range (low, medium, or high) for each factor which best describes the level of work accomplished. This rating is called a factor level rating.

Appendix D contains the appropriate appraisal and performance payout forms. All rating officials in a pay pool then meet to reconcile the assigned factor level ratings for all employees within their respective pools, with the purpose being to reach a consensus on the type and level of achievements that warrant particular scores.

Pay pool managers will establish and chair a panel to review supervisors' preliminary factor level ratings and make any necessary adjustments. The panel will consist of all rating supervisors below the pay pool manager. The reconciliation process gives raters the opportunity to verify that their factor level ratings and approach to scoring conform with that of other raters within the pay pool and ensures that performance assessments of employees are comparable and equitable across organizational lines and among occupational families. In this step, each employee's factor level rating is compared and, through discussion and consensus building, a final score is re-affirmed for each factor. The reconciliation process is aimed at determining the relative worth of employee accomplishments. The rationale behind reconciliation is that supervisors within a pay pool will reach a consensus on the type and level of accomplishment that warrant particular scores. Each panel will develop operating procedures that will provide for fair and equitable conclusions within the guidance provided by the Personnel Management and/or Policy Boards. If the panel cannot reach consensus, the pay pool manager makes final decisions. After this reconciliation process is complete, a final overall performance rating score (OPRS) is calculated for each employee.

(c) Pay Pools

The pay pool structure and allocated funds are under the authority of the TACOM Commander, or designee. The following minimal guidelines will apply.

(1) A pay pool is based on the organizational structure and should include a range of salaries and broadband/pay band levels;

(2) A pay pool should be large enough to constitute a reasonable statistical sample (i.e., whenever possible, no fewer than 35 nor more than 300 individuals);

(3) A pay pool should be large enough to include a second level of supervision, since the appraisal process uses a group of rating officials in the pay pool to determine overall performance rating scores and recommended payout determinations; and

(4) Neither the pay pool manager nor the rating officials within a pay pool will recommend or set their own individual performance payout.

(d) The Overall Performance Rating Score (OPRS)

The pay pool panel members calculate each employee's overall performance rating score (OPRS). To determine the OPRS, numerical values are assigned to the factor level ratings assigned to each employee using the ranges shown in Figure 2. Generally, the overall score is calculated by averaging the numerical values assigned for each of the six factors. (All OPRS will be rounded up to the nearest whole number.) In order to ensure accurate assessment and scoring, the overlap of the score ranges among pay band levels (Figure 2) allows for the ''exceptional'' employee in a particular pay band level to receive scores commensurate with performance at the next higher pay band level. Likewise, an employee may receive a score commensurate with performance in the next lower pay band level. Figure 2 shows the typical OPRS ranges, that is, the minimum and maximum OPRS commensurate with each pay band level.

FIGURE 2.—OVERALL PERFORMANCE RATING SCORE (OPRS) RANGES BY BROADBAND

Broadband level	GS grades	Normal OPRS range
Professional and Business Management—Broadband Occupational Family		
I	1–4	0–32
II	5–11	24–72
III	12–13	67–92
IV	14–15	86–115
V	Above 15	105–120
Technical Support—Broadband Occupational Family		
I	1–4	0–32
II	5–8	24–56
III	9–11	47–72
IV	12–13	67–92
V	14–15	86–115
General Support—Broadband Occupational Family		
I	1–4	0–32
II	5–7	24–50
III	8–10	41–67
IV	11–13	57–96

The pay pool panel conducts a final review of the scores, ensuring equity and consistency in the rating of all employees. Final approval of scores rests with the pay pool manager. The OPRS, as approved by the pay pool manager, becomes the rating of record. Rating officials will communicate the factor scores and overall score to each employee and discuss the panel results.

(e) Standard Pay Table

Each overall performance rating score (OPRS) corresponds to an appropriate salary level (defined as ''expected salary'') as determined by the standard pay table (Figure 3). Each employee's expected salary will be determined on the basis of his/her OPRS. The expected salary will then be compared to the employee's current salary, a salary variance computed, and the number of earned shares determined.

The standard pay table provides a direct link between increasing levels of accomplishment and increasing levels of salary. The rating score column spans from 0 to 120, the maximum overall performance rating score attainable. The salary column ranges from $14,244 (equivalent to GS–1, step 1) to $125,500 (the highest level of pay possible at ES level 4). Changes in rating score (0 to 120) correspond to a constant percentage change in salary. This table encompasses the full salary range paid under this demonstration project for calendar year 2001 (GS–1, step 1 through ES level 4). Each year, the standard pay table will be adjusted to reflect changes in the General Schedule pay table and changes to the ES–4 salary level. (This annual adjustment does not require publication of a notice in the **Federal Register**.) The standard pay table does not include locality pay and is the same for all broadband occupational families.

FIGURE 3.—2001 STANDARD PAY TABLE

Score	Salary	Score	Salary	Score	Salary	Score	Salary
0	$14,244	31	$24,990	61	$43,054	91	$74,177
1	14,505	32	25,447	62	43,842	92	75,534
2	14,770	33	25,913	63	44,644	93	76,916
3	15,040	34	26,387	64	45,461	94	78,323
4	15,316	35	26,870	65	46,293	95	79,757
5	15,596	36	27,361	66	47,140	96	81,216
6	15,881	37	27,862	67	48,003	97	82,702
7	16,172	38	28,372	68	48,881	98	84,216
8	16,468	39	28,891	69	49,775	99	85,757
9	16,769	40	29,420	70	50,686	100	87,326
10	17,076	41	29,958	71	51,614	101	88,924
11	17,388	42	30,506	72	52,558	102	90,551
12	17,707	43	31,064	73	53,520	103	92,208
13	18,031	44	31,633	74	54,499	104	93,895
14	18,360	45	32,212	75	55,496	105	95,613
15	18,696	46	32,801	76	56,512	106	97,363
16	19,039	47	33,401	77	57,546	107	99,144
17	19,387	48	34,012	78	58,599	108	100,959
18	19,742	49	34,635	79	59,671	109	102,806
19	20,103	50	35,259	80	60,763	110	104,687
20	20,471	51	35,912	81	61,875	111	106,603
21	20,845	52	36,571	82	63,007	112	108,553
22	21,227	53	37,240	83	64,160	113	110,540
23	21,615	54	37,922	84	65,334	114	112,563
24	22,413	55	38,616	85	66,530	115	114,622
25	22,842	56	39,322	86	67,747	116	116,720
26	23,241	57	40,042	87	68,987	117	118,855
27	23,667	58	40,774	88	70,249	118	121,030
28	24,100	59	41,521	89	71,535	119	123,245
29	24,541	60	42,280	90	72,844	120	125,500
30	24,990						

Employees may anticipate their corresponding OPRS by locating their salary and the score associated with it (Figure 3).

(f) Salary Variance

Once the OPRS is determined and the employee's expected salary and current salary compared, a salary variance is computed. The formula for determining the salary variance is:

$$\text{Salary variance} = \frac{(\text{Current Base Salary} - \text{Expected Salary})}{\text{Expected Salary}} \times 100$$

The salary variance is then used to calculate earned shares for each employee in accordance with the guidelines in Figure 4 for purposes of determining performance payout. The number of shares earned by an employee will determine the dollar value of the payout.

FIGURE 4.—SHARE VARIANCE/SHARES EARNED TABLE

If salary variance is:	Category	Number of shares earned
Less than −8%	E	4
Greater than or equal to −8% and Less than or equal to 0%.	D	3
Greater than 0% and Less than or equal to 8%.	RTC	**2
Greater than 8% and Less than or equal to 16%.	B	*1
Greater than 16%	A	0

*The share earned for a category B salary variance will be paid in the form of a bonus.

**The base increase payout for category C may not exceed the amount needed to raise an employee's salary to 8 percent above the expected salary for their OPRS. The portion of the base increase payout that exceeds this amount will be paid in the form of a bonus.

A pay pool manager may request approval from the Personnel Management Board (PMB) or its designee to grant an employee a performance payout higher than the amount derived by calculating the employee's shares earned. The PMB or designee will document its rationale for granting or denying any such requests.

(g) Share Values and Payouts

Share values will vary depending on the number of employees within a pay pool and the total number of shares earned by all employees in the pool. However, the exact value of a share cannot be determined until the pay pool panel's rating and reconciliation of the employees' OPRS have been completed. Inflated ratings (should they occur) will reduce the value of the share; conversely, lower average ratings will increase the value of a share. The share value is expressed as a percentage of base salary. It is computed by dividing the amount of the pay pool by the sum of each pay pool member's salary multiplied by his/her earned shares, or:

$$\text{Share Value (\%)} = \frac{\text{Pay Pool Value}}{\text{SUM (salary} \times \text{shares earned)}} \times 100$$

Each employee's performance payout is then calculated by multiplying the share value for the pay pool by the employee's base salary and shares earned, or:

Performance Payout = Share Value × Salary × Shares Earned

(h) Payout Records

Pay adjustments will be documented by SF–50, Notification of Personnel Action. For historical and analytical purposes, the effective date of the TAPPS assessments, actual appraisal scores, actual salary increases, amounts contributed to the pay pool, and applicable bonus amounts will be maintained for each demonstration project employee.

(i) Employees on Retained Rate

Employees on retained rate in the demonstration will receive pay adjustments in accordance with 5 U.S.C. 5363 and 5 CFR 536.101 as waived or modified by IX, Required Waivers and Adaptations to Law and Regulation, of this plan. An employee receiving a retained rate is eligible for a bonus but ineligible for a base salary increase, since such increases are limited by the maximum salary rate for the employee's pay band level.

3. Payout Determinations

The amount of money available for base salary increases and bonuses within a pay pool is determined by the money that would have been available in the General Schedule system for quality step increases, within-grade increases, promotions between grades in the same pay band level, and performance awards. TAPPS provides the ability to make a performance payout in the form of a bonus to employees who are at the top of their pay band level and cannot receive an increase in base pay. Bonuses differ from salary increases in that they are not added to base salary, but rather are given as a lump sum payment. Employees whose performance payout would result in a base salary increase such that the new salary exceeds the maximum salary for their current pay band level shall instead receive a bonus equaling the difference. The dollars to be included in the pay pool will be computed annually based on the salaries of the employees in the pay pool. After the initial assignment into the demonstration project, employees' yearly performance payouts will be determined by the process described in this section.

Performance payout determinations will be made on the basis of the appraisal and OPRS and the employee's rate of basic pay. Final pay determinations will be made at the pay pool manager's level. Overall performance rating scores (OPRS) can only be adjusted after discussion with the pay pool manager.

4. The Base Salary Increase Fund and the Bonus Fund

Cost discipline is ensured within each pay pool by establishing the base salary increase fund with monies that would have been available in the General Schedule system from within-grade increases, quality step increases, and promotions between grades that are now encompassed in the same pay band level. The base salary increase fund will be set at not less than two percent (2%) of the activity's total salary budget.

The bonus fund includes monies that were formerly available for performance awards and that will be used in the demonstration project for awards given under the TAPPS process. The bonus fund will be set at not less than 1.5 percent (1.5%) of the activity's total salary budget. Monies rendered from this fund must be paid in the form of a bonus and cannot be used for increases to base salary.

The TACOM Commander may consider allocating funds above the minimum levels on an annual basis.

5. Awards

Because TAPPS rewards performance as reflected in the employee's most recent OPRS, traditional performance awards under 5 CFR 451.104(a)(3) will not be used under the demonstration project. However, management may continue to grant cash, honorary, or informal recognition awards, or grant time-off without charge to leave or loss of pay, unrelated to the TAPPS process. These awards may include, but are not limited to, value engineering awards, suggestion awards, and special act or service awards. They may be granted by any level of management (including MACOM, DA, and DoD) to individuals or groups of employees. Cash awards are lump-sum payments and are not basic pay for any purpose.

6. Interns

Interns hired into the demonstration project will be placed on an agreement that will allow them to progress in pay increments equivalent to non-demonstration project interns. Operating procedures will be developed to ensure comparability under the demonstration with current pay promotion practices for local interns, as well as other employees who, under pre-demonstration agreements, were competitively selected to progress non-competitively to higher grade(s) than previously held.

D. Hiring and Appointment Authorities

1. Simplified, Accelerated Hiring

The complexity of the current system and various hiring restrictions create delays and hamper management's ability to hire, develop, realign, and retain a quality workforce. Line managers find the complexity limiting as they attempt to accomplish timely recruitment of needed skills. To compete with the private sector for the best talent available and be able to make expeditious job offers, managers need a process that is streamlined, easy to administer, and allows for timely job offers. In order to create a human resource management system that facilitates mission execution and organizational excellence, this demonstration project will respond to today's dynamic environment of downsizing and restructuring by obtaining, developing, utilizing, incentivizing, and retaining high-performing employees. The demonstration project will provide a flexible system that can reduce, restructure, or renew the workforce quickly to meet diverse mission needs, respond to workload exigencies, and contribute to quality products, people and workplaces.

Specifically, this part of the demonstration project will provide simplified, accelerated hiring that allows a more rapid appointment of individuals to positions. Appropriate recruitment methods and sources will include those that are likely to yield quality candidates with the knowledge, skills, and abilities necessary to perform the duties of the position.

(a) Delegated Examining Process

This demonstration project establishes a streamlined examining process. This process may be used to fill positions covered by this demonstration project with the following exceptions: Positions in the Senior Executive Service or the Executive Assignment System, Senior Level (ST/SL) positions; Administrative Law Judge positions; and positions subject to any examining process covered by court order.

The qualifications required for placement into a position in a pay band level within a broadband occupational family will be determined using OPM's Operating Manual, ''Qualification Standards for General Schedule Positions.''[1] Since the pay band levels are anchored to the General Schedule grade levels, the minimum qualification requirements for a position will be the requirements corresponding to the lowest General Schedule grade incorporated into that pay band level. For example, the minimum eligibility requirements for a position in Pay Band Level II in the Professional and Business Management broadband occupational family will be the GS–5 qualification requirements for that series. Selective factors may be established for a position in accordance with OPM qualification standards when determined to be critical to successful job performance. These factors become part of the minimum requirements for the position that applicants must meet in order to be eligible. If used, selective factors will be clearly stated as part of the qualification requirements in vacancy announcements and recruiting bulletins.

The ''rule of three'' will be eliminated. When there are no more than 15 qualified applicants and no preference eligibles, all eligible applicants are immediately referred to the selecting official without rating and ranking. Rating and ranking will be required only when the number of qualified candidates exceeds 15 or there is a mix of preference and non-preference applicants. To ensure selection is made from among the best qualified, demonstration project operating procedures will establish a method to distinguish the relative ability of the candidates. Statutes and regulations covering veterans' preference will be observed in the selection process and when rating and ranking are required. If the candidates are rated and ranked, a random number selection method using the application control number will be used to determine which applicants will be referred when scores are tied after the rating process. Veterans will be referred ahead of non-veterans with the same score.

(b) Distinguished Scholastic Achievement Appointment

This demonstration project establishes a distinguished scholastic achievement appointment using an alternative examining process that provides the authority to appoint undergraduates and graduates through the doctoral level to professional positions at the equivalent of GS–7 through GS–11, and GS–12 professional positions.

At the undergraduate level, candidates may be appointed to positions at a pay level no greater than the equivalent of GS–7, step 10, provided they meet the minimum standards for the position as published in OPM's Operating Manual, ''Qualification Standards for General Schedule Positions,'' plus any selective factors stated in the vacancy announcement; the occupation has a positive education requirement; and the candidate has a cumulative grade point average of 3.5 or better (on a 4.0 scale) in those courses, in those fields of study, that are specified in the qualifications standards for the occupational series.

Appointments may also be made at the equivalent of GS–9 through GS–12 on the basis of graduate education and/or experience for those candidates with a grade point average of 3.5 or better (on a 4.0 scale) for graduate level courses in the field of study required for the occupation.

Veterans' preference procedures will apply when selecting candidates under this authority. Preference eligibles who meet the above criteria will be considered ahead of non-preference eligibles. In making selections, to pass over any preference eligible(s) to select a non-preference eligible requires approval under current pass-over or objection procedures. Priority must also be given to displaced employees as may be specified in OPM and DoD regulations.

[1] Available from the U.S. Office of Personnel Management's web site, *www.opm.gov.*

Distinguished scholastic achievement appointments will enable TACOM to respond quickly to hiring needs with eminently qualified candidates possessing distinguished scholastic achievements.

(c) Revisions to Term Appointments

When the need for an employee's services is not permanent, contingent employee appointments (CEAs) may be made under the demonstration project for a period of more than 1 year and up to 5 years. The TACOM Commander, or designee, is authorized to extend a CEA 1 additional year. These employees are entitled to the same rights and benefits as term employees and will serve a probationary period of the length prescribed for the pay band level into which hired. Appointments will be made under the same appointment authorities and processes as regular term appointments, but vacancy announcements must indicate that there is a potential for conversion to permanent employment.

Employees hired under the CEA authority may be eligible for conversion to career-conditional appointments. To be converted, the employee must (1) have been selected for the CEA position under competitive procedures, with the announcement specifically stating that the individual(s) selected for the CEA position(s) may be eligible for conversion to career-conditional appointment at a later date; (2) served two years of continuous service in the CEA position; (3) be selected under merit promotion procedures for the permanent position; and (4) have a current performance rating above the minimum value of the point range for the broadband level to which the employee is assigned.

Employees serving under regular term appointments at the time of conversion to the demonstration project will be converted to the new contingent employee appointments, provided they were hired for their current positions under competitive procedures. These employees will be eligible for conversion to career-conditional appointment if they have a current rating of satisfactory or better and are selected under merit promotion procedures for the permanent position after having completed 2 years of continuous service. Time served in term positions prior to conversion to the contingent employee appointment is creditable for this service requirement, provided the service was continuous.

2. Extended Probationary Period

For new employees appointed to non-supervisory/non-managerial positions in the Professional and Business Management broadband occupational family, the current 1-year probationary period will be extended to 3 years. (However, employees appointed prior to the implementation date of this demonstration project will not be affected by this change.) The purpose of extending the probationary period is to allow supervisors an adequate period of time to fully evaluate an employee's ability to complete a cycle of work (such as research, program development and execution, and/or technology transfer) and to fully evaluate an employee's accomplishments and conduct. In particular, supervisors of employees serving on rotating internships will now have sufficient time to directly supervise and evaluate the employee's work. New employees appointed in the Technical and General Support broadband occupational families will continue to serve a 1-year probationary period. The required probationary period will apply only to new hires subject to a probationary period.

If a probationary employee's performance is determined to be satisfactory at a point prior to the end of the required probationary period, a supervisor has the option of ending the probationary period at an earlier date, but not before the employee has completed 1 year of continuous service. The supervisor will develop a written rationale for exercising this option and elevate it, at a minimum, to the next higher level of management for review before implementing the option. Specific guidance with respect to the review process will be outlined in demonstration project operating procedures.

All other existing provisions pertaining to probationary periods are retained, including limited notice and appeal rights and crediting prior service. Prior Federal civilian service (including nonappropriated fund service; service in temporary or term positions; and service under a contingent employee appointment, with no break in service, before a permanent appointment made under this demonstration project) counts toward completion of probation when the service is in the Department of the Army, is in the same line of work, and contains or is followed by no more than a single break in service that does not exceed 30 calendar days.

3. Supervisory Probationary Periods

New supervisors, that is, those who have not previously completed a supervisory probationary period, will be required to complete a one-year probationary period for the initial appointment to a supervisory position. An additional supervisory probationary period of 1 year will be required when an employee is officially assigned to a different supervisory position that constitutes a major change in supervisory responsibilities from the supervisory position where the previous probationary period was previously completed. During the probationary period, the decision can be made to return the employee to a non-supervisory position, but only for reasons related to supervisory performance or conduct.

4. Voluntary Emeritus Program (VEP)

Under the demonstration project, retired or separated individuals may be offered voluntary positions under the voluntary emeritus program (VEP). Such assignments are not considered employment by the Federal Government (except for purposes of injury compensation). Thus, such assignments do not affect an employee's entitlement to buy-outs or severance payments based on an earlier separation from Federal service. The voluntary emeritus program will ensure continued quality work performance while reducing the overall salary line by typically allowing higher paid individuals to accept retirement incentives with the opportunity to retain a presence in the TACOM community. The program will be of most benefit during manpower reductions, as employees could accept retirement and return to provide valuable on-the-job training or mentoring to less-experienced employees.

To be accepted into the emeritus program, a volunteer must be recommended by a management official and approved by the TACOM Commander, or designee. Not everyone who applies is entitled to an emeritus position. Management must clearly document the decision process for each applicant (whether accepted or rejected) and retain the documentation throughout the assignment. Documentation of rejections will be maintained for 2 years.

To ensure success and encourage participation, the volunteer's Federal retirement pay (whether military or civilian) will not be affected while serving in a voluntary capacity. Retired or separated Federal employees may accept an emeritus position without a break or mandatory waiting period.

Voluntary emeritus program volunteers will not be permitted to monitor contracts on behalf of the Government. The volunteers may be required to submit a financial disclosure form annually and will not be permitted to participate on any contracts where a

conflict of interest may exist. The same rules that currently apply to source selection members will apply to volunteers.

A written agreement must be finalized with the volunteer before the assumption of duties commences and shall include:

(a) A statement that the voluntary assignment does not constitute an appointment in the civil service and is without compensation, and any and all claims against the Government because of the voluntary assignment are waived by the volunteer;

(b) A statement that the volunteer will be considered a Federal employee for the purpose of injury compensation;

(c) The volunteer's work schedule;

(d) The length of agreement (defined by length of project or time defined by weeks, months, or years);

(e) Any support provided by TACOM (travel, administrative, office space, and supplies);

(f) A one-page statement of duties and experience;

(g) A statement providing that no additional time will be added to volunteer's service credit for such purposes as retirement, severance pay, and leave as a result of participating in the voluntary emeritus program;

(h) A provision allowing either party to void the agreement with 10 working days written notice; and

(i) The level of security access required (any security clearance required by the position will be managed by TACOM while the volunteer is participating in the emeritus program).

E. Internal Placement and Pay Setting

Rules for specific types of assignments under the demonstration project follow.

1. Changes in Assignment

(a) Promotions

A promotion is the movement of an employee to a higher pay band level in the same occupational family or to a pay band level in a different occupational family that results in an increase in the employee's salary. (Pay progression within a pay band level will be accomplished under TAPPS; it is not a promotion and thus is not subject to the provisions of this section.). Except as specified at E.1.(b), promotions will be processed under competitive procedures in accordance with merit principles and requirements of the local merit promotion plan.

(b) Exceptions from Competitive Procedures

The following actions are excepted from competitive procedures:

(1) Re-promotion to a position that is in the same pay band andoccupational family as the employee previously held on a permanent basis within the competitive service;

(2) Promotion, reassignment, demotion, transfer, or reinstatement to a position having promotion potential no greater than the potential of a position an employee currently holds or previously held on a permanent basis in the competitive service;

(3) A position change permitted by reduction-in-force procedures;

(4) Promotion without current competition when the employee was appointed through competitive procedures to a position with a documented career ladder;

(5) A temporary promotion or detail of 180 days or less to a position in a higher pay band

(6) Reclassification to include impact-of-person-in-the-job promotions;

(7) A promotion resulting from the correction of an initial classification error or the issuance of a new classification standard; and

(8) Consideration of a candidate not given proper consideration in a competitive promotion action.

(c) Details

Under this demonstration, employees may be detailed to a position in the same pay band level (requiring a different level of expertise and qualifications) or lower pay band level (or its equivalent in a different occupational family) for up to 1 year. Details may be implemented by submitting one personnel action (PERSACTION) to cover the 1-year period. Details to duties in a higher pay band level for more than 180 days will be implemented using competitive procedures.

2. Pay Fixing Policy and Pay Setting

The TACOM Commander will establish pay administration policies. TACOM policies for employees within the demonstration project will conform to basic Government pay fixing policy and the provisions of this demonstration project plan; however, the TACOM policies will be exempt from Army regulations or local pay fixing policies, except where negotiated agreements prevail. Firefighter pay is covered under 5 U.S.C. 5545b and 5 CFR part 550, subpart M.

(a) Policy

Highest previous rate (HPR) will be considered in placement actions for which authorized under rules similar to the HPR rules in 5 CFR 531.203(c) and (d). Use of HPR will be at the supervisor's discretion. The pay retention provisions of 5 U.S.C. 5363 and 5 CFR 536.101 will apply to this plan except where waived or modified as specified in the waiver section. Pay retention may also be granted by the TACOM Commander to employees who meet general eligibility requirements but do not have specific entitlement by law, provided not specifically excluded.

An employee's total monetary compensation paid in a calendar year may not exceed the basic pay of level I of the Executive Schedule, consistent with 5 U.S.C. 5307 and 5 CFR part 530, subpart B.

When a temporary promotion is terminated, the employee's pay entitlements will be re-determined based on the employee's position of record, with appropriate adjustments to reflect pay events during the temporary promotion, subject to the specific policies and rules established by TACOM. In no case may those adjustments increase the pay for the position of record beyond the applicable pay range's maximum rate.

(b) Pay Setting

(1) Promotion. Upon promotion to a higher pay band level, an employee will be entitled to a 6 percent increase in base pay or the lowest level in the pay band level to which promoted, whichever is greater. For employees assigned to occupational categories and geographic areas covered by special rates, the minimum salary rate in the pay band to which promoted is the minimum salary for the corresponding special rate or locality rate, whichever is greater. For employees covered by a staffing supplement, the demonstration staffing adjusted pay is considered basic pay for promotion calculations. Highest previous rate may also be considered in setting pay upon promotion, under rules similar to the highest previous rate rules in 5 CFR 531.203(c) and (d).

(2) Competitive Selection for a Position with Higher Potential Salary. When an employee is competitively selected for a position with a higher target career level than previously held (*e.g.*, Upward Mobility), upon movement to the new position, the employee will receive the salary corresponding to the minimum of the new broadband level or the existing salary, whichever is greater.

(3) Voluntary Change to Lower Pay Band Level/Change in Career Path

(except RIF). When an employee accepts a voluntary change to lower pay band level or different career path, salary may be set at any point within the new pay band level, except that the new salary will not exceed the employee's current salary or the maximum salary of the pay band level to which assigned, whichever is lower.

(4) Involuntary Reduction in Pay, Change to Lower Pay Band Level, and/or Change in Career Path Due to Adverse or Performance-based Action. When an employee is changed to a lower pay band level, moves to a new position in a different career path, or receives a reduction in pay within his/her existing pay band level and career path due to adverse or performance-based action, then the employee's salary will be reduced by at least 6 percent, but will be set no lower than the minimum salary of the pay band level to which assigned. Employees placed into a lower pay band level due to adverse or performance-based action are not entitled to pay retention.

(5) Involuntary Change to Lower Pay Band Level or Change in Career Path, Other than Adverse or Performance-based Action. If such an involuntary change is not a result of an adverse or performance-based action, the salary will be maintained to the extent possible within the salary range of the new pay band and/or career path. If position reclassification resulting in the employee's being assigned to a lower pay band level or different career path, the employee is entitled to pay band level and pay retention in accordance with the provisions of 5 U.S.C. 5361–5366 and 5 CFR part 536 (as waived or modified by this demonstration project).

(6) Reduction-in-Force (RIF) Action (including employees who are offered and accept a vacancy at a lower pay band level or in a different broadband occupational family). The employee is entitled to pay band level and pay retention in accordance with the provisions of 5 U.S.C. 5361–5366 and 5 CFR part 536 (as waived or modified by this demonstration project).

(7) Return to Limited or Light Duty from a Disability as a Result of Occupational Injury to a Position in a Lower Pay Band Level or to a Career Path with Lower Salary Potential than Held Prior to the Injury. The employee is entitled to wage loss compensation from the Department of Labor, Office of Workers Compensation Programs, based upon the difference between the pay band level held on the date of injury and the pay band level of the limited duty position.

(c) Staffing Supplement

Employees assigned to occupational categories and geographic areas covered by special rates will be entitled to a staffing supplement if the maximum adjusted rate for the banded GS grades to which assigned is a special rate that exceeds the maximum GS locality rate for the banded grades. The staffing supplement is added to base pay, much like locality rates are added to base pay. For employees being converted into the demonstration, total pay immediately after conversion will be the same as immediately before, but a portion of the total pay will be in the form of a staffing supplement. Adverse action and pay retention provisions will not apply to the conversion process, as there will be no change in total salary. The staffing supplement is calculated as described in this section.

Upon conversion, the demonstration base rate will be established by dividing the employee's former GS adjusted rate (the higher of special rate or locality rate) by the staffing factor. The staffing factor will be determined by dividing the maximum special rate for the banded grades by the GS unadjusted rate corresponding to that special rate (step 10 of the GS rate for the same grade as the special rate). The employee's demonstration staffing supplement is derived by multiplying the demonstration base rate by the staffing factor minus one. Therefore, the employee's final demonstration special staffing rate equals the demonstration base rate plus the staffing supplement. This amount will equal the employee's former GS adjusted rate. Simplified, the formula is this:

$$\text{Staffing factor} = \frac{\text{Maximum special rate for the banded grades}}{\text{GS unadjusted rate corresponding to that special rate}}$$

$$\text{Demonstration base rate} = \frac{\text{Former GS adjusted rate, special or locality rate}}{\text{Staffing factor}}$$

Example: Assume there is a GS–801–11, step 03, employee assigned to Picatinny Arsenal, NJ, who is entitled to the greater of a special salary rate of $53,648 or a locality rate of $48,763 ($42,918 + 13.62 percent). The maximum special rate for a GS–801–11, step 10 is $65,381, and the corresponding GS unadjusted rate is $52,305. The maximum GS–11 locality rate in New Jersey is $59,429 ($52,305 + 13.62 percent), which is less than the maximum special salary rate. Thus, a staffing supplement is payable. The staffing factor is computed as follows:

Staffing factor = $65,381/$52,305 = 1.2500

Demonstration base rate = $53,648/1.2500 = $42,918

Then to determine the staffing supplement, multiply the demonstration base by the staffing factor minus 1.

Staffing supplement = $42,918 − 0.2500 = $10,730

The staffing supplement of $10,730 is added to the demonstration base rate of $42,918, and the total salary is $53,648, which is the salary of the employee before conversion.

If an employee is in a band where the maximum GS adjusted rate for the banded grades is a locality rate, when the employee enters into the demonstration project, the demonstration base rate is derived by dividing the employee's former GS adjusted rate (the higher of locality rate or special rate) by the applicable locality pay factor. The employee's demonstration locality-adjusted rate will equal the employee's former GS adjusted rate. Any GS or special rate schedule adjustment will require computing the staffing supplement again. Employees receiving a staffing supplement remain entitled to an underlying locality rate, which may over time supersede the need for a staffing supplement. If OPM discontinues or decreases a special rate schedule, pay retention provisions will be applied. Upon geographic movement, an employee who receives the staffing supplement will have the supplement recomputed. Any resulting reduction in pay will not be considered an adverse action or a basis for pay retention.

Calculation of the staffing supplement discussed above was presented in the context of a General Schedule employee entering the demonstration project. Application of the staffing supplement is normally intended to maintain pay comparability for General Schedule

employees entering the demonstration project. Application of the staffing supplement is normally intended to maintain pay comparability for General Schedule employees entering the demonstration. However, the staffing supplement formulas must be compatible with non-Government employees entering the demonstration and adaptable to the special circumstances of employees already in the demonstration.

The following principles will govern the modifications necessary to the previous staffing supplement calculations to apply the staffing supplement to circumstances other than a General Schedule employee entering the demonstration project. No adjustment under these provisions will provide an increase greater than that provided by the special salary rate. An increase provided under this authority is not an equivalent increase, as defined by 5 CFR 531.403. These principles are stated with the understanding that the necessary conditions exist that require the application of a staffing supplement.

(1) If a non-Government employee is hired into the demonstration, then the employee's entry salary will be used for the term, ''former GS adjusted rate'' to calculate the demonstration base rate.

(2) If a current employee is covered by a new or modified special salary rate table, then the employee's current demonstration base rate is used to calculate the staffing supplement percentage. The employee's new demonstration adjusted base salary is the sum of the current demonstration base rate and the calculated staffing supplement.

(3) If a current employee is in an occupational category that is covered by a special salary rate table and subsequently, the occupational category becomes covered by a different special salary rate table with a higher value (*e.g.,* a DB 854–II originally covered by table 0422 is subsequently covered by table 999E, which is a higher rate schedule), then the following steps must be applied to calculate a new demonstration base rate:

Step 1. To obtain a relevance factor, divide the staffing factor that will become applicable to the employee by the staffing factor that would have applied to the employee. For example, table 999E (Special Salary Rate Table for Certain Information Technology Employees, containing 2001 rates for New Jersey) is applicable to a DB 854–II employee, and the applicable staffing factor is 1.25 ($65,381/$52,305). For table 0422 (the table that would have applied if table 999E had not been implemented), the applicable staffing factor is 1.1281 ($59,010/$52,305). Thus:

Relevance factor = 1.25/1.1281 = 1.108

Step 2. Multiply the relevance factor resulting from step 1 by the employee's current adjusted demonstration rate to determine a new adjusted demonstration rate.

Step 3. Divide the result from step 2 by the applicable staffing factor to derive a new demonstration base rate. This new demonstration base rate will be used to calculate the staffing supplement and the new demonstration adjusted base salary.

(4) If, after the establishment of a new or adjusted special salary rate table, an employee enters the demonstration (whether converted from the General Schedule or hired from outside Government) prior to this intervention, then the employee's current adjusted base salary is used for the term ''former GS adjusted rate'' to calculate the demonstration base rate. This principle prevents double compensation due to the single event of a new or adjusted special salary rate table.

(5) If an employee is in an occupational category covered by a new or modified special salary rate table, and the pay band to which assigned is not entitled to a staffing supplement, then the employee's salary may be reviewed and adjusted to accommodate the salary increase provided by the special salary rate. The review may result in a one-time pay increase if the employee's salary equals or is less than the highest special salary grade and step that exceeds the comparable locality grade and step. Demonstration project operating procedures will identify the officials responsible to make such reviews and determinations. The applicable salary increase will be calculated by determining the percentage difference between the highest step 10 special salary rate and the comparable step 10 locality rate and applying this percentage to the demonstration base rate.

An established salary including the staffing supplement will be considered basic pay for the same purposes as a locality rate under 5 CFR 531.606(b), *i.e.,* for purposes of retirement, life insurance, premium pay, severance pay, and advances in pay. It will also be used to compute worker's compensation payments and lump-sum payments for accrued and accumulated annual leave.

3. Supervisory and Team Leader Pay Differentials

Supervisory and team leader pay differentials may be used, at the discretion of the TACOM Commander or designee, to incentivize and reward supervisors and team leaders, with the exception of those in the Professional and Business Management broadband occupational family's ''above GS–15'' pay band level V for engineers and scientists. Employees in supervisory positions with formal supervisory authority meeting that required for coverage under the OPM GS Supervisory Guide may be considered for a supervisory pay differential. Employees in team leader positions with leader authority meeting that required for coverage under the OPM GS Leader Grade-Evaluation Guide may be considered for a team leader pay differential.

A supervisory pay differential is a cash incentive that may range up to 10 percent of the supervisor's basic rate of pay. A team leader pay differential is a cash incentive that may range up to 5 percent of the team leader's basic rate of pay. Differentials may be paid as a one-time lump sum amount, or on a pay period basis for a specified period of 1 year or less. Differentials are not included as part of the recipient's basic rate of pay.

Criteria to be considered in determining the differential percentage include the following organizational and individual employee factors and are further defined in the demonstration project operating procedures: (a) Needs of the organization to attract, retain, and motivate high quality supervisors and team leaders; (b) budgetary constraints; (c) years of supervisory or team leader experience; (d) amount of supervisory or leadership training received; (e) performance appraisals and experience as a group or team leader; (f) organizational level of supervision; and (g) managerial impact on the organization.

The differential may be considered, either during conversion into or after initiation of the demonstration project, if the supervisor or team leader has subordinate employees in the same pay band level. The differential must be terminated if the employee is removed from a supervisory or team leader position, regardless of cause, or no longer meets established eligibility criteria. Supervisory and team leader pay differentials will not be funded from performance pay pools.

After initiation of the demonstration project, all personnel actions involving a supervisory or team leader pay differential will require a statement signed by the employee acknowledging that the differential may be terminated or reduced at the discretion of the TACOM Commander or designee. The termination or reduction of the

differential is not an adverse action and is not subject to appeal.

4. Performance-Based Reduction-in-Pay or Removal Actions

This section applies to reduction in pay or removal of demonstration project employees based solely on unacceptable performance. Unacceptable performance at any time during the appraisal period is considered grounds for initiation of reduction in pay or removal action. The following procedures replace those established in 5 U.S.C. 4303 pertaining to reductions in grade or removal for unacceptable performance, except with respect to appeals of such actions. 5 U.S.C. 4303(e) provides the statutory authority for appeals of performance-based actions. As is currently the situation for performance-based actions taken under 5 U.S.C. 4303, performance-based actions under the demonstration project shall be sustained if the decision is supported by substantial evidence, and the Merit Systems Protection Board shall not have mitigation authority with respect to such actions. The separate statutory authority to take performance-based actions under 5 U.S.C. 75, as modified in the waiver section of this notice (section IX), remains unchanged by these procedures.

Unacceptable performance is performance that meets either of the following definitions.

(a) Unacceptable performance is performance that results in a salary variance greater than +16% with an OPRS that is below the lowest value of the point range for the broadband level to which the employee is assigned. In this case, the supervisor must inform the employee in writing that, unless performance increases to a level that results in a salary variance less than or equal to +16% (thereby meeting the definition of acceptable performance) and is sustained at that level, the employee may be reduced in pay or removed. This written notification will include a performance improvement plan (PIP) that outlines specific areas in which the employee is performing unacceptably. Additionally, the PIP must include standards for acceptable performance, corrective actions required of the employee, and the time in which they must be accomplished to increase and sustain the employee's performance at an acceptable level. The PIP must specify improvements in any factor level rating(s) required to meet the maximum acceptable salary variance (+16%).

(b) Alternatively, unacceptable performance is performance that results in a salary variance greater than +16% with an OPRS at or above the lowest value of the point range for the broadband level to which the employee is assigned. In this case, management may either: (1) Provide written notification and place the employee on a PIP, or (2) take no action, but document this decision in a memorandum for the record, a copy of which must be furnished to the employee and to higher levels of management.

When the rating official informs the employee that the employee may be reduced in pay or removed, the rating official will afford the employee a reasonable opportunity (a minimum of 60 days) to demonstrate acceptable performance. As part of the employee's opportunity to demonstrate acceptable performance, he or she will be placed on a PIP. The PIP will state how the employee's performance is unacceptable and include what improvements are required, recommendations on how to achieve acceptable performance, assistance that the agency shall offer to the employee in improving unacceptable performance, and consequences of failure to improve.

Once an employee has been afforded a reasonable opportunity to demonstrate acceptable performance but fails to do so, a reduction in pay (which could result in a change to a lower pay band level and/or reassignment) or removal action may be proposed. If the employee's performance increases to an acceptable level and is again determined to have deteriorated to an unacceptable level within 2 years from the beginning of the opportunity period, actions may be initiated to effect reduction in pay or removal with no additional opportunity to improve. If an employee has performed acceptably for 2 years from the beginning of an opportunity period and the employee's overall performance once again declines, the employee will be afforded an additional opportunity to demonstrate acceptable performance before it is determined whether or not to propose a reduction in pay or removal.

An employee whose reduction in pay or removal is proposed is entitled to a 30-day advance notice of the proposed action that identifies specific instances of unacceptable performance by the employee on which the action is based. The employee will be afforded a reasonable time to answer the notice of proposed action orally and/or in writing.

A decision to reduce in pay or remove an employee for unacceptable performance may be based only on those instances of unacceptable performance that occurred during the 2-year period ending on the date of issuance of the proposed action. The employee will be issued written notice at or before the time the action will be effective. Such notice will specify the instances of unacceptable performance by the employee on which the action is based and will inform the employee of any applicable appeal or grievance rights.

All relevant documentation concerning a reduction in pay or removal that is based on unacceptable performance will be preserved and made available for review by the affected employee or designated representative. At a minimum, the records will consist of a copy of the notice of proposed action; the written answer of the employee or a summary thereof when the employee makes an oral reply; and the written notice of decision and the reasons for the decision, along with any supporting material including documentation regarding the opportunity afforded the employee to demonstrate acceptable performance.

F. Employee Development

1. Expanded Developmental Opportunities

TACOM's evolving, multi-faceted mission requires a new learning paradigm that will engage its workforce in acquiring multiple knowledge, skills and abilities that prepare every employee to meet the future head on. An expanded developmental opportunity program will significantly assist in creating a multi-knowledgeable, multi-skilled, and multi-functional workforce.

The TACOM expanded developmental opportunity program will cover all demonstration project employees. The time that an employee is on an expanded developmental opportunity will not result in loss of (or reduction in) basic pay, leave to which the employee is otherwise entitled, or credit for time of service. The positions of employees on expanded developmental opportunities may be backfilled with detailed, temporarily promoted, or temporary/CEA employees. However, that position or its equivalent must be made available to the employee returning from the expanded developmental opportunity.

(a) Sabbaticals

TACOM will have authority to grant paid sabbaticals to career employees to permit them to engage in study or uncompensated work experiences that will benefit the organization and contribute to their development and effectiveness. Various learning or

developmental work experiences may be considered, such as advanced academic teaching; study; research; self-directed or guided study; and on-the-job work experience with a public, private commercial, or private non-profit organization. Employees will be eligible for a sabbatical after completion of 7 years of Federal service.

A sabbatical may last 3–12 months, and each sabbatical must result in a product, service, report, or study that will benefit the TACOM mission as well as increase the employee's individual effectiveness. An employee accepting a paid sabbatical must sign a service obligation agreement to continue in service in TACOM for a period of three times the length of the sabbatical. If the employee voluntarily leaves TACOM employment before the service obligation is completed, the employee is liable for repayment of expenses associated with training during the sabbatical, such as registration fees, purchase or rental of books, materials, supplies, travel, per diem, and miscellaneous other related costs related to the sabbatical. (Expenses do not include the cost of the employee's salary.) The TACOM Commander or designee has the authority to waive the service obligation agreement.

The demonstration project operating procedures will contain specific procedures for processing sabbaticals.

(b) Critical Skills Training

Training is an essential component of an organization that requires continuous acquisition of advanced and specialized knowledge. Degree training in the academic environment of TACOM is also a critical tool for recruiting and retaining employees with or requiring critical skills. Until 2000, 5 U.S.C. 4107 limited degree payment to those employees in shortage occupations with a recruitment or retention problem. Degree payment was not permitted for non-shortage occupations involving critical skills. In section 1121 of the National Defense Authorization Act for FY 01, the Congress approved legislation sought by DoD to link degree payment to programs of systematic professional development, dropping the shortage occupation constraint. This demonstration project exempts TACOM from both conditions—linkage to professional development programs or to a shortage occupation.TACOM is expanding the authority of management to administer and pay for degree and certificate training programs (*e.g.*, a graduate certificate in logistics) for employees in all occupational families in order to meet critical skill requirements, to ensure continuous acquisition of advanced specialized knowledge essential to the organization, and to retain personnel critical to future requirements of the organization. Degree or certificate payment may not be authorized where it would result in a tax liability for the employee without the employee's express and written consent. Any variance from this policy must be rigorously determined and documented. Employees approved for degree training must sign a service obligation agreement to continue in service in TACOM for a period of three times the length of the training period. If an employee voluntarily leaves TACOM before the service obligation is completed, the employee is liable for repayment of expenses associated with the training, such as tuition and matriculation fees; registration fees; library and laboratory fees; purchase or rental of books, materials, and supplies; travel and per diem; and miscellaneous other costs related to the training program. The TACOM Commander has the authority to waive the service obligation agreement.

Demonstration project operating procedures will include guidelines to ensure competitive approval of payment for degree and certificate training, as well as documentation of decisions to do so.

2. Appraisals for Employees on Expanded Developmental Opportunities

Expanded developmental opportunities generally fall into two categories: classroom and developmental (on-the-job training). Developmental assignments should be treated as any other temporary assignment that continues for 120 days or more. A performance plan is established, and the incumbent receives a performance rating upon completion. Assignments that involve classroom work are covered by one of two options. The first is to render a rating as soon as the employee returns to the position and completes 120 days under a performance plan. The second is to render a rating for the classroom performance. Procedures for this option will follow those currently in place for the Department of Army's Long-Term Training (LTT) Program.

3. Learning Development Share

Employees can earn a learning development share (LDS), which is a lump sum payment for successfully completing professional, personal, or future educational requirements of the organization. The LDS provides a cash incentive for continuing to develop one's intellectual opportunities, and it also supports TACOM's goal of developing a multi-knowledge, multi-skilled and multi-functional workforce.

Demonstration project operating procedures will prescribe eligibility criteria (*e.g.*, completion of a specified number of continuing education units) and formulas for calculating the amount of an LDS. The LDS will be paid out of Command-designated funds set aside for employee training and development.

G. Reduction in Force (RIF)

When reduction in force (RIF) becomes necessary, the procedures in 5 CFR part 351 will be followed with the modifications specified below.

1. Competitive Areas

A separate competitive area will be established by geographic location for all personnel included in this demonstration project. Because of their mobility requirements, Logistics Assistance Representatives (LARS) will constitute a separate competitive area worldwide, without regard to their geographic locations.

2. Competitive Levels

Within each competitive area, competitive levels will be established consisting of all positions in the same broadband occupational family and pay band level which are similar enough in duties, qualifications, and working conditions that the incumbent of one position can perform successfully the duties of any other position in the competitive level without undue interruption.

3. Retention Standing

Retention standing is determined utilizing the retention factors of tenure, veterans' preference, and length of service, only, and in that order. There will be no augmented service credit based on performance ratings.

4. Rounds of Competition

The proposed system will retain two rounds of competition. An employee released from his/her competitive level will compete in a second round of competition. Bumping and retreating to another position will be limited to the same or next lower pay band level in any occupational family. However, a preference eligible employee with a compensable service disability of 30 percent or more may retreat to a position equivalent to five GS grades below the minimum grade level encompassed by the employee's current pay band level (i.e., up to two pay band levels below the employee's current pay band level except for engineers and scientists in the Business and Management Professional pay band

level V, who may retreat up to three pay band levels below their current pay band level).

5. Unacceptable Performance

An employee with a current rating of record of unacceptable has no assignment rights and does not compete in RIF if released from his/her competitive level.

An employee who has received an acceptable rating following a PIP will have that rating considered as the current rating of record, provided that notification of the acceptable rating is approved and received prior to the cutoff for receipt of personnel actions associated with implementation of the RIF.

Employees who have received a written decision to demote them to a lower pay band compete in RIF from the position to which they have been or will be demoted.

An employee who has been given a written decision of removal will be placed on a list separate from the competitive level retention register and will not compete in RIF.

6. Pay Band Level and Pay Retention

Except where waived or modified in the waiver section of this plan, pay band level and pay retention will follow current law and regulations (*e.g.,* pay band level will substitute for grade).

IV. Implementation Training

A. Policy

A key element in the success of the proposed demonstration project will be the training provided for all involved. This training will not only provide the necessary knowledge and skills to carry out the proposed changes, but also foster participants' commitment to the program.

Training before the beginning of implementation and throughout the demonstration will be provided to supervisors, employees, and others administering the demonstration project.

The elements to be covered in the orientation portion of this training will include: (1) A description of the personnel system; (2) how employees are converted into and out of the system; (3) familiarization with simplified classification, new position descriptions, and standardized rating criteria; (4) the appraisal and performance payout process; and (5) the demonstration project's administrative and formal evaluation process.

B. Supervisors

The focus of this project on management-centered personnel administration, with increased supervisory and managerial authority and accountability for personnel management, demands thorough training of supervisors and managers in the knowledge and skills required for their new responsibilities. Training will include detailed information on the policies and procedures of the demonstration project, as well as skills training in using the classification system, preparing position descriptions, and evaluating performance.

C. Others Administering the Demonstration Project

The administrative staff, general personnel specialists, technicians, and administrative officers will play a key role in advising, training, and coaching supervisors and employees in implementing the demonstration project. This staff will receive training in the procedural and technical aspects of the project.

D. Employees

In the months prior to implementation, the demonstration project team and career development offices will provide all employees covered under the demonstration project training through various media. This training is intended to fully inform all affected TACOM associates of all significant project decisions, procedures, and processes.

V. Conversion

A. Conversion to the Demonstration Project

For those employees covered by the demonstration project, initial conversion into the project will be accomplished through a full employee protection approach that ensures assignment to a position in the appropriate broadband occupational family and pay band level without a loss of pay. Each employee's initial total salary under the demonstration project will equal the total salary received immediately prior to the implementation date of the project, plus the pro-rated amount of a within-grade increase (WGI) to which he/she is entitled, as described in V.A.4.

General Schedule employees who enter the demonstration project after initial implementation enter at their current pay with no loss or gain due to the WGI equity adjustment. If conversion into the demonstration project is accompanied by a simultaneous geographic move, the employee's GS pay entitlements (including locality pay or special rate) in the new area must be determined before converting the pay to the demonstration project system.

Adverse action and pay retention provisions will not apply to the conversion process, as there will be no change in total salary. Prior to conversion, if the employee's rate of basic pay exceeds the maximum rate of basic pay for the pay band level corresponding to the employee's GS grade, as with retained pay or special salary rates, the employee will remain at that pay band level and will receive a retained rate.

1. Employees on Temporary Promotions

Employees who are on temporary promotions at the time of conversion will be converted to a pay band level commensurate with the grade of the position to which temporarily promoted. At the conclusion of the temporary promotion, the employee will revert to the pay band level that corresponds to the grade of the position held under the GS system prior to the temporary promotion. Pay entitlements will be determined based on the employee's position of record under the GS system immediately prior to conversion into the project, with appropriate adjustments to reflect pay events during the temporary promotion, subject to the specific policies and rules established by local pay-setting procedures. In no case may those adjustments increase the pay for the position of record beyond the applicable pay range's maximum rate. The only exception would be if the original competitive promotion announcement stipulated that the promotion could be made permanent. In these cases, actions to make the temporary promotion permanent will be considered and, if implemented, will be subject to all existing priority placement program procedures.

2. Employees on Term Appointments

Employees serving under regular term appointments at the time of the implementation of the demonstration project will be converted to contingent employee appointments (CEA). Conditions for CEA employees are addressed in III.D., Hiring and Appointment Authorities.

3. Employees Covered by Special Salary Rates

Employees who are covered by special salary rates, upon being covered by the demonstration project, will no longer be considered special rate employees under the demonstration project. These employees will, therefore, be entitled to full locality pay or a staffing supplement. The adjusted

salaries of these employees will not change. Rather, the employees will receive a new basic pay rate computed under the staffing supplement rules in III.E.2.(c), Staffing Supplement, if applicable. Adverse action and pay retention provisions will not apply to the conversion process, as there will be no change in total salary.

4. Pro-Rated Credit for Completion of Within-Grade Increase (WGI) Waiting Period

Under the current pay structure, employees progress through their assigned grade in step increments. Since this system is being replaced under the demonstration project, employees will be awarded that portion of the next higher step, based upon the portion of the waiting period they have completed up until the effective date of implementation of the demonstration project. As under the current system, supervisors will be able to withhold these partial step increases if the employee's performance is below an acceptable level of performance. Rules governing within-grade increases under the current Army performance plan will continue in effect until the demonstration project implementation date. Adjustments to the employee's base salary for WGI equity will be computed effective the date of implementation of the demonstration project to coincide with the beginning of the first formal TACOM Appraisal and Performance Payout System (TAPPS) rating cycle. WGI equity will be acknowledged by increasing base salaries by a pro-rated amount based upon the actual number of weeks an employee has completed toward the next higher step. At the time of conversion, payment will equal the current value of the employee's next WGI times the proportion of the waiting period completed (weeks completed in the waiting period/weeks in the waiting period). Employees at step 10 or receiving retained rates on the date of implementation will not be eligible for WGI equity adjustments, since they are already at or above the top of the step scale.

B. Conversion Out of the Demonstration Project

If a demonstration project employee is moving to a General Schedule (GS) position not under the demonstration project, or if the project ends, each project employee must be converted back to the GS system. The procedures below will be used to convert the employee's pay band level position to a GS-equivalent grade and the employee's rate of pay to the GS equivalent rate of pay. The converted GS grade and GS rate of pay must be determined before movement or conversion out of the demonstration project and any accompanying geographic movement, promotion, or other simultaneous action. For lateral reassignments, the converted GS grade and rate will become the employee's actual GS grade and rate after leaving the demonstration project (before any other action). For transfers, promotions, and other actions, the converted GS grade and rate will be used in applying any GS pay administration rules applicable in connection with the employee's movement out of the project (*e.g.,* promotion rules, highest previous rate rules, pay retention rules), as if the GS converted grade and rate were actually in effect immediately before the employee left the demonstration project. The rules for determining the converted GS grade for pay administration purposes do not apply to the determination of an employee's GS equivalent grade for other purposes, such as reduction-in-force or adverse action determinations.

1. Grade-Setting Provisions

An employee is converted to one of the grades in the current pay band level according to the ''step 4 rule,'' as follows:

(a) The employee's adjusted rate of basic pay under the demonstration project (including any locality payment or staffing supplement) is compared with the step 4 rate in the highest applicable GS rate range. (For this purpose, a GS rate range includes a rate in: (1) The GS base schedule; (2) the locality rate schedule for the locality pay area in which the position is located; or (3) the appropriate special rate schedule for the employee's occupational series, as applicable.) If the series is a two-grade interval series, only odd-numbered grades are considered below GS–11.

(b) If the employee's adjusted demonstration project rate equals or exceeds the applicable step 4 rate of the highest GS grade in the band, the employee is converted to that grade. Pay will be set at the step that equals the current salary. If no step equals current salary, pay is set at the next higher step.

(c) If the employee's adjusted demonstration project rate is lower than the applicable step 4 rate of the highest grade, the adjusted rate is compared with the step 4 rate of the second highest grade in the employee's pay band level. If the employee's adjusted rate equals or exceeds step 4 rate of the second highest grade, the employee is converted to that grade.

(d) This process is repeated for each successively lower grade in the band until a grade is found in which the employee's adjusted demonstration project rate equals or exceeds the applicable step 4 rate of the grade. The employee is then converted at that grade. If the employee's adjusted rate is below the step 4 rate of the lowest grade in the band, the employee is converted to the lowest grade.

(e) Exception: If the employee's adjusted demonstration project rate exceeds the maximum rate of the grade assigned under the ''step 4 rule'' but fits in the rate range for the next higher applicable grade (*i.e.,* between step 1 and step 4), then the employee shall be converted to that next higher applicable grade.

(f) Exception: An employee will not be converted to a lower grade than the grade held by the employee immediately preceding a conversion, lateral reassignment, or lateral transfer into the demonstration project, unless since that time the employee has undergone a reduction in pay band level or reduction in pay based upon adverse action.

2. Pay-Setting Provisions

An employee's pay within the converted GS grade is set by converting the employee's demonstration project rate of pay to a GS rate of pay in accordance with the following rules:

(a) The pay conversion is done before any geographic movement or other pay-related action that coincides with the employee's movement or conversion out of the demonstration project.

(b) An employee's adjusted rate of basic pay under the project (including any locality pay or staffing supplement) is converted to a GS adjusted rate on the highest applicable rate range for the converted GS grade. (For this purpose, a GS rate range includes a rate range in: (1) The GS base schedule; (2) an applicable locality rate schedule; or (3) an applicable special rate schedule.

(c) If the highest applicable GS rate range is a locality pay rate range, the employee's adjusted demonstration project rate is converted to a GS locality rate of pay. If this rate falls between two steps in the locality-adjusted schedule, the rate must be set at the higher step. The converted GS unadjusted rate of basic pay would be the GS base rate corresponding to the converted GS locality rate (*i.e.*, same step position). (If this employee is also covered by a special rate schedule as a GS employee, the converted special rate will be determined based on the GS step position. This underlying special rate will be basic pay for certain purposes

for which the employee's higher locality rate is not basic pay.)

(d) If the highest applicable GS rate range is a special rate range, the employee's adjusted demonstration project rate is converted to a special rate. If this rate falls between two steps in the special rate schedule, the rate must be set at the higher step. The converted GS unadjusted rate of basic pay will be the GS rate corresponding to the converted special rate (*i.e.*, same step position).

3. Employees With Band or Pay Retention

(a) If an employee is retaining a pay band level under the demonstration project, apply the procedures in the grade-setting and pay-setting provisions above, using the grades encompassed in the employee's retained pay band to determine the employee's GS-equivalent retained grade and pay rate. The time in a retained pay band under the demonstration project counts toward the 2-year limit on grade retention in 5 U.S.C. 5362.

(b) If an employee is retaining a rate under the demonstration project, the employee's GS-equivalent grade is the highest grade encompassed in his or her band level. Convert the employee's retained rate as follows:

(1) If the employee's adjusted retained rate is less than the maximum rate of the highest applicable rate range, then apply the procedures in V.B.2. to determine the employee's GS-equivalent pay rate.

(2) If the employee's adjusted retained rate exceeds the maximum rate of the highest applicable rate range and the employee is not in a special rate category, then convert the employee's unadjusted retained rate to a GS-equivalent retained rate.

(3) If the employee's adjusted retained rate exceeds the maximum rate of the highest applicable rate range and the employee is in a special rate category, then convert the employee's adjusted retained rate to a GS-equivalent retained rate.

4. Within-Grade Increase—Equivalent Increase Determinations

Service under the demonstration project is creditable for within-grade increase purposes upon conversion back to the GS pay system. TAPPS performance pay increases (including a zero increase) under the demonstration project are considered equivalent increases for the purpose of determining the commencement of a within-grade increase waiting period under 5 CFR 531.405(b).

5. Engineer and Scientist (E&S) Pay Band Level V Employees

An employee in pay band level V of the Engineer and Scientist broadband occupational family will convert out of the demonstration project at the GS–15 level. TACOM will develop a procedure to ensure that employees entering pay band level V understand that if they leave the demonstration project and their adjusted pay exceeds the GS–15, step 10 rate, there is no entitlement to retained pay. Their GS-equivalent rate will be deemed to be the rate for GS–15, step 10. For those pay band level V employees paid below the adjusted GS–15, step 10 rate, the converted rates will be set in accordance with V.B.2.

6. Years of Retention Service Credit and Appraisal Rating Provisions

Employees leaving the demonstration project will be assigned ratings of record that conform with summary pattern H of 5 CFR 430.208(d) with level 3 being the highest for those who pass (20 years of retention credit) and Level 1 being the lowest for those who fail (0 years of retention credit). The levels are assigned consistent with the definitions of acceptable and unacceptable performance in III.C.2.

VI. Project Duration

Public Law 103–337 removed any mandatory expiration date for this demonstration project. TACOM, DA and DoD will ensure this project is evaluated for the first five years after implementation in accordance with 5 U.S.C. 4703. Modifications to the original evaluation plan or any new evaluation will ensure the project is evaluated for its effectiveness, its impact on mission, and any potential adverse impact on any employee groups. Major changes and modifications to the interventions can be made through announcement in the **Federal Register** and would be made if formative evaluation data warranted. At the 5-year point, the demonstration will be reexamined for permanent implementation, modification and additional testing, or termination of the entire demonstration project.

VII. Evaluation Plan

A. Overview

Chapter 47 of 5 U.S.C. requires that an evaluation be performed to measure the effectiveness of the proposed demonstration project and its impact on improving public management. A comprehensive evaluation plan for the entire laboratory demonstration program, originally covering 24 DoD laboratories, was developed by a joint OPM/DoD Evaluation Committee in 1995. This plan was submitted to the Office of Defense Research & Engineering and was subsequently approved. The main purpose of the evaluation is to determine whether the waivers granted result in a more effective personnel system and improvements in ultimate outcomes (*i.e.*, organizational effectiveness, mission accomplishment, and customer satisfaction).

B. Evaluation Model

Appendix E shows an intervention model for the evaluation of the demonstration project. The model is designed to evaluate two levels of organizational performance: intermediate and ultimate outcomes. The intermediate outcomes are defined as the results from specific personnel system changes and the associated waivers of law and regulation expected to improve human resources (HR) management (*i.e.,* cost, quality, timeliness). The ultimate outcomes are determined through improved organizational performance, mission accomplishment, and customer satisfaction. Although it is not possible to establish a direct causal link between changes in the HR management system and organizational effectiveness, it is hypothesized that the new HR system will contribute to improved organizational effectiveness.

Organizational performance measures established by the organization, will be used to evaluate the impact of a new HR system on the ultimate outcomes. The evaluation of the new HR system for any given organization will take into account the influence of three factors on organizational performance: context, degree of implementation, and support of implementation. The context factor refers to the impact which intervening variables (*i.e.,* downsizing, changes in mission, or the economy) can have on the effectiveness of the program. The degree of implementation considers: (1) The extent to which the proposed HR changes are given a fair trial period; (2) the extent to which the proposed changes are implemented; and (3) the extent to which the proposed changes conform to the HR interventions as planned. The support of implementation factor accounts for the impact that factors such as training, internal regulations and automated support systems have on the support available for program implementation. The support for program implementation factor can also be affected by the personal characteristics (*e.g.* attitudes) of individuals who are implementing the program.

The degree to which the project is implemented and operated will be tracked to ensure that the evaluation results reflect the project as it was intended. Data will be collected to measure changes in both intermediate and ultimate outcomes, as well as any unintended outcomes, which may happen as a result of any organizational change. In addition, the evaluation will track the impact of the project and its interventions on veterans and other EEO groups, the Merit Systems Principles, and the Prohibited Personnel Practices. Additional measures may be added to the model in the event that changes or modifications are made to the demonstration plan.

The intervention model at Appendix E will be used to measure the effectiveness of the personnel system interventions implemented. The intervention model specifies each personnel system change or ''intervention'' that will be measured and shows: (1) The expected effects of the intervention, (2) the corresponding measures, and (3) the data sources for obtaining the measures. Although the model makes predictions about the outcomes of specific intervention, causal attributions about the full impact of specific interventions will not always be possible for several reasons. For example, many of the initiatives are expected to interact with each other and contribute to the same outcomes. In addition, the impact of changes in the HR system may be mitigated by context variables (*e.g.* the job market, legislation, and internal support systems) or support factors (*e.g.* training, automation support systems).

C. Evaluation

A modified quasi-experimental design will be used for the evaluation of the S&T Personnel Demonstration Program. Because most of the eligible laboratories are participating in the program, a Title 5 U.S.C. comparison group will be compiled from the Civilian Personnel Data File (CPDF). This comparison group will consist of workforce data from Government-wide research organizations in civilian Federal agencies with missions and job series matching those in the DoD laboratories. This comparison group will be used primarily in the analysis of pay banding costs and turnover rates. The original ''China Lake'' project will serve as a second comparison group that can be used as a benchmark representing a stable pay banding system.

D. Method of Data Collection

Data from several sources will be used in the evaluation. Information from existing management information systems and from personnel office records will be supplemented with perceptual survey data from employees to assess the effectiveness and perception of the project. The multiple sources of data collection will provide a more complete picture as to how the interventions are working. The information gathered from one source will serve to validate information obtained through another source. In so doing, the confidence of overall findings will be strengthened as the different collection methods substantiate each other.

Both quantitative and qualitative data will be used when evaluating outcomes. The following data will be collected: (1) Workforce data; (2) personnel office data; (3) employee attitude surveys; (4) focus group data; (5) local site historian logs and implementation information; (6) customer satisfaction surveys; and (7) core measures of organizational performance.

The evaluation effort will consist of two phases, formative and summative evaluation, covering at least 5 years to permit inter- and intra-organizational estimates of effectiveness. The formative evaluation phase will include baseline data collection and analysis, implementation evaluation, and interim assessments. The formal reports and interim assessments will provide information on the accuracy of project operation, and current information on impact of the project on veterans and EEO groups, Merit System Principles, and Prohibited Personnel Practices. The summative evaluation will focus on an overall assessment of project outcomes after five years. The final report will provide information on how well the HR system changes achieved the desired goals, which interventions were most effective, and whether the results can be generalized to other Federal installations.

VIII. Demonstration Project Costs

A. Cost Discipline

An objective of the demonstration project is to ensure in-house budget discipline. A baseline will be established at the start of the project, and salary expenditures will be tracked yearly. Implementation costs, including project development, automation costs, WGI equity adjustments, credit for career ladder promotions, and evaluation costs are considered one-time costs and will not be included in the cost discipline evaluations. To ensure corporate consistency, the Personnel Management Board will track personnel cost changes and recommend adjustments if required to achieve the objective of cost discipline.

B. Developmental Costs

Costs associated with the development of the personnel demonstration project include software automation, training, and project evaluation. All funding will be provided through the TACOM budget. The projected annual expenses are summarized in Figure 5. Project evaluation costs are not expected to continue beyond 5 years, unless the results warrant further evaluation.

FIGURE 5.—PROJECTED DEVELOPMENTAL COSTS

	FY 02	FY 03	FY 04	FY 05	FY 06
Training	30K	100K	15K	.....	.....
Project Evaluation	75K	75K	75K	75K	75K
Automation	375K	100K	35K	35K	35K
Totals	480K	275K	125K	110K	110K

IX. Required Waivers and Adaptations of Law and Regulation

Public Law 106–398 gave DoD the authority to experiment with several personnel management innovations. In addition to the authorities granted by the law, the following are waivers and adaptations of law and regulation that will be necessary for implementation of the demonstration project. In due course, additional laws and regulations may be identified for waiver request.

The following waivers and adaptations of certain provisions are required only to the extent that these statutory provisions limit or are

inconsistent with the actions contemplated under this demonstration project. Nothing in this plan is intended to preclude the demonstration project from adopting or incorporating any law or regulation enacted, adopted, or amended after the effective date of this demonstration project.

A. Waivers and Adaptations of Title 5, United States Code (U.S.C.)

Chapter 5, Section 552a: Records Maintained on Individuals. This section is adapted only to the extent necessary to allow demonstration project volunteers under the voluntary emeritus program to be treated as ''Federal personnel'', as that term is defined in this section.

Chapter 31, Section 3111: Acceptance of Volunteer Service. This section is adapted only to the extent necessary to allow acceptance of volunteer service under provisions of the demonstration project's voluntary emeritus program.

Chapter 31, Section 3132: The Senior Executive Service; Definitions and Exclusions. This section is adapted only to the extent necessary to allow creation of pay band V of the Professional and Business Management broadband occupational family.

Chapter 33, Section 3308: Competitive Service; Examinations; Educational Requirements Prohibited; Exceptions. This section is adapted only to the extent necessary to allow the requirement for a college degree under the distinguished scholastic achievement appointment authority of this demonstration project.

Chapter 33, Section 3317(a): Competitive Service; Certification from Registers. This section is waived to eliminate the ''rule of three'' under the demonstration project.

Chapter 33, Section 3318(a): Competitive Service; Selection from Certificates. This section is waived to eliminate the ''rule of three'' under the demonstration project. Chapter 33, Section 3324: Appointment to positions classified above GS–15. This section is waived to allow creation of pay band V of the Professional and Business Management broadband occupational family.

Chapter 33, Section 3341: Details; Within Executive or Military Departments. This section is adapted only to the extent necessary to allow details to extend beyond 120 days.

Chapter 35, Section 3502(a)(4): Order of Retention. This section is waived to eliminate augmented service credit for performance ratings.

Chapter 41, Section 4107: Restriction on Degree Training. This section is adapted only to the extent necessary to allow payment for any degree training, even when not linked to a professional development program or to a shortage occupation.

Chapter 43, Sections 4301(3): Definitions. This section is waived to allow a different definition of the term, ''unacceptable performance'' under this demonstration.

Chapter 43, Section 4302: Establishment of Performance Appraisal Systems. This section is adapted only to the extent necessary to allow broadbanding and to accommodate performance-focused pay features of the TACOM Appraisal and Performance Payout System.

Chapter 43, Sections 4303(a), (b), and (c): Actions Based on Unacceptable Performance. These sections are adapted only to the extent necessary to replace the term ''grade'' with ''pay band level'' and accommodate this demonstration project's procedures for taking actions based on unacceptable performance.

Chapter 43, Sections 4304 (b) (1) and (3): Responsibilities of the Office of Personnel Management. These sections are waived to reflect changes in responsibilities authorized by section 1114 of the National Defense Authorization Act of 2001.

Chapter 45, Sections 4502(a) and (b): General Provisions. These sections are adapted only to the extent necessary to allow awards up to $25,000 for individual employees to be approved under the demonstration project plan's procedures.

Chapter 51, Sections 5101–5113: Classification. These sections are waived to permit classification of demonstration project positions to pay band levels on the basis of broadband range factors and allow deviation from OPM-prescribed position description formats.

Chapter 53, Sections 5301; 5302 (1), (8), and (9); 5303; and 5304: Pay Comparability System. These sections are adapted only to the extent necessary to (1) allow employees in pay band V of the Professional and Business Management broadband occupational family to be treated as ST employees, (2) allow all other demonstration project employees to be treated as General Schedule employees, and (3) allow basic rates of pay under the demonstration project to be treated as scheduled rates of basic pay. However, these adaptations do not apply to ST employees, who will continue to be covered by these Title 5 statutory provisions, as appropriate.

Chapter 53, Section 5305: Special Pay Authority. This section is waived only to the extent necessary to ensure that special salary rates are inapplicable to demonstration project employees after their conversion into the demonstration project and to allow future special salary rates only when specifically incorporated through the use of the staffing supplement provisions of the demonstration project plan.

Chapter 53, Sections 5331–5336: General Schedule Pay Rates. These sections are waived to allow broadbanding and accommodate performance-focused pay features of the TACOM Appraisal and Performance Payout System (TAPPS).

Chapter 53, Sections 5361–5366: Grade and Pay Retention. These sections are adapted only to the extent necessary to: (1) Replace ''grade'' with ''pay band level''; (2) allow demonstration project employees to be treated as General Schedule employees; (3) provide that pay retention provisions do not apply to conversions from General Schedule special rates to demonstration project pay, as long as total pay is not reduced, and to reductions in pay due solely to the removal of a supervisory pay adjustment upon voluntarily leaving a supervisory position; (4) provide that pay retention does not apply to reduction in basic pay due solely to the reallocation of demonstration project pay rates in the implementation of a staffing supplement; and (5) ensure that for employees of pay band level V of the Professional and Business Management broadband occupational family, pay band level retention is not applicable and pay retention provisions are modified so that no rate established under these provisions may exceed the rate of basic pay for GS–15, step 10 (*i.e.,* there is no entitlement to retained rate). These adaptations do not apply with respect to coverage for ST employees, except when an ST employee moves to a GS-equivalent position within the demonstration project under conditions that trigger entitlement to pay retention.

Chapter 55, Sections 5542(a)(1)–(2): Overtime Rates; Computation. These sections are adapted only to the extent necessary to provide that the GS–10 minimum special rate (if any) for the special rate category to which a project employee belongs is deemed to be the ''applicable special rate'' in applying the pay cap provisions in 5 U.S.C. 5542.

Chapter 55, Section 5545(d): Hazardous Duty Differential. This section is adapted only to the extent necessary to allow demonstration project employees to be treated as General Schedule employees. However, this adaptation does not apply to ST employees or employees in pay band V of the Professional and Business Management broadband occupational family, and they are excluded from coverage under 5 U.S.C. 5545(d).

Chapter 55, Section 5547(a)–(b): Limitation on Premium Pay. These sections are adapted only to the extent necessary to provide that the GS–15 maximum special rate (if any) for the special rate category to which a project employee belongs is deemed to be the ''applicable special rate'' in applying the pay cap provisions in 5 U.S.C. 5547.

Chapter 57, Sections 5753, 5754, and 5755: Recruitment and Relocation Bonuses; Retention Allowances; and Supervisory Differentials. These sections are adapted only to the extent necessary to (1) allow employees in pay band V of the Professional and Business Management broadband occupational family to be treated as ST employees, (2) allow all other demonstration project employees to be treated as General Schedule employees, and (3) allow basic rates of pay under the demonstration project to be treated as scheduled rates of basic pay. However, these adaptations do not apply to ST employees, who will continue to be covered by these Title 5 statutory provisions, as appropriate.

Chapter 59, Section 5941: Allowances Based on Living Costs and Conditions of Environment; Employees Stationed Outside Continental United States or in Alaska. This section is adapted only to the extent necessary to provide that COLAs paid to employees under the demonstration project are paid in accordance with regulations prescribed by the President (as delegated to OPM).

Chapter 71: Labor-Management Relations. This chapter is waived only to the extent that its provisions (*e.g.,* 5 U.S.C. 7103(a)(12) and 7116) would prohibit management or the union from unilaterally terminating negotiations over whether employees represented by the union will be converted into the demonstration project.

Chapter 75, Section 7512(3): Adverse Actions. This section is adapted only to the extent necessary to replace ''grade'' with ''pay band level'' and to provide that reductions in pay band level not accompanied by a reduction in pay are not covered by chapter 75, subchapter II.

Chapter 75, Section 7512(4): Adverse Actions. This section is adapted only to the extent necessary to ensure that adverse action provisions do not apply to conversions from General Schedule special rates to demonstration project pay, as long as total pay is not reduced.

B. Waivers and Adaptations of Title 5, Code of Federal Regulations (CFR)

Sections 300.601–300.605: Time-in-Grade Restrictions. These sections are waived to eliminate time-in-grade restrictions under this demonstration project.

Sections 308.101 through 308.103: Volunteer Service. These sections are adapted only to the extent necessary to allow retired and separated individuals to perform volunteer service under the provisions of the voluntary emeritus program.

Sections 315.801 and 315.802: Probationary Period. These sections are adapted only to the extent necessary to allow extended probationary periods for certain employees, as specified in the project plan for this demonstration project.

Section 315.901: Statutory Requirement. This section is adapted only to the extent necessary to replace ''grade'' with ''pay band level.''

Section 315.904: Probationary Period. This section is adapted only to the extent necessary to allow imposition of an additional 1-year supervisory probationary period when an employee is officially assigned to a different supervisory position that constitutes a major change in supervisory responsibilities.

Section 316.301: Term Employment; Purpose and Duration. This section is adapted only to the extent necessary to allow contingent employee appointments to cover a maximum period of 6 years.

Section 316.303: Tenure of Term Employees. This section is adapted only to the extent necessary to allow employees on demonstration project contingent employee appointments to compete for permanent status through local merit promotion plans.

Section 332.402: Regular Order of Certification for Appointment. This section is waived.

Section 332.404: Order of Selection from Certificates. This section is adapted only to the extent necessary to eliminate the ''rule of three'' under this demonstration project.

Section 335.103 (c) (i): Agency Promotion Programs. This section is adapted only to the extent necessary to allow temporary promotions of 180 days or less to a position in a higher pay band level.

Section 335.103 (c) (ii): Agency Promotion Programs. This section is adapted only to the extent necessary to allow details of 180 days or less to a position in a higher pay band level.

Section 351.402(b): Competitive Area. This section is waived only to the extent necessary to allow Logistics Assistance Representatives to be placed into a separate competitive area worldwide, without regard to their geographic locations.

Section 351.403: Competitive Level. This section is adapted only to the extent necessary to replace the term ''grade'' with ''pay band level.''

Section 351.504: Credit for Performance. This section is waived only to the extent necessary to eliminate augmented service credit for performance ratings.

Section 351.701: Assignment Involving Displacement. This section is adapted only to the extent necessary to limit the displacement of demonstration project employees to only one broadband level below the employee's present level in any occupational family, except that a preference-eligible employee with a compensable service-connected disability of 30 percent or more may retreat to a position which is equivalent to no more than five General Schedule grades below the minimum grade level encompassed by the employee's current pay band level.

Section 410.308: Training to Obtain an Academic Degree. This section is adapted only to the extent necessary to allow payment for any degree training, even when not linked to a professional development program or to a shortage occupation.

Part 430, Subpart B: Performance Appraisal for General Schedule, Prevailing Rate, and Certain Other Employees. This subpart is waived to accommodate the establishment of the TACOM Appraisal and Performance Payout System (TAPPS).

Part 432: Performance Based Reduction in Grade and Removal. This part is adapted only to the extent necessary to (1) allow employees to be removed, reduced in pay band level with a reduction in pay, reduced in pay without a reduction in pay band level, and reduced in pay band level without a reduction in pay based on unacceptable performance, (2) eliminate performance standards and critical elements, (3) incorporate what constitutes ''acceptable performance'' and ''unacceptable performance,'' as defined in the demonstration project plan, (4) replace the term ''grade'' with ''pay band level,'' and (5) provide that, for employees who are reduced in pay band level without a reduction in pay, Sections 432.105 and 432.106(a) do not apply.

Sections 432.104 and 432.105: Addressing Unacceptable Performance; Proposing and Taking Action Based on Unacceptable Performance. These sections are waived to allow the establishment of alternative procedures under the TACOM Appraisal and Performance Payout System (TAPPS).

Sections 451.106 and 451.107: Agency and OPM Responsibilities. These sections are adapted only to the extent necessary to allow awards up to $25,000

for individual employees to be approved under the project plan procedures.

Part 511: Classification Under the General Schedule. This part is adapted only to the extent necessary to (1) replace ''grade'' with ''pay band level,'' (2) permit classification of demonstration project positions to pay band levels on the basis of broadband range factors, and (3) allow deviation from OPM-prescribed position description formats.

Part 530, Subpart C: Special salary rates. This subpart is waived to the extent necessary to ensure that special salary rates are inapplicable to demonstration project employees after their conversion into the demonstration project.

Part 531, Subparts B, D, and E: Determining Rates of Basic Pay; Within-Grade Increases; and Quality Step Increases. These subparts are waived to allow broadbanding and accommodate performance-focused pay features of the TACOM Appraisal and Performance Payout System (TAPPS).

Part 531, Subpart C: Special Pay Adjustments for Law Enforcement Officers. This subpart is adapted only to the extent necessary to allow law enforcement officers covered by broadbanding to be treated as General Schedule employees, and to allow basic rates of pay under the demonstration project to be treated as scheduled annual rates of pay.

Part 531, Subpart F: Locality-Based Comparability Payments. This subpart is adapted only to the extent necessary to (1) allow employees in pay band V of the Professional and Business Management broadband occupational family to be treated as ST employees, (2) allow all other demonstration project employees to be treated as General Schedule employees, and (3) allow basic rates of pay under the demonstration project to be treated as scheduled rates of basic pay. However, these adaptations do not apply to ST employees, who will continue to be covered by these Title 5 regulatory provisions, as appropriate.

Section 531.302: Determining Special Law Enforcement Adjusted Rates of Pay. This section is adapted only to the extent necessary to (1) allow employees in pay band V of the Professional and Business Management broadband occupational family to be treated as ST employees, (2) allow all other demonstration project employees to be treated as General Schedule employees, and (3) allow basic rates of pay under the demonstration project to be treated as scheduled rates of basic pay. However, these adaptations do not apply to ST employees, who will continue to be covered by these Title 5 regulatory provisions, as appropriate.

Part 536: Grade and Pay Retention. This part is adapted only to the extent necessary to: (1) Replace ''grade'' with ''pay band level'; (2) provide that pay retention provisions do not apply to conversions from General Schedule special rates to demonstration project pay, as long as total pay is not reduced; (3) provide that pay retention does not apply to reduction in basic pay due solely to the reallocation of demonstration project pay rates in the implementation of a staffing supplement; and (4) ensure that for employees of pay band V of the Professional and Business Management broadband occupational family, pay band level retention is not applicable and pay retention provisions are modified so that no rate established under these provisions may exceed the rate of basic pay for GS–15, step 10 (*i.e.,* there is no entitlement to retained rate). These adaptations do not apply with respect to coverage for ST employees, except when an ST employee moves to a GS-equivalent position within the demonstration project under conditions that trigger entitlement to pay retention.

Part 550, Sections 550.105–550.106: Biweekly and Annual Maximum Earnings Limitations. These sections are adapted only to the extent necessary to provide that the GS–15 maximum special rate (if any) for the special rate category to which a project employee belongs is deemed to be the ''applicable special rate'' in applying the pay cap provisions in 5 U.S.C. 5547.

Part 550, Section 550.113(a): Computation of Overtime Pay. This section is adapted only to the extent necessary to provide that the GS–10 minimum special rate (if any) for the special rate category to which a project employee belongs is deemed to be the ''applicable special rate'' in applying the pay cap provisions in 5 U.S.C. 5542.

Section 550.703: Definitions. This section is adapted only to the extent necessary to modify the definition of ''reasonable offer'' by replacing ''two grade or pay levels'' with ''one pay band level'' and ''grade or pay level'' with ''pay band level.''

Section 550.902: Hazardous Duty Differential. This section is adapted only to the extent necessary to allow demonstration project employees to be treated as General Schedule employees. However, this adaptation does not apply to ST employees or employees in pay band V of the Professional and Business Management broadband occupational family, and they are excluded from coverage under section 550.902.

Part 575, Subparts A, B, C, and D: Recruitment Bonuses; Relocation Bonuses; Retention Allowances; and Supervisory Differentials. These subparts are adapted only to the extent necessary to (1) allow employees in pay band V of the Professional and Business Management broadband occupational family to be treated as ST employees, (2) allow all other demonstration project employees to be treated as General Schedule employees, and (3) allow basic rates of pay under the demonstration project to be treated as scheduled rates of basic pay. However, these adaptations do not apply to ST employees, who will continue to be covered by these Title 5 regulatory provisions, as appropriate.

Part 591, Subpart B: Cost-of-Living Allowances and Post Differential—Nonforeign Areas. This subpart is adapted only to the extent necessary to allow demonstration project employees to be treated as employees under the General Schedule, and employees in pay band V of the Professional and Business Management broadband occupational family to be treated as ST employees.

Section 752.401 (a)(3): Adverse Actions. This section is adapted only to the extent necessary to replace ''grade'' with ''pay band level.''

Section 752.401(a)(4): Adverse Actions. This section is adapted only to the extent necessary to provide that adverse action provisions do not apply to conversions from General Schedule special rates to demonstration project pay, as long as total pay is not reduced.

C. Adaptation of Title IV of the Federal Employees Pay Comparability Act of 1990 (Public Law 101–509): Federal Law Enforcement Pay Reform

This title is adapted only to the extent necessary to allow law enforcement officers covered by broadbanding under the demonstration project to be treated as law enforcement officers under the General Schedule.

Appendix A—Occupational Series by Occupational Family

I. Professional and Business Management Family

0018 Safety and Occupational Health Management
0028 Environmental Protection Specialist
0030 Sports Specialist
0080 Security Administration
0101 Social Science
0132 Intelligence
0170 History
0180 Psychology
0185 Social Work
0187 Social Services
0188 Recreation Specialist
0201 Human Resources Management
0205 Military Personnel Management

Note: In December 2000, OPM issued the GS–0201, Human Resources Management standard and, in so doing, canceled the GS–0205, Military Personnel Management series. TACOM is in the process of applying the new standard as of the date of this **Federal Register** notice.

0230 Employee Relations

Note: In December 2000, OPM issued the GS–0201, Human Resources Management standard and, in so doing, canceled the GS–0230, Employee Relations series. TACOM is in the process of applying the new standard as of the date of this **Federal Register** notice.

0260 Equal Employment Opportunity
0301 Miscellaneous Administration and Program
0334 Computer Specialist

Note: In May 2001, OPM issued the GS–2210, Information Technology Management standard and, in so doing, canceled the GS–0334, Computer Specialist series. TACOM is in the process of applying the new standard as of the date of this **Federal Register** notice.

0340 Program Management
0341 Administrative Officer
0343 Management and Program Analysis
0346 Logistics Management
0391 Telecommunications
0399 Student Trainee
0401 General Biological Sciences
0501 Financial Administration and Program
0505 Financial Management
0510 Accounting
0511 Auditing
0560 Budget Analysis
0601 Corporate Fitness Program Management
0690 Industrial Hygiene
0801 General Engineering
0803 Safety Engineering
0806 Materials Engineering
0810 Civil Engineering
0819 Environmental Engineering
0830 Mechanical Engineering
0850 Electrical Engineering
0854 Computer Engineering
0855 Electronics Engineering
0861 Aerospace Engineering
0892 Ceramic Engineering
0896 Industrial Engineering
0893 Chemical Engineering
0899 Student Trainee
0905 General Attorney
0950 Paralegal
1001 General Arts and Information
1010 Exhibits Specialist
1020 Illustrating
1035 Public Affairs
1060 Photography
1071 Audiovisual Production
1082 Writing and Editing
1083 Technical Writing and Editing
1084 Visual Information
1101 General Business and Industry
1102 Contracting
1103 Industrial Property Management
1150 Industrial Specialist
1170 Realty
1173 Housing Management
1199 Student Trainee
1222 Patent Attorney
1301 General Physical Sciences
1306 Health Physics
1310 Physics
1315 Hydrology
1320 Chemistry
1321 Metallurgy
1399 Student Trainee
1410 Librarian
1412 Technical Information Services
1515 Operations Research
1520 Mathematics
1529 Mathematical Statistician
1550 Computer Science
1599 Student Trainee
1601 General Facilities and Equipment
1670 Equipment Specialist
1701 General Education and Training
1710 Education and Vocational Training
1712 Training Instruction
1740 Education Services
1801 General Inspection, Investigation, and Compliance
1811 Criminal Investigating
1910 Quality Assurance
2001 General Supply
2003 Supply Program Management
2010 Inventory Management
2030 Distribution Facilities and Storage Management
2032 Packaging
2130 Traffic Management
2210 Information Technology Management

II. Technical Support Family

0019 Safety Technician
0301 Miscellaneous Administration and Program
0802 Engineering Technician
0809 Construction Control
0818 Engineering Drafting
0856 Electronics Technician
0873 Ship Surveyor
0895 Industrial Engineering Technician
1152 Production Control
1311 Physical Science Technician
1521 Mathematics Technician

III. General Support Family

0081 Fire Protection and Prevention
0083 Police
0085 Security Guard
0086 Security Clerical and Assistance
0134 Intelligence Aid/Clerical
0186 Social Services Aid and Assistant
0189 Recreation Aid and Assistant
0203 Human Resources Assistance
0204 Military Personnel Clerical and Technician

Note: In December 2000, OPM issued the GS–0203, Human Resources Assistance standard and, in so doing, canceled the GS–0204, Military Personnel Clerical and Technician series. TACOM is in the process of applying the new standard as of the date of this **Federal Register** notice.

0301 Miscellaneous Administration and Program
0303 Miscellaneous Clerk and Assistant
0304 Information Receptionist
0305 Mail and File
0318 Secretary
0322 Clerk-Typist
0326 Office Automation Clerical and Assistance
0332 Computer Operation
0335 Computer Clerk and Assistant
0344 Management and Program Clerical and Assistance
0350 Equipment Operator
0361 Equal Opportunity Assistance
0382 Telephone Operating
0390 Telecommunications Processing
0392 General Telecommunications
0394 Communications Clerical
0503 Financial Clerical and Assistance
0525 Accounting Technician
0540 Voucher Examining
0544 Civilian Pay Clerk
0561 Budget Clerical and Assistance
0986 Legal Assistance
1001 General Arts and Information
1087 Editorial Assistance
1101 General Business and Industry
1105 Purchasing
1106 Procurement Clerical and Technician
1411 Library Technician
1601 General Facilities and Equipment
1702 Education and Training Technician
2005 Supply Clerical and Technician
2102 Transportation Clerk and Assistant
2131 Freight Rate
2151 Dispatching

Appendix B—Position Description Form (Sample)

TACOM Personnel Demonstration Project Position Requirements Document

I. Organizational Information:
U.S. Army Tank-automotive and Armaments Command
(Name of Business Center)
(Name of Division/Branch) (Site Location)
II. Position Information:
(Title), (Pay Plan Designation), (Series), (Pay Band Level)
PRD Number:
FLSA:
Competitive Level:
Position Sensitivity:
III. Major Range of Duties: (Description of the major duties and responsibilities of the work performed)
IV. Broadband Range Factors:
Factor 1. Problem Solving
(Description)
Level Designation:
Factor 2. Teamwork/Cooperation
(Description)
Level Designation:
Factor 3. Customer Relations
(Description)
Level Designation:
Factor 4. Leadership
(Description)
Level Designation:
Factor 5. Communication
(Description)
Level Designation:
Factor 6. Resource Management
(Description)
Level Designation:
V. Additional Requirements: (If necessary, such items as special travel or physical requirements; additional knowledges, skills, and abilities needed to perform the range of work; or any other item(s) not previously covered).
VI. Electronic Certification

Appendix C—Broadband Performance Benchmarks by Occupational Family

TABLE 1.—PERFORMANCE BENCHMARKS FOR BROADBAND: PROFESSIONAL AND BUSINESS MANAGEMENT

	RATING CRITERIA FACTOR 1—PROBLEM SOLVING This factor measures personal and organizational problem solving results.				
	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level			
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 ML 33–43 Med 44–55 Mh 56–67 High 68–72	Level III Score Range Low 67–72 Med 73–87 High 88–92	Level IV Score Range Low 86–92 Med 93–105 High 106–110 Very High 115
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels): Work is timely, efficient, of acceptable quality and is performed on a regular basis. Completed work meets project/program/function objectives. Flexibility, adaptability, and decisiveness are exercised appropriately.	Scope/Impact	Conducts activities on a segment of a task. Assists supervisor or other appropriate personnel.	Plans and conducts administrative activities for projects.	Plans and conducts complex administrative activities.	Independently plans & conducts a complex multi-faceted program, or the operations of a complex multi-faceted organization.
	Complexity/Difficulty	Applies standard rules, procedures, or operations to resolve routine problems.	Develops, modifies and/or applies rules, procedures or operations to resolve problems of moderate complexity/difficulty.	Develops rules, procedures, or operations for complex/difficult organizational tasks.	Develops, integrates & implements organization/program, policies and procedures.
	Independence	Independently carries out routine tasks.	Independently plans and executes assignments; resolves problems and handles deviations.	Identifies issues and determines approaches and methods to accomplish tasks. Initiates effective actions and resolves related conflicts.	Independently solves organization/program problems.
	Creativity	Tasks initiative in selecting and implementing appropriate procedures.	Identifies and adapts guidelines for new or unusual situations.	Identifies issues requiring new procedures and develops appropriate guidelines.	Develops program/organization operating procedures and guidelines to fit new circumstances/situations and to improve overall program and policies.

	RATING CRITERIA FACTOR 1—PROBLEM SOLVING This factor measures personal and organizational problem solving results.	
	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level Level V (Applicable to Employees in Pay Band Level V) Score Range Low 105–110 Med 111–115 High 116–120
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels): Work is timely, efficient, of acceptable quality and is performed on a regular basis. Completed work meets project/program/function objectives. Flexibility, adaptability, and decisiveness are exercised appropriately.	Scope/Impact	Leads major national, agency, multi-service or international project/programs. Identifies and resolves problems that cross Services/agencies.
	Complexity/Difficulty	Provides strategic direction on issues that involve defense policies, programs, and/or initiatives.
	Independence	Makes independent decisions at the command, senior Service, and/or DoD levels.
	Creativity	Formulates strategic vision and conceives innovative approaches for implementation. Foster an environment where creative ideas flourish.

	RATING CRITERIA FACTOR 2—TEAMWORK/COOPERATION This factor, applicable to both formal and informal teams, measures individual and organizational teamwork and cooperation.				
	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level			
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 ML 33–43 Med 44–55 MH 56–67 High 68–72	Level III Score Range Low 67–72 Med High 73–87 High 88–92	Level IV Score Range Low 86–92 Med 93–105 High 106–110 Very High 115
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels): Work is timely, efficient, of acceptable quality. Personal and organizational interactions exhibit and foster cooperation and teamwork, Flexibility, adaptability, and decisiveness are exercised appropriately.	Scope of Team Effort	Works with others to accomplish routine tasks.	Works with others to accomplish projects/programs/functions.	Works with others to accomplish complex projects/program/functions.	Leads/guides/mentors workforce in dealing with complex problems.
	Contribution to Team	Contributes ideas in own area of expertise. Interacts cooperatively with others.	Uses varied approaches to resolve or collaborate on project/program/function issues. Facilitates cooperative interactions with others.	Applies innovative approaches to resolve unusual/difficult issues significantly impacting important public policies or programs. Promotes and maintains environment for cooperation and teamwork.	Solves broad organizational issues. Implements strategic plans within and across organizational components. Ensures a cooperative teamwork environment.
	Effectiveness	Regularly completes assignments in support of team goals.	Guides/supports others in executing team assignments. Proactively functions as an integral part of the team.	Leads and guides others in formulating and executing team plans. Expertise is sought by peers.	Leads/guides workforce in achieving organizational goals. Participates on high level teams. Is sought out for consultation.

	RATING CRITERIA FACTOR 2—TEAMWORK/COOPERATION This factor, applicable to both formal and informal teams, measures individual and organizational teamwork and cooperation.	
	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level Level V (Applicable to Employees in Pay Band Level V) Score Range Low 105–110 Med 111–115 High 116–120
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels): Work is timely, efficient, of acceptable quality. Personal and organizational interactions exhibit and foster cooperation and teamwork. Flexible adaptability, and decisiveness are exercised appropriately.	Scope of Team Effort	Develops alliances and team relationships at the strategic level. Directs teams in resolving issues with major organizational impact.
	Contribution to Team	Formulates strategic objectives and plans, and facilitates implementation. Fosters a cooperative teamwork environment.
	Effectiveness	Participates as a member of senior level teams. Charters teams on organizational level issues.

	RATING CRITERIA FACTOR 3—CUSTOMER RELATIONS This factor measures the effectiveness of personal and organizational interactions with customers, both internal and external.				
	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level			
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 ML 33–43 Med 44–55 MH 56–67 High 68–72	Level III Score Range Low 67–72 Med 73–87 High 88–92	Level IV Score Range Low 86–92 Med 93–105 High 106–115
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels): Work is timely, efficient, of acceptable quality. Personal and organizational interactions enhance customer relations and actively promote rapport with customers. Flexibility, adaptability, and decisiveness are exercised appropriately.	Breadth of Influence	Independently carries out routine customer requests.	Guides the technical/functional efforts of individuals or team members as they interact with customers.	Guides and integrates functional efforts of individuals or teams with focus on quality in suport of customer interaction. Seeks innovative approaches to satisfy customers.	Leads/guides/mentors workforce in dealing with complex problems.
	Customer Needs	Participants as a team member to meet customer needs.	Initiates meetings and interactions with customers to understand customer needs/expectations.	Establishes customer alliances, anticipates and fulfills customer needs and translates customer needs to programs/projects/functions.	Works to assess and promulgate political, fiscal and other factors affecting customer and program/project/function needs. Works with customer at management levels to resolve problems affecting programs/projects.
	Customer Interaction Level.	Interacts with customers on routine issues with appropriate guidance.	Interacts independently with customers to communicate information and coordinate actions.	Leads and guides others in formulating and executing team plans. Expertise is sought by peers.	Works at senior level to stimulate customer alliances for program/project/function support. Stimulates, organizes and leads overall customer interactions.

	RATING CRITERIA FACTOR 3—CUSTOMER RELATIONS This factor measures the effectiveness of personal and organizational interactions with customers, both internal and external.	
	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level
		Level V (Applicable to Employees in Pay Band Level V) Score Range Low 105—110 Med 111—115 High 116—120
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all Influence strategic perspective levels): Work is timely, efficient, of acceptable quality. Personal and organizational interactions enhance customer relations and actively promote rapport with customers. Flexibility, adaptability, and decisiveness are exercised appropriately.	Breadth of Influence	Provides broad strategic perspective for development of organizational interactions with customers.
	Customer Needs	Works at senior level to influence political, fiscal, and other factors affecting customers and projects/programs.
	Customer Interaction Level	Provides technical and management consultation to stimulate customer alliances for program/project support. Acts as senior level resource for structuring and marketing customer interactions.

	RATING CRITERIA FACTOR 4—LEADERSHIP This factor measures individual and organizational leadership and/or supervisory contributions.				
	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level			
		Level I Score Range Low 0–5 Med 6-27 High 28–32	Level II Score Range Low 24–32 ML 33–43 Med 44–55 MH 56–67 High 68–72	Level III Score Range Low 67–72 Med 73–87 High 88–92	Level IV Score Range Low 86–92 Med 93–105 High 106–110 Very High 115
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels): Work is timely, efficient, of acceptable quality. Leadership and/or supervision effectively promotes commitment to mission accomplishment. Flexibility, adaptability, and decisiveness are exercised appropriately.	Leadership Role	Takes initiative in accomplishing assigned tasks.	Actively contributes as a team member/leader; provides insight and recommends changes or solutions to problems.	Provides guidance to individuals/teams; resolves conflicts. Considered a functional/technical expert by other in the organization; is regularly sought out by other for advice and assistance.	Establishes and/or leads teams to carry out complex projects or programs. Resolves conflicts. Creates climate where empowerment and creativity thrive. Recognized as a technical/functional authority on specific issues.
	Breadth of Influence	Provides inputs to others in own technical/functional area.	Proactively guides, coordinates, and consults with others to accomplish projects.	Defines, organizes and assigns activities to accomplish project/program goals. Guides, motivates and oversees the activities of individuals and teams with focus on project/program/function issues.	Leads, defines, manages and integrates efforts of several groups or teams. Ensures organizational mission and program success.
	Mentoring/Employee Development.	Seeks and takes advantage of developmental opportunities.	Identifies and pursues individual/team development opportunities.	Fosters individual/team development by mentoring. Pursues or creates training development programs for self and others.	Fosters the development of other teams members by providing guidance or sharing expertise. Directs assignments to encourage employee development and cross-functional growth to meet organizational needs. Pursues self-professional development.

	RATING CRITERIA FACTOR 4—LEADERSHIP This factor measures individual and organizational leadership and/or supervisory contributions.	
	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS——Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level
		Level V (Applicable to Employees in Pay Band Level V) Score Range Low 105—110 Med 111—115 High 116—120
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels): Work is timely, efficient, of acceptable quality. Leadership and/or supervision effectively promotes commitment to mission accomplishment. Flexibility, adaptability, and decisiveness are exercised appropriately.	Leadership Role	Establishes organizational strategic objectives. Coordinates and forms cross component/Service/industry alliances to attain objectives and mission goals.
	Breadth of Influence	Leads, manages and integrates organizational efforts to meet strategic goals. Assesses and redefines organizational and mission focus to adapt to economic and political influences.
	Mentoring/Employee Development	Creates organizational climate where mentoring and employee development thrive. Creates career and professional development opportunities. Develops senior leaders within the organization. Shares experience and expertise.

	RATING CRITERIA FACTOR 5—COMMUNICATION This factor measures the effectiveness of oral/written communications.				
	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level			
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 ML 33–43 Med 44–55 MH 56–67 High 68–72	Level III Score Range Low 67–72 Med 73–87 High 88–92	Level IV Score Range Low 86–92 Med 93–105 High 106–110 Very High 115
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels): Work is timely, efficient, of acceptable quality. Communications are clear, concise, and at appropriate level. Flexibility, adaptability, and decisiveness are exercised appropriately.	Level of Interaction (Audience).	Communicates routine task status results as required.	Communicates team or group tasking results, internally and externally, at peer levels.	Communicates project or program results to all levels, internally and externally.	Determines and communicates organizational positions on major projects or policies to senior level.
	Written	Provides timely data and written analyses for input to management/technical reports or contractual documents.	Writes, or is a major contributor to, management/technical reports or contractual documents.	Reviews and approves, or is a major contributor to lead author of management reports or contractual documents for external distribution. Provides input to policies.	Prepares, reviews and approves major reports or policies of organization for internal and external distribution. Resolves divers viewpoints/controversial issues.
	Oral	Explains status/results of assigned tasks.	Presents informational briefings.	Presents briefings to obtain consensus/approval.	Presents organizational briefings to convey strategic vision or organizational policies.

	RATING CRITERIA FACTOR 5—COMMUNICATION This factor measures the effectiveness of oral/written communications.	
	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions this table provide illustrations which describe the ''high'' score range for each pay band level
		Level V (Applicable to Employees in Pay Band Level V) Score Range Low 105—110 Med 111—115 High 116—120
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all Interaction communicates levels): Work is timely, efficient, of acceptable quality. Communications are clear, concise, and at appropriate level. Flexibility, adaptability, and decisiveness are exercised appropriately.	Level of Interaction (Audience)	Determines and communicates strategic positions across agencies, Services, international entities, or industries.
	Written	Reviews and approves strategic documents; authors executive reports/opinions for presentation to DoD forums that may have industry-wide impacts.
	Oral	Delivers senior-levels presentations to DoD and/or defense industry leaders conveying program mission or strategic objectives.

	RATING CRITERIA FACTOR 6—RESOURCE MANAGEMENT This factor measures personal and organizational utilization of resources to accomplish the mission. (Resources include but are not limited to personal time, equipment and facilities, human resources and funds.)				
	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Below level definitions provide illustrations which describe the ''high'' score range for each pay band level			
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 ML 33–43 Med 44–55 MH 56–67 High 68–72	Level III Score Range Low 67–72 Med 73–87 High 87–92	Level IV Score Range Low 86–92 Med 93–105 High 106–110 Very High 115
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels):	Scope of Responsibility	Uses assigned resources needed to accomplish tasks.	Plans and utilizes appropriate resources to accomplish project goals.	Plans and allocates resources to accomplish multiple project/programs.	Develops, acquires, and allocates resources to accomplish mission goals and strategic objectives.

	RATING CRITERIA FACTOR 6—RESOURCE MANAGEMENT This factor measures personal and organizational utilization of resources to accomplish the mission. (Resources include but are not limited to personal time, equipment and facilities, human resources and funds.)				
	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Below level definitions provide illustrations which describe the ''high'' score range for each pay band level			
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 ML 33–43 Med 44–55 MH 56–67 High 68–72	Level III Score Range Low 67–72 Med 73–87 High 87–92	Level IV Score Range Low 86–92 Med 93–105 High 106–110 Very High 115
Work is timely, efficient, of acceptable quality. Resources are utilized effectively to accomplish the mission. Flexibility, adaptability, and decisiveness are exercised appropriately.	Planning/Budgeting	Plans individual time and assigned resources to accomplish tasks.	Optimizes resources to accomplish projects/programs within established schedules.	Identifies and optimizes resources to accomplish multiple project/program goals.	Formulates organizational strategies, tactics, and budget/action plan to acquire and allocate resources.
	Execution/Efficiency	Effectively accomplishes assigned tasks.	Effectively accomplishes project/program goals within established resource guidelines.	Effectively accomplishes multiple project/program goals within established guidelines.	Optimizes, controls and manages all resources across project/programs. Develops and integrates innovative approaches to attain goals and minimize expenditures.

	RATING CRITERIA FACTOR 6—RESOURCE MANAGEMENT This factor measures personal and organizational utilization of resources to accomplish the mission. (Resources include but are not limited to personal time, equipment and facilities, human resources and funds.)	
	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level
		Level V (Applicable to Employees in Pay Band Level V) Score Range Low 105—110 Med 111—115 High 116—120
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels): Work is timely, efficient, of acceptable quality. Resources are utilized effectively to accomplish the mission. Flexibility, adapatability, and decisiveness are exercised appropriately.	Scope of Responsibility	Leads the strategic resources planning process for the organization. Advises senior-level management/DoD on resource issues.
	Planning/Budgeting	Administers organizational resources to achieve goals.
	Execution/Efficiency	Promulgates innovative organizational strategies to maximize resource utilization.

TABLE 2.—PERFORMANCE BENCHMARKS FOR BROADBAND: TECHNICAL SUPPORT

	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level				
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 ML 33–38 Med 39–44 MH 45–51 High 52–56	Level III Score Range Low 47–56 Med 57–67 High 68–72	Level IV Score Range Low 67–72 Med 73–87 High 88–92	Level V Score Range Low 86–92 Med 93–105 High 106–110 Very High 115
RATING CRITERIA FACTOR 1—PROBLEM SOLVING **This factor measures personal and organizational problem solving results.**						
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels): Work is timely, efficient, of acceptable quality and is performed on a regular basis. Completed work meets project/program/function objectives. Flexibility, adaptability, and decisiveness are exercised appropriately.	Scope/Impact	Conducts activities on a task; assists supervisor or other appropriate personnel.	Plans and conducts technical activities for projects.	Plans and conducts challenging and difficult technical activities for projects/programs/function.	Identifies and resolves complex problems that may cross functional/technical boundaries and promulgates solutions.	Defines, establishes & directs organizational focus (on challenging & highly complex projects/programs/functions). Identifies & resolves highly complex problems that cross organizational boundaries & promulgates solutions. Resolution of problems requires mastery of the field to develop new hypotheses or fundamental new concepts.
	Complexity/Difficulty	Resolves routine problems within established guidelines.	Identifies and resolves non-routine technical problems utilizing established patterns and methods.	Develops, integrates and implements solutions to complex problems on projects/programs.	Develops, integrates implements solutions to diverse, complex problems which may cross multiple projects/programs or functional/technical areas.	Assesses and provides strategic direction for resolution of mission critical problems, policies and procedures.
	Independence	Works with others in solving problems with appropriate guidance.	Identifies and resolves problems, adapts accepted policies, procedures or methods with moderate guidance.	Identifies problems, develops solutions and action plans with minimal guidance.	Independently resolves and coordinates technical problems involving multiple projects/programs.	Works at senior level to define, integrate, & implement strategic direction for vital programs with long term impact on large numbers of people. Initiates actions to resolve major organizational issues. Promulgates innovative solutions and methodologies.
	Creativity	Takes initiative in selecting and implementing appropriate procedures.	Adapts existing plans and techniques to accomplish projects.	Develops plans and techniques to fit new situations.	Develops plans and techniques top fit new situations and/or to address issues that cross technical/functional areas.	Works with senior management to establish new fundamental concepts and criteria and stimulate the development of new policies, methodologies, and techniques. Converts strategic goals into programs or policies.

TABLE 2.—PERFORMANCE BENCHMARKS FOR BROADBAND: TECHNICAL SUPPORT—Continued

	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level				
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 ML 33–38 Med 39–44 MH 45–51 High 52–56	Level III Score Range Low 47–56 Med 57–67 High 68–72	Level IV Score Range Low 67–72 Med 73–87 High 88–92	Level V Score Range Low 86–92 Med 93–105 High 106–110 Very High 115
RATING CRITERIA FACTOR 2—TEAMWORK/COOPERATION **This factor, applicable to both formal and informal teams, measures individual and organizational teamwork and cooperation.**						
BASIC PERFORMANCE STANDARDS (Applicable accomplish-ments at all levels): Work is timely, efficient, of acceptable quality. Personal and organizational interactions exhibit and foster cooperation and teamwork. Flexibility, adaptability, and decisiveness are exercised appropriately.	Scope of Team Effort	Works with others to accomplish routine tasks.	Works with others to accomplish projects.	Works with others to accomplish complex projects/programs.	Leads/guides/mentors workforce in dealing with complex problems.	Leads/guides/mentors workforce in dealing with complex problems.
	Contribution to Team	Contributes ideas in own area of expertise. Interacts cooperatively with others.	Contributes ideas in own area of expertise. Facilitates cooperative interactions with others.	Assists others to resolve or collaborate on complex to project/program issues. Promotes cooperative interactions with others.	Solves broad organizational issues. Implements strategic plans within and across organizational components. Ensures a cooperative teamwork environment.	Solves broad organizational issues. Implements strategic plans within and across organizational components. Ensures a cooperative teamwork environment.
	Effectiveness	Regularly completes assignments in support of team goals.	Supports others in executing team assignments. Proactively functions as an integral part of the team.	Integrates technical expertise and guides activities to support team accomplishment.	Leads/guides workforce in achieving organizational goals. Participates on high level teams. Is sought out for consultation.	Leads/guides workforce in achieving organizational goals. Participates on high level teams. Is sought out for consultation.
RATING CRITERIA FACTOR 3—CUSTOMER RELATIONS **This factor measures the effectiveness of personal and organizational** interactions with customers, both internal and external.						
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels): Work is timely, efficient, of acceptable quality. Personal and organizational interactions enhance customer relations and actively promote rapport with customers. Flexibility, adaptability, and decisiveness are exercised appropriately.	Breadth of Influence	Assists customer support activities.	Actively participates with others to satisfy customer requests.	Guides the technical efforts of individuals or teams as they relate with customers. Deviates from standard approach when necessary.	Leads and coordinates technical efforts of individuals or teams in support of customer interactions. Develops innovative approaches to satisfy customers.	Leads and manages the organizational interactions with customers from a strategic standpoint.

TABLE 2.—PERFORMANCE BENCHMARKS FOR BROADBAND: TECHNICAL SUPPORT—Continued

	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level				
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 ML 33–38 Med 39–44 MH 45–51 High 52–56	Level III Score Range Low 47–56 Med 57–67 High 68–72	Level IV Score Range Low 67–72 Med 73–87 High 88–92	Level V Score Range Low 86–92 Med 93–105 High 106–110 Very High 115
	Customer Needs	Participates as a team member to meet customer needs.	Interacts with customers to respond to customer needs/expectations.	Initiate meetings and interactions with customers to understand customer needs/expectations.	Establishes customer alliance; anticipates and fulfills customer needs and translates customer needs to project/programs. Organizes and leads customer interactions.	Woks to assess and promulgate political, fiscal and other factors affecting customer at management levels to resolve problems affecting programs/projects.
	Customer Interaction Level.	Interacts with customers on routine issues with appropriate guidance.	Interacts independently with customer to communicate information and coordinate actions.	Interacts independently with customers on proactive basis to identify/define problems and to implement solutions.	Interacts with customers on proactive basis to identify and define complex/controversial problems and to develop and implement strategies or techniques for resolving project/program issues.	Works at senior level to stimulate customer alliances for program/project/function support. Stimulates, organizes and leads overall customer interactions.
RATING CRITERIA FACTOR 4—LEADERSHIP **This factor measures individual and organizational leadership and/or supervisory contributions.**						
BASIC PERFORMANCE STANDARDS (Applicable accomplishment at all levels): Work is timely, efficient, of acceptable quality. Leadership and/or supervision effectively promotes commitment to mission accomplishment. Flexibility, adaptability, and decisiveness are exercised approximately.	Leadership role	Takes initiate in accomplishing assigned tasks. Asks for assistance as appropriate.	Actively contributes as a team member; takes initiative to accomplish assigned projects.	Actively contributes as team member or leader. Recognized for functional/technical expertise.	Provides guidance to individuals/teams; resolves conflicts. Serves as subject matter expert.	Establishes and/or leads teams to carry out complex projects or programs. Resolves conflicts. Creates climate where empowerment and creativity thrive. Recognized as a technical/functional authority on specific issues.
	Breadth of Influence	Provides inputs to others in own technical/functional area.	Consults and coordinates with others to complete projects within established guidelines.	Defines, organizes and assigns activities to accomplish goals. Guides, motivates and oversees others in accomplishing project/programs.	Guides, motivates and oversees multiple complex projects/programs.	Leads, defines, manages and integrates efforts of several groups or teams. Ensures organizational mission and program success.
	Mentoring/Employee Development.	Seeks and takes advantage of developmental opportunities.	Identifies and pursues individual/team developmental opportunities.	Promotes developmental opportunities for self and team. Advises others to seek specific training.	Directs assignments to encourage employee development and cross technical/functional growth to meet organizational needs. Pursues self-development.	Fosters the development of other team members by providing guidance or sharing expertise. Directs assignments to encourage employee development and cross-functional growth to meet organizational needs. Pursues self-professional development

TABLE 2.—PERFORMANCE BENCHMARKS FOR BROADBAND: TECHNICAL SUPPORT—Continued

	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level				
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 ML 33–38 Med 39–44 MH 45–51 High 52–56	Level III Score Range Low 47–56 Med 57–67 High 68–72	Level IV Score Range Low 67–72 Med 73–87 High 88–92	Level V Score Range Low 86–92 Med 93–105 High 106–110 Very High 115
RATING CRITERIA FACTOR 5—COMMUNICATION **This factor measures the effectiveness of oral/written communications.**						
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels):						
Work is timely, efficient, of acceptable quality. Communications are clear, concise, and at appropriate level. Flexibility adaptability, and decisiveness are exercised appropriately.	Level of Interaction (Audience).	Communicate s routine task status results as required.	Communicates at equivalent levels within the agency, team, or group project status/results.	Communicates project/program status/results to management.	Determines and communicates projects/policies positions at senior levels.	Determines and communicates organizational positions on major projects or policies to senior levels.
	Written	Writes timely and accurate draft documentation of assigned tasks for input to reports or documents.	Writes segments of management/technical reports of documents.	Consolidates input and writes management/technical reports/documents for project programs.	Prepares, reviews and approves management/technical reports for internal and external distribution.	Prepares, reviews and approves major reports or policies of organization for internal and eternal distribution. Resolves diverse viewpoints/controversial issues.
	Oral	Explains status/results of assigned tasks.	Communicates group/team results.	Presents project/program briefings.	Presents projects/program briefings to obtain consensus/approval. Represents the organization as technical subject matter expert.	Present organizational briefings to convey strategic vision or organization polices.
RATING CRITERIA FACTOR 6—RESOURCE MANAGEMENT **This factor measures personal and organizational utilization of resources to accomplish the mission. (Resources include but are not limited to personal time, equipment and facilities, human resources and funds.)**						
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels):						
Work is timely, efficient, of acceptable quality. Resources are utilized effectively to accomplish the mission. Flexibility, adaptability, and decisiveness are exercised appropriately.	Scope of Responsibility.	Uses assigned resources to accomplish tasks.	Identifies and uses resources to accomplish projects.	Plans and utilizes appropriates resources to accomplish projects/programs.	Plans and allocates resources to accomplish multiple project/program goals.	Develops, acquires, and allocates resources to accomplish mission goals and strategic objectives.
	Planning/Budgeting ..	Plans individual to time accomplish tasks.	Plans resources to achieve task schedules.	Optimizes resources to accomplish projects within established milestones.	Identifies and optimizes resources to accomplish multiple project/program goals.	Formulates organizational strategies, tactics, and budget/action plan to acquire and allocate resources.

TABLE 2.—PERFORMANCE BENCHMARKS FOR BROADBAND: TECHNICAL SUPPORT—Continued

	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level				
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 ML 33–38 Med 39–44 MH 45–51 High 52–56	Level III Score Range Low 47–56 Med 57–67 High 68–72	Level IV Score Range Low 67–72 Med 73–87 High 88–92	Level V Score Range Low 86–92 Med 93–105 High 106–110 Very High 115
	Execution/Efficiency	Effectively accomplishes assigned tasks with appropriate guidance.	Independently accomplishes assigned tasks.	Effectively accomplishes projects/programs within established resource guidelines.	Effectively accomplishes multiple project/program goals within established thresholds. Develops innovative approaches to attain goals and minimize resource expenditures.	Optimizes, controls and manages all resources across project/programs. Develops and integrates innovative approaches to attain goals and minimize expenditures.

TABLE 3.—PERFORMANCE BENCHMARKS FOR BROADBAND: GENERAL SUPPORT

	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level			
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 Med 33–45 High 46–50	Level III Score Range Low 41–50 Med 51–62 High 63–67	Level IV Score Range Low 57–67 Med 68–87 High 88–92 Very High 96
RATING CRITERIA FACTOR 1—Problem Solving This factor measures personal and organizational problem solving results.					
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels): Work is timely, efficient, of acceptable quality and is performed on a regular basis. Completed work meets project/program/function objectives. Flexibility, adaptability, and decisiveness are exercised appropriately.	Scope/Impact	Conducts activities on a segment of a task. Assists supervisor or other appropriate personnel.	Plans and conducts administrative activities for projects.	Plans and conducts complex administrative activities.	Independently plans & conducts a complex multi-faceted program, or the operations of a complex multi-faceted organization.
	Complexity/Difficulty	Applies standard rules, procedures, or operations to resolve routine problems.	Develops, modifies and/or applies rules, procedures or operations to resolve problems of moderate complexity/difficulty.	Develops rules, procedures, or operations for complex/difficult organizational tasks.	Develops, integrates & implements organization/program, policies and procedures.
	Independence	Independently carries out routine tasks.	Independently plans and executes assignments; resolves problems and handles deviations.	Identifies issues and determines approaches and methods to accomplish tasks. Initiates effective actions and resolves related conflicts.	Independently solves organization/program problems.
	Creativity	Takes initiative in selecting and implementing appropriate procedures.	Identifies and and adapts guidelines for new or unusual situations.	Identifies issues requiring new procedures and develops appropriate guidelines.	Develops program/organization operating procedures and guidelines to fit new circumstances/situations and to improve overall program and policies.
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels):					

TABLE 3.—PERFORMANCE BENCHMARKS FOR BROADBAND: GENERAL SUPPORT—Continued

	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level			
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 Med 33–45 High 46–50	Level III Score Range Low 41–50 Med 51–62 High 63–67	Level IV Score Range Low 57–67 Med 68–87 High 88–92 Very High 96
Work is timely, efficient, of acceptable quality. Personal and organizational interactions exhibit and foster cooperation and teamwork. Flexibility, adaptability, and decisiveness are exercised appropriately.	Scope of Team Effort	Works with others to accomplish routine tasks.	Works with others to accomplish tasks.	Works with others to accomplish complex issues/problems that may cross functional areas.	Coordinates with others from other functions/programs to assure integration and accomplishment of complex programs.
	Contribution to Team	Contributes ideas in own area of expertise. Interacts cooperatively with others.	Resolves administrative problems; facilitates cooperative interactions with others.	Applies expertise in resolving complex administrative issues. Promotes and maintains environment for cooperation and teamwork. Sets tone for internal/external cooperation.	Applies innovative approaches to resolve complex programmatic issues. Promotes and maintains environment for cooperation/teamwork. Sets tone for internal/external cooperation.
	Effectiveness	Regularly completes assignments in support of team goals.	Guides others and coordinates activities in support of team goals. Proactively functions as an integral part of the team.	Leads and guides others in formulating and executing plans in support of team goals.	Leads and guides others in formulating and executing team plans. Expertise is sought by peers.
RATING CRITERIA FACTOR 3—CUSTOMER RELATIONS **This factor measures the effectiveness of personal and organizational interactions with customers, both internal and external.**					
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels):					
Work is timely, efficient, of acceptable quality. Personal and organizational interactions enhance customer relations and actively promote rapport with customers. Flexibility, adaptability, and decisiveness are exercised appropriately.	Breadth of Influence	Assists customer support activities.	Guides the administrative efforts of individuals or team members as they interact with customers.	Identifies, defines and guides administrative efforts in support of customer interactions; coordinates and focuses activities to support multiple customers.	Guides and integrates program/organization efforts with focus on quality; seeks innovative approaches to satisfy wide variety of customers.
	Customer Needs	Meets routine customer needs.	Initiates interactions with customers to understand customer needs/expectations.	Establishes customer alliances, and translates needs to customer service.	Establishes customer alliances, anticipates & fulfills customer needs and translates customers requirements to program/projects/functions.
	Customer Interaction Level.	Interacts with customers on routine issues with appropriate guidance.	Interacts independently with customer to communicate information and coordinate actions.	Works independently with customers at all levels to define services and resolve non-routine problems.	Interacts independently with a wide variety of customers on proactive basis to identify, define and resolve complex/difficult problems with program implications.
RATING CRITERIA FACTOR 4—LEADERSHIP **This factor measures individual and organizational leadership and/or supervisory contributions.**					
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels):					

TABLE 3.—PERFORMANCE BENCHMARKS FOR BROADBAND: GENERAL SUPPORT—Continued

	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level			
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 Med 33–45 High 46–50	Level III Score Range Low 41–50 Med 51–62 High 63–67	Level IV Score Range Low 57–67 Med 68–87 High 88–92 Very High 96
Work is timely, efficient, of acceptable quality. Leadership and/or supervision effectively promotes commitment to mission accomplishment. Flexibility, adaptability, and decisiveness are exercised appropriately.	Leadership Role	Takes initiative in accomplishing assigned tasks. Asks for assistance as appropriate.	Actively contributes as a team member or leader; takes initiative to accomplish assigned projects.	Provides guidance to individuals/teams; resolves conflicts. Expertise solicited by others.	Establishes and/or leads teams to carry out complex programs. Resolves conflicts. Recognized as technical authority on program.
	Breadth of Influence	Provides inputs to others in own technical/functional area.	Guides others in accomplishing projects.	Guides and accounts for results or activities of individuals, teams or projects.	Leads, defines, manages and accounts for results and activities of groups or teams. Ensures organizational mission and program success.
	Mentoring/Employee Development.	Seeks and takes advantage of developmental opportunities.	Idenifies and pursues individual/team development opportunities.	Promotes individual/team development; leads and development of training programs for self and others.	Fosters the development of other teams members by providing guidance or sharing expertise. Directs assignments to encourage employee development and cross-functional growth to meet organizational needs. Pursues self-professional development.
RATING CRITERIA FACTOR 5—COMMUNICATION **This factor measures the effectiveness of oral/written communications.**					
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels): Work is timely, efficient, of acceptable quality. Communications are clear, concise, and at appropriate level. Flexibility, adaptability, and decisiveness are exercise appropriately.	Level of Interaction (Audience).	Communicates routine task status results as required.	Interprets and communicates administrative procedures within immediate organization.	Develops and advises on administrative procedures. Communicates them to all levels, both internally and externally.	Determines and communicates positions on a multi-faceted program/organization to senior level.
	Written	Writes timely and accurate draft document.	Prepares, coordinates, and consolidates documents, reports, or briefing.	Prepares, reviews and/or approves documents, reports, or briefing.	Prepares, reviews and approves program regulations, policies, and plans for internal and external distribution. Resolves divers viewpoints/controversial issues.
	Oral	Explains status/results of assigned task.	Communicates/presents internal administrative/functional procedures and tasks internally and externally.	Explains and/or communications administrative/functional procedures at all levels.	Presents organizational briefings on program/organization policies, plans, and regulations/operations at all levels.
RATING CRITERIA FACTOR 6—RESOURCE MANAGEMENT **This factor measures personal and organizational utilization of resources to accomplish the mission. (Resources include but are not limited to personal time, equipment and facilities, human resources and funds.)**					
BASIC PERFORMANCE STANDARDS (Applicable accomplishments at all levels):					

TABLE 3.—PERFORMANCE BENCHMARKS FOR BROADBAND: GENERAL SUPPORT—Continued

	Sub-Factors	PERFORMANCE LEVEL DEFINITIONS—Level definitions in this table provide illustrations which describe the ''high'' score range for each pay band level			
		Level I Score Range Low 0–5 Med 6–27 High 28–32	Level II Score Range Low 24–32 Med 33–45 High 46–50	Level III Score Range Low 41–50 Med 51–62 High 63–67	Level IV Score Range Low 57–67 Med 68–87 High 88–92 Very High 96
Work is timely, efficient, of acceptable quality. Resources are utilized effectively to accomplish the mission. Flexibility, adaptability, and decisiveness are exercised appropriately.	Scope of Responsibility ..	Uses assigned resources needed to accomplish tasks.	Identifies and uses resources to accomplish projects.	Plans, acquires and allocates resources to accomplish objectives.	Develops, acquires and allocates resources to accomplish program goals and objectives.
	Planning/Budgeting	Plans individual time and assigned resources to accomplish tasks.	Plans resources to achieve project schedules.	Coordinates resources across projects.	Formulates program strategies, tactics, and budget/action plan to acquire and allocate resources.
	Execution/Efficiency	Effectively accomplishes assigned tasks.	Effectively accomplishes projects within established resource guidelines.	Optimizes resource utilization across projects.	Optimizes, controls and manages all resources across organization/programs. Develops and integrates innovative approaches to attain goals and minimize expenditures.

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Appendix D - TACOM Appraisal and Performance Payout Forms (Samples)

TACOM APPRAISAL AND PERFORMANCE PAYOUT SYSTEM (TAPPS)
APPRAISAL AND PAYOUT

Part A - ADMINISTRATIVE DATA	
Name:	SSN:
Organization:	
Broadband: Professional & Business Management _____ Technical Support _____ General Support _____	Series: Pay Band Level:
Appraisal Period FROM:	TO:

PART B - PERFORMANCE PAYOUT INFORMATION	
Overall Performance Rating Score (OPRS):	Expected Salary Rate:
Salary Variance:	Current Salary Rate:
Shares Earned:	Value of Each Share:

Payout Total:
Performance Base Increase: $
Performance Bonus: $
Educational Development Share Bonus: $

PART C - AUTHENTICATION

Discuss evaluation with employee and obtain signature confirming discussion. Signature of employee does not constitute agreement with TAPPS appraisal.

Typed Name	Signature	Date
Supervisor		
Pay Pool Manager		
Employee		

PART D - VALUES, ETHICS & OBJECTIVES

VALUES/ETHICS:

Commitment - Willingly, consistently carrying out goals of organization. Excellence driven. Customer focused.	Y	N
Competence - Obtaining, maintaining & applying knowledge, skills and abilities to do the job right	Y	N
Candor - Being frank, open, hones, and sincere.	Y	N
Courage - Facing and accepting challenges. Standing up for what you believe is right.	Y	N
Loyalty - Willingly, consistently supporting the organization and its people.	Y	N
Duty - Fulfils professional, legal, and moral obligations.	Y	N
Selfless Service - Putting needs of organization above personal advantage and self-serving interests.	Y	N
Integrity - Possesses high personal moral standards; honest in word; avoids deception.	Y	N
OBJECTIVES: Employee has demonstrated that they fully understand the Command/Organization Goals and Objectives and how their performance objectives are directly related.	Y	N

COMMENTS:

TACOM APPRAISAL AND PERFORMANCE PAYOUT SYSTEM (TAPPS) APPRAISAL AND PAYOUT

PART E - EMPLOYEE SELF-ASSESSMENT	
Provide narrative comments regarding your accomplishments against each factor during the rating cycle:	
	WEIGHT
PROBLEM SOLVING:	
TEAMWORK/COOPERATION:	
CUSTOMER RELATIONS:	
LEADERSHIP:	
COMMUNICATIONS:	
RESOURCE MANAGEMENT:	

PART F - SUPERVISOR ASSESSMENT

Provide narrative comments regarding employee's accomplishments against each factor during the rating cycle and a score for each factor:

FACTOR:	Factor Score	Factor Weight	Weighted Score
PROBLEM SOLVING:			
TEAMWORK/COOPERATION:			
CUSTOMER RELATIONS:			
LEADERSHIP:			
COMMUNICATIONS:			
RESOURCE MANAGEMENT:			

PART G - INDIVIDUAL DEVELOPMENT PLAN

Use this block for justification of the Educational Development Share by documenting the accomplishment to the employee's attached IDP.

Based on below justification, employee is awarded a Educational Development Share	Y	N

TACOM APPRAISAL AND PERFORMANCE PAYOUT SYSTEM (TAPPS) APPRAISAL AND PAYOUT

Part A - ADMINISTRATIVE DATA	
Name:	SSN:
Organization:	
Broadband: Professional & Business Management_____ Technical Support _____ General Support _____	Series: Pay Band Level:
Appraisal Period FROM:	TO:

PART B - PERFORMANCE OBJECTIVES
A statement of specific job responsibilities expected of employee during the rating period. These are based on the organization's mission and goals and should be consistent with the employee's position description.

PART C - VERIFICATION AND AUTHENTICATION		
Employee has the appropriate performance benchmarks for their pay band level and if not of equal weight, the weight assigned each factor.	Y	N
Individual performance objectives and how they directly relate to the performance benchmarks have been discussed with the employee.	Y	N
Individual performance objectives and how they directly relate to the Command/Organization goals and Objectives have been discussed with the employee.	Y	N
Personal Values and Army Ethics specified in Part D, TAPPS Appraisal and Payout Form, have been discussed with the employee.	Y	N
Employee has a current IDP on file.	Y	N

Verification of beginning of rating cycle discussion on performance objectives, performance benchmarks, and weights assigned.

Initial Counseling	Mid-Point Counseling
Employee's Initials _____	Employee's Initials _____
Rating Officials' Initials _____	Rating Official's initials _____
Date	Date

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Appendix E—Project Evaluation Model

Interventions and expected effects	Measures	Data sources
1. Simplified Accelerated Hiring:		
A. Ease of hiring	I. Perceived flexibility	a. Attitude survey
B. Improved recruitment	I. Offer/accept rations	a. Personnel office data
	II. Percent declinations	a. Personnel office data
C. Increased quality of new hires	I. Employee effectiveness	a. Attitude survey
	II. Experience, education, skills	
D. Reduced administrative workload/paperwork reduction	I. Actual/perceived time savings	a. Personnel office data b. Attitude survey
E. Retention	I. Employee turnover	a. Personnel office data
2. Expanded Candidate Selection Process:		
A. Flexibility in recruitment	I. Perceived flexibility	a. Attitude survey
	II. Number/percentage of employees hired beyond high 3	a. Workforce data
B. Increased quality of new hires	I. Employee effectiveness	a. Attitude survey
	II. Experience, educational skills	
3. Appointment Authority (Permanent, Modified Term, Temporary Limited):		
A. Increased capability to expand and contract workforce	I. Number/percentage of contingent employees	a. Workforce data
	II. Conversion rate to permanent status	a. Workforce data b. Personnel office data
	III. Average length of employment (contingent hires)	a. Workforce data b. Personnel office data
B. Reduced administrative workload	i. Actual/perceived time savings	a. Attitude survey b. Personnel office data
C. More experienced personnel entering permanent workforce	I. Mission effectiveness	a. Attitude survey
D. Ease in filing permanent billets (non-competitive conversion)	I. Number/percentage of conversion from modified term to permanent appointments	a. Workforce data b. Personnel office data
4. Flexible/Probationary Period:		
A. Expanded employee assessment period	I. Average conversion period to	a. Workforce data b. Personnel office data
	II. Number/percentage of employees completing probationary period	a. Workforce data b. Personnel office data
5. The TACOM Appraisal & Performance and Performance Payout System (TAPPS):		
I. Performance Benchmarks:		
A. Increased pay-accomplishment link	I. Pay-contribution correlations	a. Attitude survey b. Comparison of historical data on compensation.
	II. Perceived pay-contribution link	a. Personnel office data
	III. Perceived fairness of ratings	a. Attitude survey
	IV. Satisfaction with ratings	a. Attitude survey
	V. Employees trust in supervisors	a. Attitude survey
B. Improved accomplishment and performance feedback.	I. Adequacy of accomplishment and performance feedback	a. Attitude survey
C. Increased retention of contributions	I. Turnover by accomplishment assessment	a. Attitude survey
D. Increased turnover of low contributors	I. Turnover by accomplishment assessment	a. Attitude survey
II. Base Salary Increase and Bonus Funds and the Educational Development Share/Bonus:		
A. Reward/motivate accomplishment and performance	I. Amount & number of awards by career path, demographics	a. Workforce data
	II. Perceived motivational power	a. Attitude survey
	III. Perceived fairness of awards	a. Attitude survey
6. Broadbanding:		
A. Increased organizational flexibility	I. Perceived flexibility	a. Attitude survey
B. Reduced administrative workload/paperwork reduction	I. Actual/perceived time savings	a. Personnel office data b. Attitude survey
C. Higher starting salaries	I. Starting salaries of banded vs. non-banded employees	a. Workforce data
D. More gradual pay progression at entry level	I. Progression of new hires over time by band and career path.	a. Workforce data
E. Increased pay potential	I. Mean salaries by band, career path, demographics	a. Workforce data
F. Higher average salary	I. Total payroll cost	a. Workforce data
G. Increased satisfaction with advancement	I. Employees perception of advancement	a. Attitude survey
H. Increased pay satisfaction	I. Pay satisfaction, internal/external equity	a. Attitude survey

Interventions and expected effects	Measures	Data sources
7. Simplified Classification:		
A. Ease of classification	I. Perceived flexibility II. Fewer position requirements documents	a. Attitude survey a. Workforce data b. Personnel office data
B. Reduced admin workload paperwork reduction	I. Actual/perceived time	a. Personnel office data b. Attitude survey
8. Simplified modified RIF:		
A. Prevent loss of high-performing employees with needed skills.	I. Separate employees by demographics, performance II. Satisfaction with RIF process	a. Workforce data b. Attitude survey/focus groups
B. Contain cost and disruption	I. Number of employees affected by RIF II. Time to conduct RIF III. Number of appeals/reinstatements	a. Personnel office data
9. Employee Development:		
A. Increased employee career progression	I. Demographics of affected employees II. Employee/management satisfaction	a. Workforce data a. Attitude survey
B. Increased capability/flexibility for workforce shaping	III. Perceived flexibility	a. Attitude survey
10. Sabbaticals:		
A. Increased employee career progression	I. Demographics of affected employees II. Employee/management satisfaction	a. Workforce data a. Attitude survey
B. Increased capability/flexibility for workforce shaping	I. Perceived flexibility	a. Attitude survey
11. Voluntary Emeritus Program:		
A. Encourage voluntary retirement and open up hiring slots for new staff.	I. Frequency of use and cost	a. Workforce data

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Federal Register

Friday,
November 16, 2001

Part III

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for Large Municipal Waste Combustors; Final Rule and Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–7100–8]

RIN 2060–AJ52

Standards of Performance for Large Municipal Waste Combustors for Which Construction Is Commenced After September 20, 1994 or for Which Modification or Reconstruction Is Commenced After June 19, 1996 and Emission Guidelines and Compliance Times for Large Municipal Waste Combustors That Are Constructed on or Before September 20, 1994

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendment.

SUMMARY: We are amending the standards of performance for large municipal waste combustors (MWC) by extending the time during which such units will be excused from compliance with the emission limits for carbon monoxide due to certain types of malfunctions. Since the compliance and performance testing provisions in the emissions guidelines for large MWC reference the compliance and performance testing provisions in the standards of performance, this amendment to the standards has the effect of amending both the standards and the guidelines.

DATES: This direct final rule will be effective on January 15, 2002 without further notice, unless significant adverse comments are received by December 17, 2001.

If significant material adverse comments are received by December 17, 2001, this direct final rule will be withdrawn and the comments addressed in a subsequent final rule based on the proposed rule. If no significant material adverse comments are received, no further action will be taken on the proposal and this direct final rule will become effective on January 15, 2002.

ADDRESSES: By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–90–45, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–90–45, U.S. EPA, 40l M Street, SW, Washington, DC 20460. The EPA requests that a separate copy of each public comment be sent to the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Porter, Combustion Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711, (919) 541–5251, e-mail: *porter.fred@epa.gov.*

SUPPLEMENTARY INFORMATION:

Comments. We are publishing this direct final rule without prior proposal because we view this as a noncontroversial amendment and do not anticipate adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal in the event that adverse comments are filed.

If we receive any significant adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this direct final rule. Any parties interested in commenting must do so at this time.

Docket. The docket is an organized and complete file of information compiled by EPA in developing this direct final rule. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the docket contains the record in the case of judicial review. The docket number for this rulemaking is A–90–45.

World Wide Web (WWW). In addition to being available in the docket, electronic copies of this action will be posted on the Technology Transfer Network's (TTN) policy and guidance information page: *http://www.epa.gov/ttn/caaa.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. The regulated categories and entities that potentially will be affected by this amendment include the following:

Category	NAICS codes	SIC codes	Regulated entities
Industry, Federal government, and State/local/tribal governments.	562213 92411	4953 9511	Solid waste combustors or incinerators at waste-to-energy facilities that generate electricity or steam from the combusion of garbage (typically municipal waste); and solid waste combustors or incinerators at facilities that combust garbage (typically municipal waste) and do not recover energy from the waste.

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 we are 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 facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability criteria in §§ 60.50b and 60.32b of 40 CFR part 60, subparts Cb and Eb. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Judicial Review. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of the action taken by this direct final rule is available only on the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by January 15, 2002. Under section 307(b)(2) of the CAA, the requirements that are subject to this action may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Under section 307(d)(7) of the CAA, only an objection to a rule or procedure raised with reasonable specificity during the period for public comment or public hearing may be raised during judicial review.

I. Background

On December 19, 1995, we promulgated final new source performance standards (60 FR 65382)

and emission guidelines (60 FR 65387) for large MWC. The standards and guidelines contain a provision requiring large MWC to comply with the emission limits in the standards at all times, except during periods of startup, shutdown, and malfunction. Periods of startup, shutdown, and malfunction are limited to 3 hours per occurrence. If it takes longer than 3 hours for startup or shutdown, or if a malfunction continues for longer than 3 hours, a large MWC is required to comply with the emission limits in the standards during those periods of time which exceed 3 hours.

It often takes longer than 3 hours for a large MWC to shutdown. Frequently, it can require 4 to 8 hours and, if complications arise, it can take as long as 10 to 15 hours. Except as noted below, that does not present a problem with respect to compliance with the emission limits since continued operation of the emission control systems permits the MWC to maintain compliance.

Recently, it has been brought to our attention that there are two general types of malfunctions which may occur, during which it is not possible to comply with the emission limit for carbon monoxide (CO). The first is loss of boiler water level control, and the second is loss of combustion air control.

Loss of Boiler Water Level Control

Large MWC boiler tube metal temperatures must be kept below 800° F or so to prevent damage or burn-out. If water levels in the tubes should fall, tube metal temperatures will increase well beyond that point. Consequently, a malfunction resulting from a loss of boiler water level control, as a result of failure of a boiler tube for example, requires shutdown of a large MWC to avoid serious damage to the remaining boiler tubes.

During any shutdown of a large MWC, it is difficult to maintain the proper balance between combustion air and waste to ensure complete combustion. As a result, CO emissions tend to increase.

Normally, the tendency for CO emissions to increase is overcome through the use of auxiliary fuel burners. The burners ensure complete combustion of CO to carbon dioxide (CO_2). Thus, even though the shutdown of a large MWC may take longer than 3 hours and there is a tendency for CO emissions to increase, the use of the auxiliary fuel burners overcomes any problem with respect to compliance with the CO emission limits.

During a malfunction and shutdown of a large MWC resulting from a loss of boiler water level control, however, full use of auxiliary fuel burners is contrary to the immediate objective. The immediate objective is to lower combustion temperatures to protect the boiler tubes from exposure to high temperatures. In fact, the National Fire Protection Association fire code for boilers does not allow auxiliary fuel burners to be fired when boiler water levels drop too low for that very reason.

Although the immediate objective is to lower combustion temperatures, combustion temperatures must be lowered in a controlled and deliberate manner to prevent damage to the boiler from heat stresses. Without the full use of auxiliary fuel burners, however, it is not possible for a large MWC to comply with the CO emission limits. Consequently, relief from the CO emission limits is appropriate during a malfunction resulting from a loss of boiler water level control.

Loss of Combustion Air Control

As with the loss of boiler water level control, the loss of combustion air control also necessitates shutdown of a large MWC. In addition, as with loss of boiler water level control, this type of malfunction also precludes full use of auxiliary fuel burners during shutdown.

Loss of combustion air control, as a result of loss of a combustion air fan, an induced draft fan, or failure of the grate system, can be very serious in a large MWC. Lack of sufficient air for complete combustion or improper distribution of combustion air (which leads to a lack of sufficient air for combustion within an area of the MWC) can present a significant risk of explosion. As a result, a malfunction resulting from a loss of combustion air control necessitates shutdown of a large MWC.

With a lack of sufficient air for complete combustion, CO emissions increase. As indicated above, during a normal shutdown, the tendency for CO emissions to increase can be overcome through the use of auxiliary fuel burners. However, full use of auxiliary fuel burners can exacerbate the fundamental problem, which is not enough air for complete combustion. In that situation, adding additional fuel through the use of auxiliary fuel burners can make the problem worse and increase, not decrease, the risk of explosion.

As with loss of boiler water level control, the National Fire Protection Association fire code does not allow use of auxiliary fuel burners in such situations. Indeed, in light of the potential increase in the risk of explosion, interlocks are often in place which prevent the use of auxiliary fuel burners if control of combustion air is lost.

Without full use of auxiliary fuel burners, it is not possible to comply with the CO emission limits as a large MWC is shutdown. Consequently, relief from the CO emission limits is appropriate during a malfunction resulting from a loss of combustion air control.

This amendment, therefore, extends the period of time from 3 hours to 15 hours during which a large MWC is exempt from compliance with the CO emission limits in the standards for the two types of malfunctions. As with all periods of malfunction, the extension in the period of time for the two types of malfunctions does not relieve the owner or operator from the requirement in § 60.11(d) of the General Provisions in 40 CFR part 60 which requires:

> At all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the maximum extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions.

As a result, owners and operators of large MWC which may experience the two types of malfunctions must continue to take steps during the malfunctions to minimize emissions, consistent with the proper and safe operation of a large MWC.

In addition, the extension in the period of time during which a large MWC is exempt from compliance with the CO emission limits for the two types of malfunctions does not alter the definition of a malfunction included in § 60.2 of the General Provisions in 40 CFR part 60. A malfunction is defined as:

> * * * any sudden, infrequent, and not reasonably preventable failure of air pollution control equipment, process equipment, or a process to operate in a normal or usual manner. Failures that are caused in part by poor maintenance or careless operation are not malfunctions.

As a result, owners and operators of large MWC must continue to develop and implement operation and maintenance programs to ensure that any failure, such as a loss of boiler water level control or a loss of combustion air control, which leads to emissions in excess of the emission limits in the standards is solely the result of a sudden and unavoidable occurrence and, thus, qualifies as a malfunction.

The compliance and performance testing provisions included in the guidelines (Subpart Cb—Emission Guidelines and Compliance Times for Large Municipal Waste Combustors

That are Constructed On or Before September 20, 1994) reference the corresponding compliance and performance testing provisions included in the standards (Subpart Eb—Standards of Performance for Large Municipal Waste Combustors for Which Construction Is Commenced After September 20, 1994 or for Which Modification or Reconstruction Is Commenced After June 19, 1996). As a result, this action amending the standards has the effect of amending both the standards and the guidelines.

II. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

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

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

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

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

We have determined that this direct final rule does not qualify as a ''significant regulatory action'' under the terms of Executive Order 12866 and, therefore, is not subject to review by OMB.

B. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use

This direct final rule is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

C. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires us to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

Under section 6 of Executive Order 13132, we may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or we consult with State and local officials early in the process of developing the proposed regulation. Also, we may not issue a regulation that has federalism implications and that preempts State law, unless we consult with State and local officials early in the process of developing the proposed regulation.

This direct final 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. Thus, the requirements of section 6 of the Executive Order do not apply to this direct final rule.

D. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

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

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

E. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives we considered.

We interpret Executive Order 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 Executive Order has the potential to influence the regulation. This direct final rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks. Also, this direct final rule is not ''economically significant.''

F. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, generally we must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires that we identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objective of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows us to adopt an alternative other

than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we must develop a small government agency plan under section 203 of the UMRA. 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 our regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that this direct final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Thus, this direct final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

We have also determined that this direct final rule contains no regulatory requirements that might significantly or uniquely affect small governments.

G. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this direct final rule on small entities, small entity is defined as (1) A small business in the regulated industry that has a gross annual revenue less than $6 million; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this direct final rule on small entities, we have concluded that this action will not have a significant economic impact on a substantial number of small entities. This direct final rule will not impose any requirements on small entities because it does not impose any additional regulatory requirements.

H. Paperwork Reduction Act

The Office of Management and Budget approved the information collection requirements contained in the standards and guidelines for large municipal waste combustors under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, at the time the rules were promulgated on December 19, 1995.

The amendment contained in this direct final rule results in no changes to the information collection requirements of the standards or guidelines and will have no impact on the information collection estimate of project cost and hour burden made and approved by OMB during the development of the standards and guidelines. Therefore, the information collection requests have not been revised.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for our regulations are listed in 40 CFR part 9 and 40 CFR chapter 15.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, § 12(d) (15 U.S.C. 272 note) directs us to use voluntary consensus standards in our regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

This direct final rule amendment does not involve technical standards. Compliance with the NTTAA was addressed in the preamble of the standards of performance (60 FR 65382) and emissions guidelines (60 FR 65387) promulgated on December 19, 1995.

J. 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. We will submit a report containing this direct final rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this direct final rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This direct final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 60

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

Dated: November 1, 2001.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 60 of the Code of Federal Regulations is amended to read as follows:

PART 60—[AMENDED]

1. The authority citation for part 60 continues to read as:

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

Subpart Eb—[Amended]

2. Section 60.58b is amended by revising paragraph (a)(1) introductory text and adding paragraph (a)(1)(iii) to read as follows:

§ 60.58b Compliance and performance testing.

(a) * * *

(1) Except as provided by § 60.56b, the standards under this subpart apply at all times except during periods of startup, shutdown, and malfunction. Duration of startup, shutdown, or malfunction periods are limited to 3 hours per occurrence, except as provided in paragraph (a)(1)(iii) of this section.

* * * * *

(iii) For the purpose of compliance with the carbon monoxide emission limits in § 60.53b(a), if a loss of boiler water level control (e.g., boiler waterwall tube failure) or a loss of combustion air control (e.g., loss of combustion air fan, induced draft fan, combustion grate bar failure) is determined to be a malfunction, the

duration of the malfunction period is limited to 15 hours per occurrence.

* * * * *

[FR Doc. 01–28084 Filed 11–15–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD–FRL–7100–9]

RIN 2060–AJ52

Standards of Performance for Large Municipal Waste Combustors for Which Construction Is Commenced After September 20, 1994 or for Which Modification or Reconstruction Is Commenced After June 19, 1996 and Emissions Guidelines and Compliance Times for Large Municipal Waste Combustors That Are Constructed on or Before September 20, 1994

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendment.

SUMMARY: We are proposing to amend the standards of performance for large municipal waste combustors (MWC) by extending the time during which such units will be excused from compliance with the emission limits for carbon monoxide due to certain types of malfunctions. Since the compliance and performance testing provisions in the emissions guidelines for large MWC reference the compliance and performance testing provisions in the standards of performance, this amendment to the standards has the effect of amending both the standards and the guidelines.

In the Rules and Regulations section of this **Federal Register**, we are making this amendment in a direct final rule, without prior proposal, because we view this revision as noncontroversial, and we anticipate no significant adverse comments. We have explained our reasons for this amendment in the preamble to the direct final rule.

If we receive no significant adverse comments, we will take no further action on this proposed rule. If an adverse comment applies to an amendment, paragraph, or section of this proposed rule, and that provision may be addressed separately from the remainder of this proposed rule, we will withdraw only those provisions on which we received adverse comments. We will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn.

DATES: *Comments.* Submit comments on or before December 17, 2001.

Public Hearing. If anyone contacts us requesting to speak at a public hearing by December 6, 2001, we will hold a public hearing on December 17, 2001. Persons interested in attending the hearing should call Mrs. Kelly Hayes at (919) 541–5578 to verify that a hearing will be held.

ADDRESSES: *Comments.* By U.S. Postal Service, send comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–90–45, U.S. EPA, 1200 Pennsylvania Avenue, NW, Washington, DC 20460. In person or by courier, deliver comments (in duplicate if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–90–45, U.S. EPA, 401 M Street, SW, Washington, DC 20460. We request that a separate copy of each public comment be sent to the contact person listed below.

Public Hearing. If a public hearing is held, it will be held at 10:00 a.m. in our Office of Administration Auditorium, Research Triangle Park, North Carolina, or at an alternate site nearby.

Docket. Docket No. A–90–45 contains supporting information used in developing the standards and guidelines. The docket is located at the U.S. EPA, 401 M Street, SW, Washington, DC 20460 in room M–1500, Waterside Mall (ground floor), and may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Porter, Combustion Group, Emission Standards Division (MD–13), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5251; facsimile number (919) 541–5450; electronic mail address: *porter.fred@epa.gov.*

SUPPLEMENTARY INFORMATION:

Comments. Comments and data may be submitted by electronic mail (e-mail) to: *a-and-r-docket@epa.gov.* Electronic comments must be submitted as an ASCII file to avoid the use of special characters and encryption problems and will also be accepted on disks in WordPerfect® version 5.1, 6.1 or Corel 8 file format. All comments and data submitted in electronic form must note the docket number A–90–45. No confidential business information (CBI) should be submitted by e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

Commenters wishing to submit propriety information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such propriety information directly to the following address, and not to the public docket, to ensure that propriety information is not inadvertently placed in the docket: Attention: Mr. Fred Porter, c/o OAQPS Document Control Officer, U.S. EPA, 411 W. Chapel Hill Street, Room 740, Durham NC 27701. We will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received, the information may be made available to the public without further notice to the commenter.

Docket. The docket is an organized and complete file of information compiled in the development of this proposed rule. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the docket contains the record in the case of judicial review. The docket number for this proposed rule is A–90–45, which contains supporting information used in developing the standards and guidelines. An index for each docket, as well as individual items contained within the dockets, may be obtained by calling (202)260–7548 or (202)260–7549. A reasonable fee may be charged for copying docket materials. Docket indexes are also available by facsimile, as described on the Office of Air and Radiation, Docket and Information Center Website at *http://www.epa.gov/airprogm/oar/docket/faxlist.html.*

World Wide Web. In addition to being available in the docket, an electronic copy of this action will be posted on the Technology Transfer Network's (TTN) policy and guidance information page *http://www/epa/gov/ttn/caaa.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. The regulated categories and entities that potentially will be affected by this amendment include the following:

Category	NAICS codes	SIC codes	Regulated entities
Industry, Federal government, and State/local/tribal governments.	562213 92411	4953 9511	Solid waste combustors or incinerators at waste-to-energy facilities that generate electricity or steam from the combustion of garbage (typically municipal waste); and solid waste combustors or incinerators at facilities that combust garbage (typically municipal waste) and do not recover energy from the waste.

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 we are 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 facility, company, business, organization, etc., is regulated by this action, you should carefully examine the applicability criteria in §§ 60.50b and 60.32b of 40 CFR part 60, subpart Cb and Eb. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

What Are the Administrative Requirements for This Action?

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of this **Federal Register**.

Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The RFA generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as (1) A small business in the regulated industry that has a gross annual revenue less than $6 million; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; or (3) a small organization that is any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities because it does not impose any additional regulatory requirements.

For additional information, see the direct final rule published in the Rules and Regulations section of this **Federal Register** publication.

List of Subjects in 40 CFR Part 60

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

Dated: November 1, 2001.

Christine Todd Whitman,

Administrator.

[FR Doc. 01–28085 Filed 11–15–01; 8:45 am]

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Federal Register

Friday,
November 16, 2001

Part IV

The President

Military Order of November 13, 2001—Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism

Federal Register
Vol. 66, No. 222
Friday, November 16, 2001

Presidential Documents

Title 3—

The President

Military Order of November 13, 2001

Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism

By the authority vested in me as President and as Commander in Chief of the Armed Forces of the United States by the Constitution and the laws of the United States of America, including the Authorization for Use of Military Force Joint Resolution (Public Law 107–40, 115 Stat. 224) and sections 821 and 836 of title 10, United States Code, it is hereby ordered as follows:

Section 1. *Findings.*

(a) International terrorists, including members of al Qaida, have carried out attacks on United States diplomatic and military personnel and facilities abroad and on citizens and property within the United States on a scale that has created a state of armed conflict that requires the use of the United States Armed Forces.

(b) In light of grave acts of terrorism and threats of terrorism, including the terrorist attacks on September 11, 2001, on the headquarters of the United States Department of Defense in the national capital region, on the World Trade Center in New York, and on civilian aircraft such as in Pennsylvania, I proclaimed a national emergency on September 14, 2001 (Proc. 7463, Declaration of National Emergency by Reason of Certain Terrorist Attacks).

(c) Individuals acting alone and in concert involved in international terrorism possess both the capability and the intention to undertake further terrorist attacks against the United States that, if not detected and prevented, will cause mass deaths, mass injuries, and massive destruction of property, and may place at risk the continuity of the operations of the United States Government.

(d) The ability of the United States to protect the United States and its citizens, and to help its allies and other cooperating nations protect their nations and their citizens, from such further terrorist attacks depends in significant part upon using the United States Armed Forces to identify terrorists and those who support them, to disrupt their activities, and to eliminate their ability to conduct or support such attacks.

(e) To protect the United States and its citizens, and for the effective conduct of military operations and prevention of terrorist attacks, it is necessary for individuals subject to this order pursuant to section 2 hereof to be detained, and, when tried, to be tried for violations of the laws of war and other applicable laws by military tribunals.

(f) Given the danger to the safety of the United States and the nature of international terrorism, and to the extent provided by and under this order, I find consistent with section 836 of title 10, United States Code, that it is not practicable to apply in military commissions under this order the principles of law and the rules of evidence generally recognized in the trial of criminal cases in the United States district courts.

(g) Having fully considered the magnitude of the potential deaths, injuries, and property destruction that would result from potential acts of terrorism against the United States, and the probability that such acts will occur, I have determined that an extraordinary emergency exists for national defense

purposes, that this emergency constitutes an urgent and compelling government interest, and that issuance of this order is necessary to meet the emergency.

Sec. 2. *Definition and Policy.*

(a) The term ''individual subject to this order'' shall mean any individual who is not a United States citizen with respect to whom I determine from time to time in writing that:

(1) there is reason to believe that such individual, at the relevant times,

(i) is or was a member of the organization known as al Qaida;

(ii) has engaged in, aided or abetted, or conspired to commit, acts of international terrorism, or acts in preparation therefor, that have caused, threaten to cause, or have as their aim to cause, injury to or adverse effects on the United States, its citizens, national security, foreign policy, or economy; or

(iii) has knowingly harbored one or more individuals described in subparagraphs (i) or (ii) of subsection 2(a)(1) of this order; and

(2) it is in the interest of the United States that such individual be subject to this order.

(b) It is the policy of the United States that the Secretary of Defense shall take all necessary measures to ensure that any individual subject to this order is detained in accordance with section 3, and, if the individual is to be tried, that such individual is tried only in accordance with section 4.

(c) It is further the policy of the United States that any individual subject to this order who is not already under the control of the Secretary of Defense but who is under the control of any other officer or agent of the United States or any State shall, upon delivery of a copy of such written determination to such officer or agent, forthwith be placed under the control of the Secretary of Defense.

Sec. 3. *Detention Authority of the Secretary of Defense.* Any individual subject to this order shall be —

(a) detained at an appropriate location designated by the Secretary of Defense outside or within the United States;

(b) treated humanely, without any adverse distinction based on race, color, religion, gender, birth, wealth, or any similar criteria;

(c) afforded adequate food, drinking water, shelter, clothing, and medical treatment;

(d) allowed the free exercise of religion consistent with the requirements of such detention; and

(e) detained in accordance with such other conditions as the Secretary of Defense may prescribe.

Sec. 4. *Authority of the Secretary of Defense Regarding Trials of Individuals Subject to this Order.*

(a) Any individual subject to this order shall, when tried, be tried by military commission for any and all offenses triable by military commission that such individual is alleged to have committed, and may be punished in accordance with the penalties provided under applicable law, including life imprisonment or death.

(b) As a military function and in light of the findings in section 1, including subsection (f) thereof, the Secretary of Defense shall issue such orders and regulations, including orders for the appointment of one or more military commissions, as may be necessary to carry out subsection (a) of this section.

(c) Orders and regulations issued under subsection (b) of this section shall include, but not be limited to, rules for the conduct of the proceedings of military commissions, including pretrial, trial, and post-trial procedures, modes of proof, issuance of process, and qualifications of attorneys, which shall at a minimum provide for—

(1) military commissions to sit at any time and any place, consistent with such guidance regarding time and place as the Secretary of Defense may provide;

(2) a full and fair trial, with the military commission sitting as the triers of both fact and law;

(3) admission of such evidence as would, in the opinion of the presiding officer of the military commission (or instead, if any other member of the commission so requests at the time the presiding officer renders that opinion, the opinion of the commission rendered at that time by a majority of the commission), have probative value to a reasonable person;

(4) in a manner consistent with the protection of information classified or classifiable under Executive Order 12958 of April 17, 1995, as amended, or any successor Executive Order, protected by statute or rule from unauthorized disclosure, or otherwise protected by law, (A) the handling of, admission into evidence of, and access to materials and information, and (B) the conduct, closure of, and access to proceedings;

(5) conduct of the prosecution by one or more attorneys designated by the Secretary of Defense and conduct of the defense by attorneys for the individual subject to this order;

(6) conviction only upon the concurrence of two-thirds of the members of the commission present at the time of the vote, a majority being present;

(7) sentencing only upon the concurrence of two-thirds of the members of the commission present at the time of the vote, a majority being present; and

(8) submission of the record of the trial, including any conviction or sentence, for review and final decision by me or by the Secretary of Defense if so designated by me for that purpose.

Sec. 5. *Obligation of Other Agencies to Assist the Secretary of Defense.*

Departments, agencies, entities, and officers of the United States shall, to the maximum extent permitted by law, provide to the Secretary of Defense such assistance as he may request to implement this order.

Sec. 6. *Additional Authorities of the Secretary of Defense.*

(a) As a military function and in light of the findings in section 1, the Secretary of Defense shall issue such orders and regulations as may be necessary to carry out any of the provisions of this order.

(b) The Secretary of Defense may perform any of his functions or duties, and may exercise any of the powers provided to him under this order (other than under section 4(c)(8) hereof) in accordance with section 113(d) of title 10, United States Code.

Sec. 7. *Relationship to Other Law and Forums.*

(a) Nothing in this order shall be construed to—

(1) authorize the disclosure of state secrets to any person not otherwise authorized to have access to them;

(2) limit the authority of the President as Commander in Chief of the Armed Forces or the power of the President to grant reprieves and pardons; or

(3) limit the lawful authority of the Secretary of Defense, any military commander, or any other officer or agent of the United States or of any State to detain or try any person who is not an individual subject to this order.

(b) With respect to any individual subject to this order—

(1) military tribunals shall have exclusive jurisdiction with respect to offenses by the individual; and

(2) the individual shall not be privileged to seek any remedy or maintain any proceeding, directly or indirectly, or to have any such remedy or

proceeding sought on the individual's behalf, in (i) any court of the United States, or any State thereof, (ii) any court of any foreign nation, or (iii) any international tribunal.

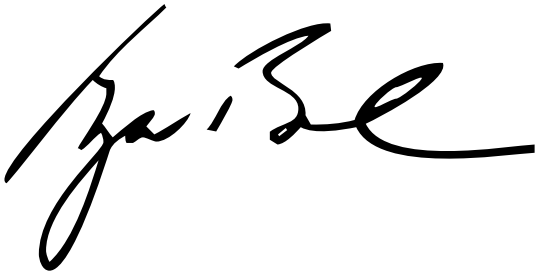
(c) This order is not intended to and does not create any right, benefit, or privilege, substantive or procedural, enforceable at law or equity by any party, against the United States, its departments, agencies, or other entities, its officers or employees, or any other person.

(d) For purposes of this order, the term ''State'' includes any State, district, territory, or possession of the United States.

(e) I reserve the authority to direct the Secretary of Defense, at any time hereafter, to transfer to a governmental authority control of any individual subject to this order. Nothing in this order shall be construed to limit the authority of any such governmental authority to prosecute any individual for whom control is transferred.

Sec. 8. *Publication.*

This order shall be published in the **Federal Register**.



THE WHITE HOUSE,
November 13, 2001.

[FR Doc. 01–28904
Filed 11–15–01; 8:56 am]
Billing code 3195–01–P

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Friday, November 16, 2001

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The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 2311/P.L. 107–66
Energy and Water Development Appropriations Act, 2002 (Nov. 12, 2001; 115 Stat. 486)

H.R. 2590/P.L. 107–67
Treasury and General Government Appropriations Act, 2002 (Nov. 12, 2001; 115 Stat. 514)

H.R. 2647/P.L. 107–68
Making appropriations for the Legislative Branch for the fiscal year ending September 30, 2002, and for other purposes. (Nov. 12, 2001; 115 Stat. 560)

H.R. 2925/P.L. 107–69
To amend the Reclamation Recreation Management Act of 1992 in order to provide for the security of dams, facilities, and resources under the jurisdiction of the Bureau of Reclamation. (Nov. 12, 2001; 115 Stat. 593)

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